

# CONSTITUTION OF THE COUNCIL



# Constitution of the Council

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# Part 1

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## SUMMARY AND EXPLANATION

# Summary and Explanation

## 1.1 The Council's Constitution

At its meeting on 19th December 2001 Rossendale Borough Council agreed the first Constitution of Rossendale Borough Council. This was updated as follows:

2008: 24th September

2009: 26th February, 25th March, 15th May, 7th October

2010: 19th May

2011: 20th May, 20th July, 28th September, 14th December

2012: 29th February, 25th May, 11th July, 12th December

2013: 27th February, 17th July, 11th December,

2014: 26th February, 26th March, 16th July, 17th December

2015: 25th February, 18th March, 22nd May, 15th July

2016: 24th February, 20th May, 6th July, 14th December

2017: 1st March, 22nd March, 12th July, 4th October, 13th December

2018: 11th July, 26th September

2019: 30th January, 27th February, 17th July

2020: 30th April, 15<sup>th</sup> July, 23<sup>rd</sup> September

2021: 17<sup>th</sup> March

The Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into various Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

## 1.2 What is in the Constitution?

Article 1 of the Constitution sets out the aims and principles of the Constitution and commits the Council to provide clear leadership to the community in partnership with businesses and other organisations to support the active involvement of citizens in its decision making processes.

Articles 2 to 14 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Full Council (Article 4)
- Chairing the Council (Article 5)
- The Cabinet (Article 6)
- Overview and Scrutiny Committee and Audit and Accounts Committee (Article 7)
- Regulatory Committees, Neighbourhood Forums. (Article 8)
- The Standards Panel and Appointment and Appeals Committee (Article 9)
- Joint Arrangements (Article 10)
- Officers (Article 11)
- Decision Making (Article 12)
- Finance, Contracts and Legal Matters (Article 13)
- Suspension, Interpretation and Publication of the Constitution (Article 14)

## 1.3 How the Council operates

The Council is composed of 36 Councillors normally elected in thirds and, in usual circumstances, such Councillors serve for four years. The overriding duty and accountability of Councillors is to

the whole community, but they have a special duty to their constituents in their Wards, including those who did not vote for them.

Councillors have to agree to follow a Code of Conduct for Councillors, Independent and other Voting Representatives to ensure high standards in the way they undertake their duties. The Code aims to ensure high ethical standards and increase public confidence in the integrity of their local councillors and co-opted members.

The Monitoring Officer advises them on the Code of Conduct and ensures that they receive appropriate training and investigates complaints against councillors.

All councillors meet together as the Council at the Full Council Meetings. Meetings of the Council are normally open to the Public. Here councillors decide the Council's overall policies and set the budget each year. The Council also makes a number of appointments and these include:

- The Leader
- The Cabinet
- Regulatory Committees
- Overview and Scrutiny Committee
- Audit and Accounts Committee
- Standards Panel
- Appointment and Appeals Committee

The Leader allocates responsibilities (Portfolios) within the Cabinet.

Members of the public are able to ask questions during the Public Question Time at meetings of the Council, the Cabinet and at some Committees.

## **1.4 How decisions are made**

Most day to day decisions are made by senior officers of the Council under delegated authority. The Council has a Cabinet and other committees.

## **1.5 The Cabinet**

The Cabinet carries out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution. The Cabinet is primarily responsible for leading on Community Planning and searching for best value, taking Cabinet decisions on resources and priorities, preparing the budget for approval and leading on Council priorities and being the focus for forming partnerships with other local organisations.

## **1.6 Regulatory Committees**

The Development Control Committee deals with planning applications and related matters, and the Licensing Committee deals with issues such as taxi licensing, matters under the Licensing Act 2003 and other licensing matters.

Meetings of the Council, its Cabinet and Committees are, by law, publicised well in advance and are open to the public except where exempt or confidential matters are being discussed.

## **1.7 Overview and Scrutiny**

The Overview and Scrutiny Committee supports the work of the Cabinet, and the Council as a whole. Overview and Scrutiny Committee deals with council policy and performance matters and the scrutiny of the Council's external partners who deliver services to citizens of the borough. The committee is accountable to Full Council. It allows citizens to have a greater say in council matters by discussing matters of local interest. This can lead to reports and recommendations which advise the Cabinet, other committees and the Council as a whole on its policies, budget and service delivery. The Overview and Scrutiny Committee also monitors the decisions of the Cabinet

and other council committees. Members can “call-in” a Cabinet decision which has been made but not yet implemented. This enables them to consider whether the decision is appropriate. The committee may recommend that the Cabinet or Full Council should reconsider the decision, and may also be consulted by the Cabinet and other committees on forthcoming decisions and the development of policy. Another of their functions is to support the Cabinet in ensuring that the Council complies with its duties of best value and value for money. It has a key role to play in promoting and monitoring good performance management throughout the council.

## **1.8 The Council’s Staff**

The Council has people working for it called “officers” to give advice, implement decisions and manage the day to day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. Mutual respect between members and officers is vital and the Council has adopted a Protocol on Member/Officer Relations which is set out in Part 5 of the Constitution.

## **1.9 Citizens’ Rights**

Citizens have a number of rights in connection with their dealings with the Council. These are set out in detail in Article 3. Some of these are legal rights, whilst others depend on the Council’s own processes.

# Part 2

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## ARTICLES OF THE CONSTITUTION

## ARTICLE 1 – THE CONSTITUTION

### 1.01 Powers of the Council

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

### 1.02 The Constitution

This Constitution and all its appendices is the Constitution of the Rossendale Borough Council.

### 1.03 Purpose of the Constitution

The purpose of the Constitution is to:

1. Enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. Support the active involvement of citizens in the process of local authority decision-making;
3. Help councillors represent their constituents more effectively;
4. Enable decisions to be taken efficiently, effectively and transparently, with due regard to probity and equity;
5. Create a powerful and effective means of holding decision makers to public account;
6. To ensure that no one will review or scrutinise a decision in which they were directly involved;
7. Ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. Provide a means of improving the delivery of services to the community.

### 1.04 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

## ARTICLE 2 – MEMBERS OF THE COUNCIL

### 2.01 Composition and Eligibility

a) **Composition.** The Council comprises 36 members, otherwise called councillors. One or more councillor will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission for England and approved by the Secretary of State or the Electoral Commission as appropriate.

b) **Eligibility.** Only registered voters of the local authority area or occupiers of land or other premises in the area or those living or working there who are not disqualified by the provisions of section 80 of the Local Government Act 1972 will be eligible to hold the office of Councillor.

### 2.02 Election and Terms of Councillors

**Election and Terms.** The election of councillors will be held on the first Thursday in May (by thirds) unless otherwise directed by Government. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

## **2.03 Roles and Functions of all Councillors**

### **a) Key Roles.**

All councillors will:

- collectively be the ultimate policy makers
- carry out a number of strategic and corporate management functions
- contribute to the governance of the area and actively encourage community participation and citizen involvement in decision making
- effectively represent the interests of their ward and of individual constituents and respond to constituents enquiries and representations fairly and impartially
- balance different interests identified within their wards and represent their ward as a whole
- be available to represent the Council on other bodies
- participate in the governance and management of the Council
- maintain the highest standards of conduct and ethics

### **b) Rights and Duties**

- i. Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- ii. Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- iii. For these purposes, “confidential” and “exempt” information are defined in the Access to Information Procedure Rules in Part 4 of this Constitution.
- iv. No councillor can issue an order for works to be carried out by or on behalf of the Council and nor can he or she claim any right to inspect or enter any land unless specifically authorised to do so by the Council.

## **2.04 Conduct**

Councillors will at all times observe the Members’ Code of Conduct and all other council protocols or Codes of Conduct.

The Council is required to maintain and update a Register of Personal Interests of its Members including Independent Persons and Co-opted Members. The Register is available for public inspection at the Council’s Offices and is published on the Council’s website.

Councillors are required to make a commitment to undertake training and development as part of their acceptance of office.

Councillors are required to undertake any relevant committee training before they can sit on a committee or act as a substitute. They are also required to keep their knowledge up to date by undertaking training at least once every two years, or following any policy/legislation changes.

Councillors are also required to undertake Standards Training and Equalities Training and keep their knowledge up to date by undertaking training at least once every two years, or following any policy/legislation changes.

## **2.05 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme.

## **2.06 Members Working Groups**

The Council has established the following Members Working Groups:

- Governance Working Group

- Grants Advisory Group
- Consultation Working Group
- Local Plan Steering Group

The total number of councillors on, the quorum and Terms of Reference of each Members Working Group are set out in Part 3 of the Constitution.

2.07 The Council shall appoint Member Champions from amongst its councillors at the Annual Council Meeting. The Chief Executive in consultation with the Leader and Deputy Leader of the Council and the Leader of all Political Groups shall be authorised to make any in year changes to Member Champions.

2.08 A guide to being a councillor is outlined below:

There are two basic qualifications to stand for election, which are, that on the day of nomination, you must be:

- 18 years of age or over
- A British subject, other Commonwealth citizen or a citizen of the Irish Republic or other European Union state

In addition, you must satisfy at least one other qualification. The list below is a brief guide and full information is contained on the Consent to Nomination form which is available when there is an election:

- Be a local government elector for the area of the authority and/or
- Have for the twelve months preceding the day of nomination and election day occupied, as owner or tenant, any land in the area of the authority and/or
- Have the principal or only place of work during the preceding day of nomination and election day within the area and/or
- Have, during the whole of the twelve months preceding the day of nomination and election day, resided in that area

Providing that you can say yes to one of these you are eligible to stand.

You cannot stand for election if:

- You are the subject of a bankruptcy restriction of interim order
- You are employed by the Council you want to become a councillor for
- You hold what is known as a politically restricted post within a local authority
- You have served a prison sentence of three months or more within five years of the election
- You have been disqualified from holding office as a result of an election offence relating to corrupt or illegal practices.

## ARTICLE 3 – CITIZENS AND THE COUNCIL

### 3.01 Citizens' Rights and Responsibilities

Citizens have the following rights:

a) **Voting and Petitions.** Citizens on the electoral roll for the Borough have the right to vote and sign a petition to request a referendum for an elected mayor.

b) **Information.** Citizens have the right to:

- attend meetings of the Council, its Cabinet and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;

- ii. see reports and background papers (excluding confidential or exempt information) and any records of decisions made by the Council, its Cabinet and committees;
- iii. inspect the Council's accounts and make their views known to the external auditor;
- iv. inspect any document as set out in the Council's Publication Scheme;
- v. contact councillors about all matters of concern to them;
- vi. obtain a copy of the Council's Constitution;
- vii. find out from the Forward Plan what Key Decisions are to be discussed by the Council, its Cabinet and committees.

### **c) Participation.**

The Council welcomes participation by its citizens in its work. For further information on your rights as a Citizen please contact the Committee and Member Services Manager – on 01706 252422 or [democracy@rossendalebc.gov.uk](mailto:democracy@rossendalebc.gov.uk)

Citizens have the right to:-

- i. submit written questions to Council meetings (they must provide their name, postal address details, and any group/organisation they are representing). Written questions will only be read out at the meeting if the questioner (or his/her representative) is in attendance.
- ii. to ask questions at its Cabinet and committee meetings,
- iii. to be consulted on the level and quality of local services in accordance with legislation and guidance..
- iv. contribute to investigations by the Overview and Scrutiny Committee.
- v. to speak at meetings in accordance with the procedures for Public Speaking at meetings (also available in this section of the Constitution)
- vi. film public meetings, take photographs and use social media in line with council policy (see below)

### **d) Filming, audio recording, taking photographs and reporting via social media at public meetings**

- i. Filming, audio recording, taking photographs and reporting via social media at formal public meetings is permitted as long as there is no disruption or disturbance to the proceedings or good conduct of the meeting. Flash photography is not permitted during public meetings.
- ii. Anyone wanting to report in this way must inform Committee and Member Services on 01706 252422 or by email to [democracy@rossendalebc.gov.uk](mailto:democracy@rossendalebc.gov.uk) by 5.00pm at least one day prior to the meeting. This will enable to chair to inform anyone in attendance at the meeting that it is being filmed and to allow any other necessary arrangements to be made.
- iii. Anyone filming or taking photographs at the meeting is requested to only film/photograph councillors and officers involved in the meeting and not to film members of the public without their specific consent. It is the responsibility of the person filming/taking photographs to obtain consent from members of the public prior to the meeting, if they intend to film them, or take their photograph.
- iv. Filming, audio recording, taking photographs and reporting via social media is not permitted for any meeting or during any section of a meeting where a resolution is passed to exclude the public and press and hold the business in private, and any associated equipment must be removed from the room before the meeting moves into private session.
- v. The chair of the meeting has the discretion to stop or refuse any activity if it is thought to be causing disruption to the meeting (e.g. to the good conduct of the meeting, through noise made, or through intrusive camera equipment) and the chair's decision is final.
- vi. The use of social media is not permitted for any meeting or sections of a meeting where a resolution is passed to exclude the public and press and hold the business in private, in these instances councillors are also not permitted to disclose the content under discussion.

Speaking procedures that apply at each council/committee meeting are available on the Council website as follows:

- Procedure for Public Speaking: Question Time
- Procedure for Public Speaking: Cabinet Meetings
- Development Control Committee Public Speaking and Voting Procedures
- Procedure for Public Speaking: Licensing Committee (Licensing Hearing Procedures are at Part 4 section 12 of the Constitution)
- Procedure for Public Speaking: Audit and Accounts Committee
- Procedure for Public Speaking: Overview and Scrutiny Committee

These are available at the following link:

[http://www.rossendale.gov.uk/downloads/download/255/procedure\\_for\\_public\\_speaking](http://www.rossendale.gov.uk/downloads/download/255/procedure_for_public_speaking)

**Complaints** Citizens have the right to complain to:

- i. the Council itself under its complaints scheme;
- ii. the Local Government Ombudsman, after using the Council's own complaints scheme;
- iii. the Monitoring Officer about a breach of the Members' Code of Conduct.
- iv. the Monitoring Officer in respect of any alleged unlawful or illegal behaviour, action, inaction or decisions of councillors and officers

**Citizens Charter** The Council will maintain a Citizens Charter which sets out the rights of citizens under this Constitution.

### 3.02 Citizens' Responsibilities

Citizens must not be violent, abusive or threatening to councillors or officers and must not wilfully damage property owned by the Council, councillors or officers.

Citizens must not make vexatious or irrelevant complaints nor must they make unreasonable and repeated demands of the Council which could be to the detriment of other service users.

Citizens on the electoral roll should exercise their voting rights.

## ARTICLE 4 – THE FULL COUNCIL

### 4.01 Functions and Terms of References of the Full Council

The Council will exercise the following functions which cannot be delegated, save by specific resolution of Council where these are not reserved to Council by law.

#### i) Constitutional

- a) To adopt and amend the Council Constitution (unless consequential amendments are required due to organisational changes and/or job roles);
- b) To adopt or amend the terms of reference and delegations of the Cabinet and committees and the Officer Delegation Scheme;
- c) To elect the Chair of the Council (the Mayor) and Vice Chair of the Council (Deputy Mayor);
- d) To appoint the Leader of the Council;
- e) To appoint a new Leader of the Council in line with legislation, should the existing Leader resign or be removed from office (if the Leader is removed from office by a vote of no confidence, this motion would need to be submitted as a Notice of Motion under the current Council Procedure Rules in Part 4 Section 11. The number of votes required would be in line with the current voting procedures in Part 4 Section 16.1).

- f) To determine which council committees the Council will have for the next municipal year and the number of seats on them save for co-optees in relation to the Overview and Scrutiny Committee;
- g) Make decisions about any matter which is the responsibility of the Cabinet or other committee which is not in accordance, or not wholly in accordance with, the policy framework or budget;
- h) To appoint chairs and vice chairs of certain committees, sub-committees and to make appointments to other internal bodies not affected by the political balance rules;
- i) To receive notification of the appointment by the minority political group(s) on the Council of the Leaders and Deputy Leaders of these groups;
- j) To appoint representatives of the Council on the Joint Authorities and the spokespersons to answer any questions at Council on the functions of Joint Authorities;
- k) To make arrangements for the discharge of the Council's functions by another local authority;
- l) To change the name of the area, to confer the title of Honorary Alderman or to grant the Freedom of the Borough;
- m) Where it relates to a council function, any function under a Local Act;
- n) The determination of an appeal against any decision made by or on behalf of the authority;
- o) The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area;
- p) The appointment of any individual:
  - a. to any office other than an office in which he or she is employed by the authority;
  - b. to any body other than -
    - i. the authority;
    - ii. a joint committee of two or more authorities; or
  - c. to any committee or sub-committee of such a body and the revocation of any such appointment;
- q) Where it relates to a council function, the making of arrangements with other local authorities for the placing of staff at the disposal of those other authorities.
- r) To agree a programme of and format for debates on matters of significance.

## ii) **Probity**

- a) To adopt the Council's Codes of Conduct for Members and Officers,
- b) To adopt or amend the Members Allowances Scheme based on the recommendations of the Independent Remuneration Panel.

## iii) **Policy**

- a) To approve or amend the Council's Policy Framework,

The policy framework means the following plans and strategies:

- Corporate Plan
  - Plans and Strategies which together comprise the Local Development Framework
  - Housing Strategy
  - Food Law Enforcement Service Plan
  - Licensing Policy
  - Gambling Policy
  - Financial Strategy, including the Treasury Management
  - Strategy and Annual Investment Strategy
  - Climate Change Strategy
  - Prevention of Homelessness and Rough Sleeping Strategy
- b) To approve development plan documents under section 20 of The Planning and Compulsory Purchase Act 2004.

- c) To approve any application to the Secretary of State for the transfer of housing land;
- d) To promote or oppose any legislation or to make or amend byelaws;
- e) To approve any plans or strategies which require approval by a Secretary of State;
- f) The duty to approve and publish a statement of principles under section 349 of the Gambling Act 2005;
- g) To consider whether to issue casino premises licences under section 166 of the Gambling Act 2005.

**iv) Financial**

- a) To oversee the Council's budget including the allocation of resources to different services and projects;
- b) To approve the Council's Revenue Budget and Capital Expenditure Programme;
- c) To set a Council Tax and calculate the Council Tax Base;
- d) To make decisions regarding the Council's borrowing requirements;
- e) To determine any matter involving expenditure not provided for in the Council's approved budget subject to any agreed virement arrangements;
- f) To approve any plan or strategy for the control of the authority's borrowing or capital expenditure, including the adoption of a Treasury Management Policy Statement;
- g) To approve policies and practices regarding the granting of discretionary rate relief or remission of rates in accordance with section 47 of the Local Government Finance Act 1988;
- h) To deal with matters relating to Local Government Pensions referred to in the Local Authorities (Functions and Responsibility Regulations) 2000 (as amended) with the appropriate Officer who does not wish to exercise his or her delegated powers;
- i) To determine the level of fees for licences under section 212 of the Gambling Act 2005.

**v) Electoral**

- a) To appoint a Returning Officer for Borough and Town Council elections;
- b) To appoint an Electoral Registration Officer;
- c) To make recommendations concerning district boundaries, electoral divisions, ward or polling districts, or other electoral arrangements.

**vi) Staffing**

- a) To confirm the appointment of the Head of Paid Service;
- b) To deal with all aspects of discipline and dismissal of the Head of Paid Service, Chief Finance Officer and Monitoring Officer in accordance with statutory provisions;
- c) To designate the posts of Head of Paid Service, Chief Finance Officer and Monitoring Officer;
- d) To determine the terms and conditions on which staff hold the offices in c) above (including procedures for their dismissal as set out in the appropriate regulations).

**vii) Reports in relation to Council functions**

- a) To consider a report of the Head of Paid Service in accordance with section 4 of the Local Government and Housing Act 1989;
- b) To consider a report by the Monitoring Officer in accordance with section 5 of the Local Government and Housing Act 1989;
- c) To consider a report by the Chief Finance Officer in accordance with section 115 of the Local Government and Finance Act 1988;
- d) To consider any report put to Council.

**viii) General**

- a) To take decisions on all matters which by law must be reserved for Council, but may not be delegated to a Committee or Officers.

#### **4.02 Council Meetings**

There are three types of Council meetings:

- a) the Annual Meeting;
- b) Ordinary Meetings;
- c) Extraordinary Meetings.

and they will be conducted in accordance with the Council Procedure Rules as contained in Part 4 of the Constitution.

### **ARTICLE 5 – CHAIRING THE COUNCIL**

#### **5.01 Role and function of the Mayor and Deputy Mayor**

The Mayor and, Deputy Mayor of the Council will be elected by the Council annually.

The Mayor and, in his or her absence, the Deputy Mayor, will have the following roles and functions:

1. uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. preside over meetings of the Council in accordance with the Constitution;
3. act as community leaders;
4. promote public involvement in the Council's activities;
5. attend such civic and ceremonial functions as the Council and/or he or she considers appropriate;
6. promote and represent the Borough.

### **ARTICLE 6 – THE CABINET**

#### **6.01 Cabinet**

The Leader will appoint a Cabinet consisting of him/herself and between two and nine other councillors. The functions of the Cabinet are set out in Part 3 of the Constitution. Each of the Cabinet Members shall have responsibility for a specific portfolio, as set out below.

#### **LEADER OF THE COUNCIL**

The Leader will be a councillor elected to the position of Leader by the Council in line with legislation. The Leader will hold office until:

- a) He or she resigns from the office;
- b) If a recommendation to remove him or her as Executive Leader due to a breach of the Code of Conduct for Members is carried.;
- c) He or she is no longer a councillor (although if not returned at the election he/she will remain during the transitional period until the date of the next Annual Meeting);
- d) In the event of a resolution to remove the Leader from office by Notice of Motion and number of votes required as at Part 4 Section 16.1.

Other Cabinet Members shall hold office until:

- a) They resign from office;
- b) They are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension);

- c) They are removed from office either individually or collectively by resolution of the Council;
- d) They are no longer councillors;
- e) The Leader reappoints/amends Cabinet positions.

## **Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

## **ROLE DESCRIPTION - LEADER OF THE COUNCIL**

### **CONTEXT**

The majority of the Council's Executive functions are the responsibility of the Cabinet (as assigned to it by law or under the Constitution) and they make most of the key decisions. The Cabinet has to make decisions which are in line with the Council's overall policies and budget.

### **ROLE**

Members of the Cabinet have wide ranging leadership roles and will need to:

- lead the preparation of the Council's Budget and Policy Framework;
- be the focus for developing and delivering through partnerships with other local public, private, voluntary and community sector organisations to address local needs;
- ensure that the diverse needs of all groups and citizens are properly reflected in local strategies, plans and service provision;
- commit to the delivery of fair and non-discriminatory services to all members of the local community;
- commit to upholding human rights and promoting equality of opportunity and good race relations;
- present where appropriate reports to the Overview and Scrutiny Committee;
- represent the Council's view on Portfolio issues at Council, Cabinet and where appropriate, Overview and Scrutiny meetings;
- represent the view of the Council on matters of corporate or strategic policy as the lead Cabinet member, to the Government and to other bodies and organisations relevant to the Council's work;
- participate as a member of any panel, task group or other council forum as appropriate;
- promote key projects and initiatives within the portfolio locally, regionally and nationally;
- participate in local consultative arrangements and actively engage in communication and dialogue with any bodies and organisations involved in portfolio issues;
- have a responsibility for any functions delegated to the Cabinet as a whole.
- to ensure the identification of risk in any project the Council undertakes. In order to facilitate identification of risk, members will find a checklist in the Risk Management Strategy which can be found here:

[http://www.rossendale.gov.uk/downloads/download/210/other\\_financial\\_strategies](http://www.rossendale.gov.uk/downloads/download/210/other_financial_strategies)

### **SPECIFIC ROLES AND RESPONSIBILITIES**

In addition to these collective roles and responsibilities, as a member of the Cabinet, the Leader of the Council has a wider role extending beyond the Council, as set out below:

### ***As A Member of the Cabinet***

To be specifically responsible for:

- Providing political leadership in relation to the Council's reaction to legislation affecting the operation of local government as a whole, rather than specific services.
- Providing political leadership in relation to proposals for enhancing the system of two tier local government as they affect the Borough.
- Constitutional matters and the ongoing development of the Council's Constitution
- Providing leadership on the Council's emergency planning arrangements
- Coordinating the activities of the various portfolio holders.
- Chairing the Cabinet

### ***As Leader within and Beyond the Council***

To be specifically responsible for:

- Promoting the interests of the Borough and the Council in various regional, sub-regional and other fora, such as the regular meetings of Council Leaders and Chief Executives and the Lancashire LeadersGroup .
- Lead for transport and highways.
- Promoting the interests of the Borough and the Council in the wider local government context through the Local Government Association and other routes.
- Promoting the Borough to potential investors and partners.
- Managing relationships between the Council's various political groups and ensuring that the Cabinet is properly accountable to the wider Council.
- Speaking on behalf of the Council.
- To agree urgent consultation responses to documents circulated by other bodies.

### **Portfolio Holder Responsibilities**

Details of the Council's Portfolio Holders can be found on the Council's website.

## **ARTICLE 7 – OVERVIEW AND SCRUTINY COMMITTEE**

### **7.01 Appointment, Membership and Terms of Reference**

The Council will appoint:

One Overview and Scrutiny Committee (10 Members) plus one co-opted Member.

No member may serve on the Overview and Scrutiny Committee who has not undertaken the appropriate training in order to take part in the committee's work.

The Overview and Scrutiny Committee will be politically balanced. Members of the Cabinet are excluded from membership of the Overview and Scrutiny Committee. The Overview and Scrutiny Committee may also appoint people who are not councillors in a non-voting capacity.

The Overview and Scrutiny Committee will be responsible for discharging functions conferred by Section 21 of the Local Government Act 2000 as amended by the Local Government and Public Involvement in Health Act 2007 and Regulations under Section 32 of the Local Government Act 2000.

Members of Overview and Scrutiny may act as substitutes on the Audit and Accounts Committee.

## 7.02 General Role

Within the terms of reference the Overview and Scrutiny Committee will:

- i. Review and or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- ii. Make reports and/or recommendations to the Council and/or its Cabinet and other committees and/or any joint committee in connection with the discharge of any functions and/or any other partner organisation;
- iii. Consider any matter affecting the area;
- iv. Consider/determine called in decisions of the Cabinet in accordance with the "Call-in" Procedure set out in the Procedure Rules within this Constitution; with members of the Overview and Scrutiny Committee being treated as a pool, with a politically balanced panel of 5 Members, to consider each Call-in, usually chaired by the Chair of the Overview and Scrutiny Committee (Members requesting the Call-in would be unable to sit on the particular panel).

## 7.03 Finance

The budget for this committee will be held by the Head of Legal..

## 7.04 Annual Report

The Overview and Scrutiny Committee will report annually to the Council on their workings.

# ARTICLE 8 – REGULATORY COMMITTEES

## 8.01 Regulatory Committees

The Council will appoint:

1. A **Development Control Committee** of nine Members.

No councillor may serve on the Development Control Committee who has not undertaken the appropriate training in order to take part in the committee's work.

2. A **statutory Licensing Committee** and a **non-statutory Licensing Committee** of eleven councillors, the membership of each of these committees will be the same eleven councillors.
  - The purpose of the statutory committee is to deal with decisions in relation to the Licensing Act 2003. Any sub-committees convened to deal with hearings relating to the Licensing Act 2003 will comprise of 3 councillors of the statutory committee. No substitutes are permitted on the statutory committee or a sub-committee convened for the above purposes. No councillor may serve on the statutory Licensing Committee who has not undertaken the appropriate training in order to take part in this committee's work.
  - The purpose of the non-statutory committee is to deal with all other licensing decisions which do not relate to the Licensing Act 2003. No councillor may serve on the non-statutory Licensing Committee who has not undertaken the appropriate training in order to take part in this committee's work.

## **ARTICLE 9 – THE STANDARDS PANEL, APPOINTMENT AND APPEALS COMMITTEE AND AUDIT AND ACCOUNTS COMMITTEE**

### **9.01 Standards Panel**

The Council will have a Standards Panel of nine councillors, comprising seven borough councillors, two Whitworth Town Councillors (appointed by Whitworth Town Council), in addition to one Independent Person (appointed by Council).

The Council will set up Standards Sub-Committee Panels consisting of three councillors of the Standards Panel for dealing with the local assessment of complaints against councillors.

No person may serve on the Standards Panel or its Sub-Committee Panels who has not undertaken the appropriate training in order to take part in the panel's work.

### **Appointment and Appeals Committee**

The Council will have an Appointment and Appeals Committee to deal with staffing issues relating to Chief Officers and any statutory right of appeal or any other formal appeal matter which may be referred to councillors for their determination.

### **9.02 The Composition**

The Committee shall be a politically balanced pool of nine councillors, with a politically balanced membership of three councillors for Appeals, and five councillors for Appointments.

No councillor may serve on the Appointment and Appeals Committee who has not undertaken the appropriate training in order to take part in the committee's work.

### **9.03 Audit and Accounts Committee**

The Council will have an Audit and Accounts Committee comprising seven councillors appointed on a politically balanced basis.

No councillor may serve on the Audit and Accounts Committee who has not undertaken the appropriate training in order to take part in the committee's work.

The committee's role will be to approve the Council's Statement of Accounts and to oversee the internal and external audit of the Council's finances and performance and to receive the Annual Governance Report and other reports dealing with governance.

The Audit and Accounts Committee will be politically balanced. Members of the Cabinet are excluded from membership of the Audit and Accounts Committee. The Audit and Accounts Committee may also appoint people who are not councillors in a non-voting capacity.

Members of the Audit and Accounts Committee may act as substitutes on Overview and Scrutiny.

## **ARTICLE 10 – JOINT ARRANGEMENTS**

### **10.01 Arrangements to Promote Well Being**

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

- a) enter into arrangements or agreements with any person or body;
- b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- c) exercise on behalf of that person or body any functions of that person or body.

### **10.02 Joint Arrangements**

- a) The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions which are not Cabinet 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 local authorities.
- b) The Council may establish joint arrangements with one or more local authorities to exercise functions which are Cabinet functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- c) Except as set out below, the Cabinet may only appoint Cabinet members to a Joint Committee established under Articles 10.0.2(b) and those Committees need not reflect the political composition of the local authority as a whole.
- d) The Cabinet may appoint councillors to a Joint Committee established under paragraphs 10.02 (a) and (b) from outside the Cabinet where the Joint Committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the Joint Committee any councillor who is a member for a ward which is wholly or partly contained within the area. In this case, the political balance requirements do not apply to such appointments.
- e) The Council is a member of the following Joint Committees:
  1. Lancashire Contact Centre, Joint Management Committee
  2. East Lancashire Procurement and Consultation Joint Collaboration
  3. The Parking and Traffic Regulations outside London Adjudication Joint Committee (PATROLAJC)
  4. Lancashire Local Authorities Leaders.

10.03 The Constitution of PLACE is as follows:

### **PLACE (Pennine Lancashire Leaders) Constitution - Introduction**

On the 12th January 2009 Pennine Lancashire partner authorities and Government signed a Multi Area Agreement (MAA) which for ease of reference is annexed to this Constitution. This signalled a new commitment by all Pennine Lancashire councils to work together to transform the area. In signing to the agreement Government were also approving new governance structures to help us deliver our ambitious actions. This Constitution sets out a framework, which will allow us to drive home this opportunity and begin an exciting new era of cross boundary collaboration.

Our MAA identifies a number of key themes relating to the sustainable economic development of the area, and seeks to put in place the building blocks for a modern economy. Higher education, transport, housing, employment and skills all feature prominently, and through working together greater benefits can be felt across the area. To achieve this Government has committed to work with us to devolve more funding. A PLACE Joint Committee will be formed pursuant to sections 101 and 102 of the Local Government Act 1972 to fill the gap and provide the area with a conduit to receive greater levels of investment and a vehicle to deliver the MAA.

Our vision for Pennine Lancashire is, “to provide a confident, dynamic and growing economy, characterised by a thriving higher value business base, supported by a responsive education and

training system; an area with fast and reliable transport links to employment opportunities underpinned by a revitalised housing market and cohesive communities.”

The MAA and Sub National Review of Regeneration and Economic Development has provided a policy context which requires us to look at how we work together, and in doing so to formalise years of effective partnership work. This Constitution sets out the role of PLACE and how it will turn our vision into reality in these challenging times.

## **Statement of Intent**

In forming the Joint Committee (PLACE), it is the intention of the partner authorities to work together for the benefit of Pennine Lancashire. The primary role of PLACE will be to take forward the MAA and to take decisions on matters that are delegated to Pennine Lancashire from Government and Regional Agencies. PLACE will also oversee the development of strategies that operate on a Pennine Lancashire footprint, as opposed to strategies that each individual authority prepares and implements within its area.

It is the express intention of all the partner authorities, that PLACE should operate in accordance with clearly defined terms of reference. All partners are committed to ensuring that PLACE does not diminish the role of the constituent councils and that it does not seek to expand its remit into areas which are currently subject to the self-determination of the partner authorities.

## **CONSTITUTION OF PLACE**

1. The Pennine Lancashire authorities ('the authorities') are the following local authorities within the meaning of the Local Government Acts 1972 and 2000 for their respective administrative areas:
  - a) Blackburn with Darwen Borough Council;
  - b) Burnley Borough Council;
  - c) Hyndburn Borough Council;
  - d) Lancashire County Council;
  - e) The Borough Council of Pendle;
  - f) Ribble Valley Borough Council; and
  - g) Rossendale Borough Council.
2. The authorities are signatories to a Multi-Area Agreement (MAA) with the United Kingdom government to promote the economic prosperity of the area for which they are jointly responsible (this area being "Pennine Lancashire").
3. In order to further the purposes of the MAA the authorities have each determined to form a Joint Committee which is to be known as PLACE.

## **Membership of PLACE**

4. Each of the authorities will appoint for each municipal year one elected member to the joint committee who should normally be the Leader. Each of the authorities will inform the PLACE Strategy Unit in writing of these annual appointments.
5. Each of the authorities will also appoint for each municipal year one or more named substitutes, who may attend in place of the person appointed at paragraph four above and who will also be executive members where applicable. Each of the authorities will inform the PLACE Strategy Unit in writing of these annual appointments.
6. When a substitute proposes to attend a meeting of PLACE prior notification will be provided to the PLACE Strategy Unit.
7. Each authority will have one vote only on PLACE.

## Functions of PLACE

8. The authorities have each agreed that PLACE will fulfil the following functions:
  - a) monitoring the implementation of the MAA;
  - b) providing strategic oversight of the Pennine Lancashire Development Company and other MAA delivery partners;
  - c) determining the allocation of resources made available to the authorities jointly;
  - d) developing, agreeing and managing the following strategies for Pennine Lancashire:
    - i. Economic;
    - ii. Housing;
    - iii. Transport;
    - iv. Spatial;
    - v. Integrated delivery plans; and
    - vi. Investment frameworks;
  - e) Commissioning and publishing research to support its functions;
  - f) Responding to government consultations which affect the whole area of Pennine Lancashire;
9. PLACE may also exercise any other functions which the authorities unanimously determine it should assume responsibility for. e.g. addressing health inequalities; and
10. PLACE may discuss and make recommendations to the authorities in relation to any other matter which concerns the economic prosperity of Pennine Lancashire.

## Meetings

11. PLACE will hold at least four meetings each year.
12. Meetings will be held in public other than in the circumstances set out in paragraph 21.
13. At its first meeting and annually thereafter, the following will be determined for the ensuing year:
  - a) The appointment of a Chair and Vice-Chair; and
  - b) A timetable of meetings.
14. The Chair and Vice-Chair shall, unless s/he resigns the office or ceases to be a member of PLACE continue in office until a successor is appointed in accordance with paragraph 13 above.
15. In the absence of the Chair, the Vice-Chair shall preside at the meeting. In the absence of both, the members present shall, as the first item of business, appoint one of their number to be Chair of the meeting.
16. The Chair or in his/her absence the Vice-Chair may call a special meeting to consider a matter that falls within the remit of PLACE but cannot await the next scheduled meeting provided at least 10 clear working days notice in writing is given to the PLACE Strategy Unit.
17. In this Constitution the phrase 'clear working days' means that the relevant number of days is calculated excluding the day that notice is given (or other instigating event) and the day of the meeting. Week-ends and bank holidays are excluded from the calculation.
18. No business shall be transacted at a meeting unless at least five of the authorities are represented by a member or substitute member of PLACE.
19. Decisions of PLACE will be by a qualified majority save that:
  - a) any decision to recommend the authorities to agree an alteration to the terms of this Constitution must be unanimous; and
  - b) any decision which requires action to be taken or resources to be provided by any one or more of the authorities will require the agreement of such authority or authorities.
  - c) for the purposes of this Constitution the term "Qualified Majority" shall mean the affirmative vote of no less than 5 members of PLACE with no more than two members voting against the resolution in question.
20. Voting shall be by way of show of hands.
21. PLACE may by resolution exclude the press and public from a meeting during an item of business wherever it is likely in view of the nature of the business to be transacted or the

nature of the proceedings, that if members of the public were present during that item there would be disclosure of exempt or confidential information as defined by the Local Government Act 1972 and, where applicable the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000.

22. Non-voting advisers/observers will be invited to attend meetings of PLACE for example representatives of the Chamber of Commerce, the PCT, Lancashire Economic Partnership Limited and Elevate, and may participate in the debate, but where they have an interest on the item in discussion they should declare this interest.

### **Delegation**

23. Subject to the unanimous agreement of its members, PLACE will have available to it full power to delegate its powers to a sub-committee of PLACE or officer of one of the authorities.
24. It is anticipated that PLACE will put in place a working group comprising the chief executives of the authorities or their representatives who will make recommendations to PLACE in relation to the functions of PLACE and which will provide a report to PLACE at each of its meetings.

### **Ethical Standards**

25. Members of PLACE will continue to be bound by the code of conduct which applies to them as members of the authority to which they have been elected, when they are conducting the business of PLACE.
26. It is agreed by the authorities that the rules about confidential information in the relevant code of conduct will apply to the confidential information of PLACE.

### **Committee administration**

27. As a statutory Joint Committee, PLACE is subject to the provisions of the Local Government Act 1972 in relation to access to information and committee administration for PLACE will be provided by Blackburn with Darwen Borough Council's Democratic Services, whose address is Blackburn Town Hall, King William Street, Blackburn, BB1 7DY, and who will be responsible for preparing and circulating agendas for meetings, and for producing the minutes. All agendas will be agreed by the Chair before they are sent out.
28. Items of business may not be considered at a meeting of PLACE unless a copy of the item has been open to inspection by members of the public and the authorities for at least 5 clear working days before the meeting (or where the meeting is convened at shorter notice, from the time the meeting is convened.) However an item that has not been open to inspection may be considered where, by reason of special circumstances which shall be specified in the minutes, the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.

### **Cessation of Membership**

29. Any authority may withdraw from membership of PLACE by giving a minimum of twelve months notice (or such shorter period of time agreed by the members) in writing to the PLACE Strategy Unit.
30. In the event of an authority withdrawing from membership of PLACE as provided for in paragraph 29 above, then the following provisions for withdrawal in this Constitution shall apply and in respect of any contractual obligations or other financial commitments entered into or costs reasonably incurred on behalf of PLACE whilst that authority was a member, that authority shall:
- a) continue to meet its share of the financial commitment and costs or meet its contractual obligations as required until the conclusion of the commitment or obligation as provided for in the documentation setting out the commitment or obligation; and
  - b) continue to be responsible for its part of any other liabilities relating to those contractual obligations or financial commitments until the conclusion of the obligations or commitments, as the case may be.

## **Scrutiny Arrangements**

31. Provisions 32 to 36 below shall, in relation to Ribble Valley Borough Council, be read with the substitution of the word “policy” for the word “executive”. Ribble Valley Borough Council’s “call-in procedure for decisions made by policy committees” will apply to all such policy decisions made by PLACE.
32. Executive decisions made by PLACE insofar as they relate to the exercise of the functions of PLACE shall be subject to the scrutiny arrangements of each authority.
33. All such executive decisions of PLACE shall be notified to all those to whom papers are to be despatched to the authorities in accordance with paragraph 27 above within two (2) clear working days of the decision being made.
34. Each authority and their officers shall co-operate fully with the relevant scrutiny committee of each of the other authorities.
35. Any executive decision of PLACE called in for scrutiny before it is implemented shall not be implemented until the outcome of scrutiny arrangements of the member whose membership has called in the decision.
36. A call in of an executive decision can only be made if the executive decision concerned directly affects the authority whose membership wishes to call in the executive decision.

## **Dispute Resolution**

37. Any dispute under this Constitution shall in the first instance be referred to the Chief Executives of the authorities who shall meet to consider the dispute and use all reasonable endeavours to resolve matters as soon as reasonably practicable.
38. The authorities shall use all reasonable endeavours to reach a negotiated resolution through the above dispute resolution procedure. The specific format for such resolution shall be left to the reasonable discretion of the authorities but may include preparation and submission of statements of fact or of position.
39. If the dispute is not resolved at this meeting and only if each authority agrees at such a meeting or within fifteen (15) clear working days of its conclusion the authorities may request that the dispute be referred to a mediator to be agreed between them.

## **Confidential Information**

40. Except as authorised by PLACE and except for information that is in the public domain, already in the lawful possession of the authorities, or is required by law to be disclosed, the authorities shall keep secret and shall not use or disclose, but shall use their best endeavours to prevent the use or disclosure of, any information provided in documentary form or electronically, which includes but is not limited to information relating to PLACE, its transactions, processes, specifications, methods, or other of its activities or affairs or those concerning its staff and/or suppliers and any other information of a confidential, secret or proprietary nature.
41. The authorities must note their obligations under the Data Protection Act 1998, Freedom of Information Act 2000, Human Rights Act 1998 and any codes of practice and best guidance notes issued by the government and appropriate enforcement agencies. Each authority must comply with this legislation in so far as it places obligations on it and to facilitate compliance by any member. In particular each member must note that PLACE or any relevant accountable body may be required to provide information relating to this Constitution or the business of PLACE to a person in order to comply with its obligations under such legislation.

## **Amendments to the Constitution**

42. The terms of this Constitution shall be kept under periodic review.
43. Any amendments to this Constitution to be proposed to PLACE must first be approved by each of the authorities (including but not limited to the addition of a new member authority).
44. The amendment once approved by the authorities shall be subject to the unanimous approval of PLACE.

## ARTICLE 11 – OFFICERS

### 11.01 Management Structure

- a) **General.** The Full Council may engage such staff (referred to as “fficers”) as it considers necessary to carry out its functions.
- b) **Chief Officers.** The Full Council will engage persons for the following posts:
  - Chief Executive
  - Directors
  - Head of Finance
  - Head of Legal
  - Head of People and Policy
- c) **Head of Paid Service, Chief Finance Officer (Section 151 Officer) and Monitoring Officer.**

The Council will designate the following posts as shown:

POST	DESIGNATION
Chief Executive	Head of Paid Service
Head of Finance	Chief Finance Officer (Section 151 Officer)
Head of Legal	Monitoring Officer

Such posts will have the functions described below.

### 11.02 Functions of the Head of Paid Service

- a) **Discharge of Functions by the Council.** The Head of Paid Service will report to the Full Council on the manner in which the discharge of the Council’s functions is co-ordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.
- b) **Restrictions on Functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.
- c) **Structure.** The Head of Paid Service will determine and publicise a description of the overall Service structure of the Council setting out the management structure and deployment of Officers. This is set out at Part 7 of this Constitution.

### 11.03 Functions of the Head of Finance

- a) **Ensuring Lawfulness and Financial Prudence of Decision Making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Head of Finance report either to the Cabinet or to the Full Council and the Council’s external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- b) **Administration of Financial Affairs.** The Head of Finance will have responsibility for the administration of the financial affairs of the Council.
- c) **Contributing to Corporate Management.** The Head of Finance will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

- d) **Providing Advice.** The Head of Finance will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all councillors and will support and advise councillors and officers in their respective roles.
- e) **Give financial information.** The Head of Finance will provide financial information to the media, members of the public and the community.

#### 11.04 Functions of the Monitoring Officer

- a) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and the Head of Finance the Monitoring Officer will report either to the Cabinet or the Full Council if he or she considers that any proposal, decision or omission would give rise or has given rise to unlawfulness or if any decision or omission would give rise or has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- b) **Supporting the Standards Panel.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Panel.
- c) **Conducting investigations.** The Monitoring Officer will conduct or arrange for investigations into complaints of breaches of the Members' Code of Conduct and will make or arrange to make reports or recommendations in respect of them to the Standards Panel.
- d) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all councillors.
- e) **Restrictions on posts.** The Monitoring Officer cannot be the Head of Finance or the Head of Paid Service.
- f) **Maintaining the Constitution.** The Monitoring Officer will maintain an up to date version of the Constitution and will ensure that it is widely available for consultation by councillors, officers and members of the public.

#### 11.05 Provision of sufficient resources to the Head of Paid Service, Head of Finance and Monitoring Officer

The Council will provide the Head of Paid Service, the Head of Finance and the Monitoring Officer with such offices, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

#### 11.06 Conduct

Officers will comply with the Employee's Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution and any other protocol or code of conduct that may be adopted by the Council.

#### 11.07 Employment

The recruitment, selection and dismissal of officers will comply with the Council's approved human resources policies.

Protocols for both Monitoring Officer and Head of Finance are in Part 5 of the Constitution.

## **ARTICLE 12 – DECISION MAKING**

### **12.01 Responsibility for Decision Making**

The Council will issue and keep up to date an Officer Delegation Scheme. The Scheme of Delegation forms part of the Constitution.

### **12.02 Principles of Decision Making**

All decisions of the Council will be made in accordance with the following principles:

- a) the rule of law;
- b) clarity of aims and desired outcomes;
- c) proportionality (i.e. the action must be proportionate to the desired outcome);
- d) due consultation and the taking of professional advice from officers and/or appropriately qualified consultants;
- e) respect for human rights;
- f) a presumption in favour of openness;
- g) explanation of the options considered and the reasons for decisions;
- h) to have due regard of the potential impact in different sections of the community.

### **12.03 Decision making by the Full Council**

The Full Council meetings will follow the Council Procedures Rules set in the Constitution when considering any matter.

### **12.04 Decision making by the Overview and Scrutiny Committee**

The Overview and Scrutiny Committee will follow the Overview and Scrutiny Procedures Rules set out in the Constitution when considering any matter.

### **12.05 Decision making by the Cabinet and other committees established by the Council**

The Cabinet (and any Cabinet Committees) will follow the Cabinet Procedure Rules set out in the Constitution when considering any matter. Council committees will follow the Committee Procedures Rules set out in the Constitution when considering any matter.

### **12.06 Decision making by Council bodies acting as tribunals**

The Council and its committees or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure. This must accord with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

### **12.07 Key Decisions**

1. A “key decision” means an executive decision which is likely:

- a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the budget for the service or function to which the decision relates, or
- b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the borough.

2. For the avoidance of doubt, the Council would regard any of the following as “significant”:

- Any decision by the Cabinet in the course of developing proposals to the full Council to amend the policy framework.
- Any single item of in-budget expenditure or savings in excess of £100,000.

- Any decision which is likely to have a permanent or long term (more than five years) effect on the Council and the borough.

12.08 A decision taker may only make a Key Decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.

## **ARTICLE 13 – FINANCE, CONTRACTS AND LEGAL MATTERS**

### **13.01 Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part 4 of the Constitution.

### **13.02 Contracts**

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of the Constitution.

### **13.03 Legal Proceedings**

The Monitoring Officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any other case where the Monitoring Officer considers that such action is necessary to protect the Council's interests, acting within the Council's Scheme of Delegation.

### **13.04 Authentication of Documents**

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

### **13.05 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. Subject to Contract Procedure Rule 21, the affixing of the Common Seal will be attested by the Head of Paid Service or Monitoring Officer. In the absence of both the Head of Paid Service and the Monitoring Officer the, Common Seal can be attested by the Mayor or Deputy Mayor.

## **ARTICLE 14 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

### **14.01 Suspension of the Constitution**

- Limit to suspension.** The Articles of this Constitution may not be suspended. Rules of procedure may be suspended by the Cabinet or by a committee or the Full Council, following a vote and will only apply at the meeting at which that vote is taken.

### **14.02 Interpretation**

The ruling of the Monitoring Officer as to the construction or application of this Constitution shall be final. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### **14.03 Publication**

- The Monitoring Officer will provide a printed copy of the Constitution on request to each councillor upon delivery to him or her of that individual's declaration of acceptance of office

on the councillor's first being elected to the Council. A link to the electronic copy of the Constitution on the web site will also be provided.

- b) The Monitoring Officer will ensure that copies are available for inspection at council offices and other appropriate locations.
- c) The Monitoring Officer will ensure that a summary of the Constitution is made widely available in print and on the Council's website within the Borough and is updated as necessary.

## **SCHEDULE 1: DESCRIPTION OF CABINET / EXECUTIVE ARRANGEMENTS**

The following parts of this Constitution constitute the Cabinet / Executive arrangements:

- 1. Article 6 – Cabinet Committee and the Cabinet Procedure Rules.
- 2. Article 7 - Overview and Scrutiny Committee and the Overview and Scrutiny Procedure and Rules.
- 3. Article 8 - Regulatory Committees and the Committee Procedure Rules.
- 4. Article 10 - Joint Arrangements in so far as any Joint Committee is determining Local Functions.
- 5. Article 12 - Decision Making and the Access to Information Procedure Rules.

# Part 3

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## **RESPONSIBILITY FOR FUNCTIONS**

Terms of Reference of the Council, Cabinet, Committees and Working Groups

1. Introductions and Definitions
2. General Terms of Reference
3. Local Choice Functions

### **Terms of reference**

4. Council
5. Cabinet
6. Overview & Scrutiny Committee
7. Regulatory Committees
  - 7.1 Development Control Committee
  - 7.2 Licensing Committee
8. Standards Panel
9. Appointment & Appeals Committee
10. Audit & Accounts Committee
11. Working Groups
12. Police and Crime Panel for Lancashire

## 1. INTRODUCTION AND DEFINITIONS

- 1.1 Any reference in this Part of the Constitution to an Act of Parliament or other statutory provision includes any re-enactment of that Act or provision and any amending legislation. Where powers or duties of the Council under statutory provisions not mentioned in this Part of the Constitution relate to or are incidental to functions assigned to the Council, the Cabinet, a Panel or a committee or delegated to officers those powers or duties are given to the Council, Cabinet, Panel or committee to which the function has been assigned, or the officer to whom the function has been delegated.
- 1.2 Where new functions are given to the Council by an Act of Parliament or other statutory provisions, which are related to the functions given to the Cabinet, a Panel or a committee by this Part of the Constitution these new functions will be exercised by the Cabinet, Panel or committee.
- 1.3 This Scheme is subject to Parts 1 and 3 of the Council's Constitution.
- 1.4 Subject to any provisions to the contrary any reference in this Part of the Constitution:
- a) to applications for permission, consents, approvals, certificates, licences, authorisations or registrations, includes power to grant (with or without conditions) or refuse them and to deal with any transfer, assignment, variation, suspension, revocation, consultations, appeal or other proceedings.
  - b) to orders, schemes or directions, includes power to (or to apply to) make, vary or revoke them and to deal with any appeal or other proceedings.
  - c) to notices, includes power to serve, issue publish, vary or withdraw them and to deal with any appeal or other proceedings; and
  - d) to any function, includes any power, discretion or duty contained in the relevant statutory provision or which is incidental or ancillary to the exercise of that function.
- 1.5 In this Part of the Constitution, the following words and phrases shall have the following meaning;
- a) **Executive functions** shall mean those functions which by law must be the responsibility of the Cabinet.
  - b) **Non-executive functions** shall mean those functions which by law must not be the responsibility of the Cabinet.
  - c) **Local choice functions** shall mean those functions which the Council may decide to exercise itself or delegate to any part of the Council including the Cabinet. A list of local choice functions is included in Section 3 of this Part of the Constitution.
  - d) **Standing Orders** shall mean the standing orders and rules set out in Part 3 of this Constitution.

## 2. GENERAL TERMS OF REFERENCE

- 2.1 These Terms of Reference set out the functions of the Council, and those of its functions that have been given to the Cabinet, panels and committees.
- 2.2 The Council is responsible for the exercise of all functions which are set out in Article 4 and Part 4 below and for determining the allocation of executive functions to the Cabinet in accordance with section 15 of the Local Government Act 2000. The Council may delegate the exercise of non-executive or local choice functions to any other person or body subject

to any statutory constraints.

- 2.3 Only the Council may exercise or delegate those functions described in section 4 of this Part of the Constitution.
- 2.4 Subject to statutory requirements, Standing Orders and the matters reserved to the Council set out above, the Council delegates to the Cabinet, the panels and the committees and officers shown in this Part of the Constitution the powers and duties set out, and such other powers and duties as the Council may from time to time specify. Any delegation of non-executive or local choice functions by the Council, shall not prevent the Council from exercising those functions itself.
- 2.5 The Cabinet is responsible for the exercise of all executive functions and any local choice functions delegated to it by the Council. It may further delegate those functions in accordance with section 15 Local Government Act 2000 and any regulations made under sections 17 to 20 Local Government Act 2000.
- 2.6 Subject to statutory requirements and Standing Orders the Cabinet delegates to officers set out in this Part of the Constitution the powers and duties set out and such other powers and duties as the Cabinet may from time to time specify. Any such delegation by the Cabinet shall not prevent the Cabinet from exercising those functions itself.
- 2.7 The Cabinet and each committee shall be empowered to act subject to the following general conditions:-
- a) Neither the Cabinet nor any panel, or committee shall be empowered to raise money by council tax, precept, or loan or to make bylaws.
  - b) Subject to the urgency procedure in relation to executive decisions in the Access to Information in Part 3 of this Constitution any decisions made shall accord with the budget and policy framework.
  - c) Before acting on any matter involving the adoption of any major new policy which changes the policy framework, the Cabinet, or any committee must obtain the approval of the Council to its proposed course of action.
  - d) Neither the Cabinet nor any panel or committee may make decisions in relation to a power or duty where its function is expressed to be advisory or limited to the making of recommendations or the submission of requests to the Council or another body.
- 2.8 Action by Cabinet and or committee shall be subject to the restrictions imposed by Standing Orders.
- 2.9 Overview and Scrutiny Committee and the regulatory committees shall have power to:-
- a) Re-delegate to any sub-committee appointed by it all or any of the powers and duties delegated to it by the Council.
  - b) Impose any conditions or restrictions it thinks fit on the exercise of powers and duties by any of its sub-committees.
- 2.10 Any panel shall have power to appoint a standing working party or a task and finish group to advise it on any power or duty delegated to it.
- 2.11 All member bodies shall have power to
- a) Re-delegate to an officer of the Council all or any of the powers and duties delegated to it by the Council
  - b) Impose any conditions or restrictions it thinks fit on the exercise of powers and duties by an

- officer
- c) Seek advice from an officer of the Council

### 3. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

The body or person specified in the second column of the table below for each of the local choice functions in the first column, subject to any restrictions imposed by the Council in the third column, shall be responsible for the discharge of the relevant local choice function.

Local Choice Function	Responsible Body or Person	Any Restriction	Statutory references
Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1 of the Regulations	Cabinet	None	Local Authorities (Functions and Responsibilities) (England) Regulations 2000
The determination of an appeal against any decision made by or on behalf of the authority.	Appeals Committee	Except to the extent powers are delegated to officers	Any enactment conferring a power on the Council to determine such appeals.
The appointment of review boards under regulations	Cabinet	None	Section 34 (4) of the Social Security Act 1998.
Any function relating to contaminated land.	Cabinet	Except to the extent powers are delegated to officers	Part IIA Environmental Protection Act 1990 and subordinate legislation.
The discharge of any function relating to the control of pollution or the management of air quality.	Cabinet	Except to the extent powers are delegated to officers	Pollution Prevention and Control Act 1999; Part IV Environmental protection Act 1990; Clean Air Act 1993
The service of an abatement notice in respect of a statutory nuisance.	Cabinet	Except to the extent that powers are delegated to officers	Section 80 (1) of the Environmental Protection Act 1990.

<b>Local Choice Function</b>	<b>Responsible Body or Person</b>	<b>Any Restriction</b>	<b>Statutory references</b>
The passing of a resolution that Schedule 2 to the Act should apply in the authority's area	Cabinet	Except to the extent that powers are delegated to officers	Schedule 2 to the Noise and Statutory Nuisance Act 1993
The inspection of the authority's area to detect any statutory nuisance	Cabinet	Except to the extent that powers are delegated to officers	Section 79 of the Environmental Protection Act 1990
The investigation of any complaint as to the existence of a statutory nuisance	Cabinet	Except to the extent that powers are delegated to officers	Section 79 of the Environmental Protection Act 1990
The obtaining of information as to interests in land	Development Control Committee	Except to the extent powers are delegated to officers	Section 330 Town and Country Planning Act 1990
The obtaining of particulars of persons interested in land.	Cabinet	Except to the extent that powers are delegated to officers	Section 16 Local Government (Miscellaneous Provisions) Act 1976
The making of agreements with other local authorities for the placing of staff at the disposal of those other local authorities	Cabinet	None	Section 113 Local Government Act 1972
The appointment or revocation of the appointment of any individual- (a) to any office other than an office in which he is employed by the authority; (b) to any body other than – (i) the authority; (ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body	Cabinet	None	Any enactment conferring a power to make such appointments.

<b>Local Choice Function</b>	<b>Responsible Body or Person</b>	<b>Any Restriction</b>	<b>Statutory references</b>
The making of agreements with other local authorities for the placing of staff at the disposal of those authorities	Cabinet	Except to the extent that powers are delegated to officers	Any enactment conferring a power to make such an agreement.

## **TERMS OF REFERENCE**

### **4. COUNCIL**

The Council shall be responsible for:

- 4.1 Adopting, agreeing, amending or revoking the Constitution or any part thereof.
- 4.2 Approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land transfer.
- 4.3 Subject to the urgency procedure contained in the Access to Information Standing Orders in Part 3 of this Constitution, making executive decisions which are contrary to the policy framework or contrary to, or not wholly in accordance with, the budget.
- 4.4 Where required to do so under the provisions of the call-in procedure set out in the Overview and Scrutiny Standing Orders in Part 3 of this Constitution, to consider any decision which has been called in to the Council and determine the same.
- 4.5 The election of the Mayor and the appointment of the Deputy Mayor.
- 4.6 The appointment of the Leader in line with legislation.
- 4.7 The appointment of a new Leader should the existing Leader resign or be removed from office (if the Leader is removed from office by a vote of no confidence, this motion would need to be submitted as a Notice of Motion under the current Council Procedure Rules in Part 4 Section 11. The number of votes required would be in line with the current voting procedures in Part 4 Section 16.1).
- 4.8 Agreeing the councillors to serve on committees and working groups.
- 4.9 Agreeing and/or amending the terms of reference for committees and panels, deciding on their composition and making appointments to them.
- 4.10 Determining the allocation of executive functions to the Cabinet.
- 4.11 The appointment of representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council.
- 4.12 The adoption of a Members' Allowances Scheme.
- 4.13 Changing the name of the district or of a parish, or conferring the title of Honorary Alderman

or Freedom of the Borough.

- 4.14 Confirming the appointment of the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer and directors.
- 4.15 The duty to provide staff etc to a person nominated by the Monitoring Officer as set out in Sections 82A (4) and (5) of the Local Government Act 2000.
- 4.16 The power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal).
- 4.17 Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills.
- 4.18 All local choice functions set out in this part of the Constitution which the Council decides should be undertaken by itself rather than the Cabinet
- 4.19 Making arrangements for the proper administration of the financial affairs of the Council.
- 4.20 Approving the Council's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be).
- 4.21 Appointing proper officers for the purposes of any particular functions.
- 4.22 The power to make payments or provide other benefits in cases of maladministration.
- 4.23 The following functions in relation to elections and electoral registration matters:
  - a) the appointment of an Electoral Registration Officer
  - b) the assigning of officers in relation to requisitions of the Registration Officer
  - c) parishes and parish councils
  - d) the dissolution of small parish councils
  - e) orders for grouping parishes, separating and dissolving groups
  - f) the appointment of the Returning Officer for local elections
  - g) the provision of assistance at European Parliamentary elections
  - h) the division of the constituency into polling districts
  - i) the division of electoral divisions into polling districts (local elections)
  - j) powers in respect of the holding of elections
  - k) the payment of expenses properly incurred by Electoral Registration Officers
  - l) the filling of vacancies in the event of insufficient nominations
  - m) duty to declare vacancy in office in certain cases
  - n) duty to give public notice of a casual vacancy
  - o) making temporary appointments to parish councils
  - p) power to submit proposals to the Secretary of State for an order under Section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000
- 4.24 All other matters which, by law, must be reserved to Council.

## **5. CABINET**

### **5.1 Role**

The Cabinet will carry out all of the local authority's functions which are not matters reserved to Full Council or the responsibility of any other committee of the local authority. The Cabinet can make recommendations to Full Council and other committees in respect of matters that are referred to Full Council for decision.

The Cabinet has, for example the power to deal with:

- a) Assets valued at over £100,000.01 by the Council's independent valuer;
- b) All acquisitions and disposals of land, buildings or other property where the Council's independent valuer values the land, buildings or other property at more than £250,000 but less than £1 million and it is proposed to accept the highest bid and the highest bid matches or exceeds the valuation of the Council's independent valuer;
- c) All cases whatever the value where the buyer is either a councillor or an officer;
- d) All disposals where the Council's independent valuer values the property at over £100,000.01 and it is proposed to accept either a bid other than the highest or where the highest bid neither matches nor exceeds that of the Council's independent valuer.
- e) Reports on all village green applications.

### **5.2 Form and Composition**

The Cabinet will consist of the Leader together with up to nine other councillors.

#### **Leader**

The Leader will be a councillor elected to the position of Leader by the Council in line with legislation. The Leader will hold office until:

- a) He or she resigns from the office;
- b) If a recommendation to remove him or her as Executive Leader due to a breach of the Code of Conduct for Members is carried
- c) He or she is no longer a Councillor; (although if not returned at the election he/she will remain during the transitional period until the date of the next Annual Meeting).
- d) Where by resolution the Council removes the Leader from office at an earlier date by Notice of Motion and number of votes required as at Part 4 Section 16.1.

#### **Decisions delegated to the Leader of the Council**

The Leader of the Council is able to refer any civic matter to the Governance Working Group for consultation and has delegated authority to make decisions on civic matters including:

- To agree and make changes to the Mayoralty.
- To agree amendments to the Civic Protocol.
- To agree the nominations for Deputy Mayor and Honorary Alderman.
- To set the date and format for Annual Council.

### **5.3 Other Cabinet Members**

Other Cabinet Members shall hold office until:

- a) They resign from office;

- b) They are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension);
- c) They are removed from office either individually or collectively by resolution of the Council;
- d) They are no longer councillors;
- e) The Leader reappoints/amends Cabinet positions.

## **5.4 Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

## **5.5 Exercise of Functions**

- a) The Cabinet shall be responsible for the exercise of all executive functions on behalf of the authority, i.e. all of the local authority's functions which are not the responsibility of the Full Council or any other part of the Council whether by law or under this Constitution.
- b) The executive functions are allocated by the Council to the Cabinet as a collective decision making body i.e. the Leader and Cabinet members acting together.
- c) Each member of the Cabinet shall be allocated a portfolio. A portfolio holder shall not have any decision-making powers, except as provided in Part [4].

## **5.6 General Responsibilities of the Cabinet**

### **5.6.1 Policy Framework and budget**

- a) Guide the Council in the formulation of its Corporate Strategy, corporate plans, objectives and priorities taking into account the social, environmental and economic needs of the Borough and the Council and matters of comprehensive importance to the area;
- b) Recommend to the Council such forward programmes and other steps as may be necessary to achieve those objectives and priorities during specific time spans; and that an annual report be made to Council by Cabinet that indicates policy direction for the next financial year; and
- c) Implement the agreed policy framework and budget in accordance with the Budget and Policy Framework Procedures Rules in Part 3 of this Constitution.

### **5.6.2 Promotion of well-being and community planning**

The promotion of the economic, social or environmental well-being of the area, leading the development of the community plans and the formation of partnerships with other public private, voluntary and community organisations.

### **5.6.3 Value for Money**

Leading the search for value for money with a view to ensuring continuous improvement in the delivery of services and ensuring that those services provide, and can demonstrate, value for money.

### **5.6.4 Effective Management and Resources**

The effective management of the Council, management of resources and the provision of support services, including:-

- a) Ensuring that the organisation, establishment and management processes of the Council are

- designed to make the most effective contribution to the achievement of the Council's objectives.
- b) Keeping them under review in the light of changing circumstances; and
  - c) Making recommendations as necessary for change in either the democratic or departmental structure, or the distribution of functions and responsibilities.

#### 5.6.5 Interests of the Borough

Consideration of, formulation of views on, and making representations on, any matters affecting the interests of the Borough, or any part of it, or all or some of its inhabitants.

#### 5.7 The management and control of land and buildings.

- a) Emergency planning and dealing with emergencies; and
- b) Schemes for subscriptions and grants to voluntary associations with the exception of those concerned with sports twinning.

#### 5.8 The management and control of all matters relating to the Council's powers and duties as an employer including the formulation, approval, implementation and monitoring of policies and strategies in connection with personnel matters and health and safety matters.

#### 5.9 The responsibility for the Council's customer services including One Stop Shop, and the Council's web site.

#### 5.10 The promotion and provision of access and facilities for disabled people.

### 6. OVERVIEW AND SCRUTINY COMMITTEE

- To consider any scrutiny forms that are received and determine the appropriate course of action
- To consider work programme requests and agree the work programme
- To conduct research, undertake community and other consultation in the analysis of policy issues and possible options
- To question and gather evidence from any person (with his or her consent)
- To receive consultation documents as appropriate and agree a small response group to reply to specific documents, as necessary
- To make recommendations to the Cabinet, Council and other organisations where appropriate
- To produce an Annual Report
- To develop and review such policy matters as it sees fit
- To consider and implement mechanisms to encourage and enhance community participation in the development of policy options
- To question members of the Cabinet and/or committees and or officers about their views on issues and proposals affecting the area
- To monitor existing council policies to ensure recommendations are being implemented
- To monitor the Forward Plan and agree those policies to be scrutinised prior to decision by Cabinet/Full Council
- To monitor complaints handling
- To monitor Ombudsman complaints
- To monitor and scrutinise the Council's Corporate Plan and, policy objectives and where appropriate service improvement plans
- To consider and monitor the performance of the Cabinet and other council committees

and officers, as appropriate

- To assist the Council and the Cabinet in the Budget and Policy Frameworks
- To consider budget options as part of the budget consultation process
- To consider the Corporate Plan and make recommendations on the plan to the Cabinet
- To scrutinise decisions made by the Cabinet and other council committees and officers
- To question members of the Cabinet and Chairs of committees, Chief Officers and Head of Service about their decisions and performance
- To set up Task and Finish Groups; with a maximum of two such groups operating at any one time; and to agree terms of reference and project plans before work starts
- To consider final reports from the Task and Finish Groups
- To deal with any relevant Councillor Call for Action requests and determine the appropriate course of action
- Scrutinise decisions referred to it under the 'Call-in Procedure'
- Review and scrutinise the performance of other public bodies whose operations affect the area and invite reports from them or request them to address the Overview and Scrutiny Committee and local people about their activities and performance
- To liaise with external organisations whose operations affect the area to ensure that the interests of local people are enhanced by collaborative working
- To receive presentations from external organisations and partners
- To scrutinise Rossendale's contribution to the Pennine Lancashire Community Safety Partnership and to act as the Council's Crime and Disorder Committee
- To monitor the funding and legal agreements agreed with Rossendale Leisure Trust and receive financial/performance monitoring reports.

## **7 REGULATORY COMMITTEES**

### **7.1 DEVELOPMENT CONTROL COMMITTEE**

1. To consider and determine applications made by the Council, councillors or their spouses or partners, officers or where the relevant Director or Monitoring Officer has been made aware that a councillor or an officer has an interest in the property.
2. To consider and determine all planning applications on Council owned land, by or on behalf of the Council, its parties, organisations or other agents.
3. The consideration of objections and the confirmation/modification of tree preservation orders to which objections have been received.
4. The nomination of a member of the Development Control Committee to represent the Council at any hearing or Inquiry, where the decision was made contrary to policy and officer advice.
5. Planning applications relating to strategic applications which include:-
  - a) the provision of dwelling houses where:-
    - i. 15 or more dwellings are to be provided; or
    - ii. the site area is 0.5 hectare or more; or
  - b) buildings are to be provided with a floor space of 1000 square metres or more; or
  - c) the site to be developed is 1 hectare or more; or
  - d) developments which require an environmental statement.
6. To consider and determine applications or notifications which have received three or more material planning objections and which are recommended by officers for approval.

7. To consider and determine applications which have been called in, in accordance with the call in procedure (set out in Part 4 of this Constitution).

## **7.2 LICENSING COMMITTEE**

To deal with the following items, except those matters which are delegated to the Council and/or officers:

- Waste Management Licences
- Stage Play Licences
- Pet Shops Licences
- Animal Boarding Establishment Licences
- Guard Dog Licences
- Game Dealers Licences
- Scrap Metal Dealers Licences
- Rag Flock and Other Materials Act
- Riding Establishment Licences
- Breeding of Dogs Act Licences
- Acupuncture
- Tattooing, Ear Piercing and Electrolysis
- Licences to Plant trees in highways
- Licences re Caravan Sites and Control of Development Act, 1964 /sections 44 and 45
- Dangerous Wild Animals
- House to House and Street Collections
- Licensing of Hackney Carriage Vehicles and Drivers and Private Hire Operators (delegated by Council 23/02/2011)
- Second Hand Dealers
- Hypnotism
- Sex Establishments
- Street Trading
- Licensing Matters (Licensing Act 2003)
- Licensing Matters Gambling Act 2005
- Policy statement on guidelines to convictions including statement of policy about relevant convictions (delegated by Council 26/03/2014)
- Enforcement Policy: Hackney Carriage and Private Hire Drivers (delegated by Council 23/02/2011)
- Hackney Carriage Intended 'Use' Policy (delegated by Council 24/02/2016)

To deal with the following items via a politically balanced sub-committee (panel of 3 members), except those matters which are delegated to the Council and/or officers:

- Taxi Licence Applications (non-statutory committee)
- Premises Licences (statutory committee)

Sub-committees will be made up of Licensing Committee members, or if substitutes are required (on the non-statutory committee only), any other member may substitute by agreement with the Chief Executive that the member has undertaken the necessary training to take part in the committee's work. The Chair of the Licensing Committee will act as the chair person for all Licensing Sub-Committee meetings, otherwise the Vice-chair of Licensing will fulfil this role where available. They will automatically chair the sub-committees without the need to be formally appointed as the

chair person.

## **8. STANDARDS PANEL**

### **Roles and Functions**

The Standards Panel will have the following roles and functions:

- a) To consider and determine complaints about breaches of the Members' Code of Conduct;
- b) To deal with any reports from the Monitoring Officer on standards complaints;
- c) To exercise functions in relation to standards arrangements for Whitworth Town Council and the Members of Whitworth Town Council.

## **9. APPOINTMENTS AND APPEALS COMMITTEE**

1. To undertake all stages in respect of the appointment or dismissal of Chief Officers in accordance with the Council's Officer Employment Procedures.

### **2. Personal Appeals**

1. To hear and determine appeals of Council staff in connection with:
  - i the grading of posts
  - ii grievances
  - iii disciplinary action, including dismissal
  - iv other claims relating to individual contracts of employment

### **3. Other Appeals**

To hear and determine any appeal against the decision of the Council (except where such appeals have been delegated to officers or to another body or committee).

## **10. AUDIT AND ACCOUNTS COMMITTEE**

### **Statement of purpose**

1. The Audit and Accounts Committee is a key component of Rossendale Borough Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.
2. The primary purpose of the committee is to provide independent assurance to the members (being those charged with governance) of the adequacy of the risk management framework and the internal control environment. It provides independent review of the Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.
3. The committee's members should therefore behave objectively and independently in their deliberations and decisions.

### **Governance**

The committee will:

4. Review the Council's corporate governance arrangements against the good governance

framework, and consider annual governance reports and assurances.

5. Review and recommend the local code of corporate governance for adoption by the Council.
6. Review the annual governance statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account the head of internal audit's opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control.
7. Consider the Council's arrangements to secure value for money, and review assurances and assessments on the effectiveness of these arrangements.
8. Consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.
9. Consider the Council's arrangements for discharging its duties in relation to promotion and maintenance of high standards of conduct by members and co-opted members, in accordance with the Localism Act 2011.
10. To make recommendations to the Cabinet, Council and other organisations where appropriate.

### **Risk management and control**

The committee will:

11. Monitor the effective development and operation of the risk management framework and processes across the Council.
12. Monitor progress in addressing risk-related issues reported to the Committee.
13. Consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
14. Review the assessment of fraud risks and potential harm to the Council from fraud and corruption.
15. Monitor the counter-fraud strategy, actions and resources, including any instances of whistleblowing.

### **Internal audit**

The committee will:

16. Consider the internal audit charter approved by Lancashire County Council.
17. Approve the risk-based internal audit plan, including the Internal Audit Service's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
18. Approve significant interim changes to the risk-based internal audit plan and resource requirements.
19. Make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.
20. Consider reports from the head of internal audit on internal audit's performance during the year, including the performance of any other 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 Audit Quality Assurance and Improvement Programme.
  - c. Reports on instances where the Internal Audit Service 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.
21. Consider the head of internal audit'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.

- 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, which will assist the committee in reviewing the annual governance statement.
22. Consider summaries of specific internal audit reports as requested.
23. Receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to the Council or there are concerns about progress with the implementation of agreed actions.
24. Contribute to the Audit 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.

### **External audit**

The committee will:

25. Consider the appointment of the Council's external auditor proposed by Public Sector Audit Appointments Limited and assess whether there are any valid reasons for the Council to object.
26. Support the external auditor's independence through consideration of its annual assessment of its independence and review of any issues raised by Public Sector Audit Appointments Limited.
27. Approve the letters of representation required by the external auditor and consider the external auditor's annual letter, audit opinion, relevant reports, and the report to those charged with governance.
28. Consider specific reports as agreed with the external auditor.
29. Comment on the scope and depth of external audit work and to ensure it gives value for money.
30. Commission additional work from the external auditor as necessary.

### **Financial reporting**

The committee will:

31. Review and approve the annual statement of accounts. Specifically, it will 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.
32. Consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

### **Accountability arrangements**

The committee will:

33. 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.

## **11. WORKING GROUPS**

### **GOVERNANCE WORKING GROUP**

Number of Councillors: 7  
Quorum: 3

#### **Terms of Reference**

- To monitor and review the Constitution and make recommendations on proposed amendments to Full Council.
- To recommend improvements to Full Council resulting in a strong governance framework to ensure that ethical governance arrangements are appropriate and sufficiently robust.
- To develop and provide strategic direction to formulate, implement, promote, monitor and evaluate member development.
- To monitor strategically and to prioritise development plan activities.
- To monitor strategically the member development budget.
- To ensure link to Council aims, priorities and objectives.
- To maintain the Member Development Charter
- To ensure cross-party communication.
- To ensure and promote equality and accessibility.
- To promote diversity.
- To demonstrate continuous improvement.
- To agree the Induction Programme.
- To promote the Protocol on Member/Officers Relations
- Assisting Councillors and Co-opted Members to observe the Members' Code of Conduct
- Arranging training for Councillors and Co-opted Members on matters relating to the Members Code of Conduct
- Produce an Annual Training Programme

### **GRANTS ADVISORY WORKING GROUP**

Number of Councillors: 7  
Quorum: 3

#### **Terms of Reference**

- To review applications and make recommendations to the relevant Portfolio Holder, the relevant Director and the Council's Section 151 Officer on grant allocations specifically:
- To consider how the grants assist the Council with their shared objectives in line with the Council's Policy on Grants to Voluntary Sector Bodies.
- To consider how to publicise availability of grant opportunities.

## **CONSULTATION WORKING GROUP**

Number of Councillors: 7  
Quorum (for responses): 3

Terms of Reference:

- To consider consultations received by the Council.

To provide feedback on consultations received by the Council

The Consultation Working Group (CWG) will act as a wider consultation reference group on range of council related issues.

The CWG will agree a chairperson at the start of each consultation meeting should it be required to meet.

The CWG will operate on a virtual basis, unless otherwise deemed necessary. This is to ensure the best use of councillor and officer time. This means that wider consultation material will be circulated via email and responses will be collated via email by a given deadline.

In terms of decision making, the decision of the group will be made according to the majority view once the deadline for responses is reached, or for meetings normal procedures will apply for instances where there is an even split of opinion (chair's second/casting vote).

Substitutes may be provided for this group by notifying Committee and Member Services if any of the following apply:

- There is a conflict of interest.
- Cover for absence.
- Another member has more specialist knowledge of the consultation topic.

## **LOCAL PLAN STEERING GROUP**

Number of councillors: 7  
Quorum: 3

Composition

- That membership of the Local Plan Steering Group should be based on the political balance of the Council.
- The composition of the group should include the Portfolio Holder covering planning and the Chair of Development Control Committee.

Terms of Reference

- To make recommendations on the content of the Local Plan to officers prior to consideration of the plan by Council.
- To act as a mechanism for keeping members of political parties informed of progress in Local Plan preparation including through circulation of minutes.
- To consider the appropriateness of the evidence base and to provide comments as necessary on particular documents.
- To provide member input to comments made on behalf of the Council to Government, statutory bodies and neighbouring authorities on planning issues.
- Any other matters as may be necessary to require the effective and timely preparation of the Local Plan.

## **Lancashire Police and Crime Panel Terms of Reference**

The Panel will exercise the following powers under the Police Reform and Social Responsibility Act 2011, and all other enabling powers, discharging its functions in accordance with the Policing Protocol Order 2011.

- 1) To review and make a report or recommendation(s) on the draft police and crime plan, or draft variation, given to the Panel by the Police and Crime Commissioner (the Commissioner).
- 2) To review, put questions to the Commissioner at a public meeting, and make a report or recommendation (as necessary) on the Commissioner's annual report.
- 3) To hold a confirmation hearing in public and review, make a report and recommendation (as necessary) in respect of proposed appointments by the Commissioner of Chief Constable, Chief Executive, Chief Finance Officer, and Deputy Police and Crime Commissioner.
- 4) To hold a scrutiny meeting in private and make a recommendation to the Commissioner on a proposal by the Commissioner to call upon the Chief Constable to retire or resign.
- 5) To review and make a report and recommendation (as necessary) on the proposed precept.
- 6) To review or scrutinise decisions made, or other action taken, by the Commissioner in connection with the discharge of his/her functions.
- 7) To make reports or recommendations to the Commissioner with respect to the discharge of the Commissioner's functions.
- 8) To support the effective exercise of the Commissioner's functions.
- 9) To fulfil functions in relation to complaints about conduct matters, in accordance with the Panel's responsibilities as provided for by the Police Reform and Social Responsibility Act 2011.
- 10) To appoint, if necessary, an Acting Police and Crime Commissioner.
- 11) To suspend the Commissioner if it appears to the Panel that the Commissioner has been charged in the United Kingdom or Isle of Man with an offence which carries a maximum term of imprisonment exceeding two years.

## **Lancashire Police and Crime Panel Panel Arrangements**

### **1 General Principles**

- 1.1 Lancashire County Council shall act as the host authority for the Police and Crime Panel. The County Council will act as Secretary to the Panel and shall be responsible for ensuring that the necessary officer support is provided and that any necessary arrangements are made to promote the role of the Panel.
- 1.2 The Panel must be made up of a minimum of 15 councillors and 2 independent co-opted members.
- 1.3 The constitution of the Panel should take account of, as far as is practical, both political and geographical proportionality, as well as the necessary knowledge, skills and experience to discharge its functions effectively – “the balanced appointment” objective.
- 1.4 Additional members may be co-opted on to the Panel to enable the balanced appointment objective to be met, as long as the size does not exceed 20 and the Secretary of State approves the co-options. Additional Members may or may not be councillors.

### **2 Membership**

- 2.1 The constituent councils on the Panel are the County Council, the two unitary authority councils and the twelve district councils in Lancashire.
- 2.2 The Panel's membership will be made up of one councillor from each constituent Council and the 2 independent co-opted members, plus any additional councillors from specific

authorities in order to achieve “the balanced appointment objective”.

- 2.3 All County Councillors and District Councillors are eligible to be members of the Panel.
- 2.4 All Councillors on the Panel will serve a term of 12 months.
- 2.5 Each constituent council may send a substitute member to meetings, as notified to the Secretary to the Panel, and this substitute member will be permitted to act as a substitute member with full voting rights at meetings of the Panel and any Task Groups appointed by the Panel. A substitute member must be from the same party as the member appointed by the constituent council. If the panel member is an independent councillor then any substitute must also be an independent councillor.

### **3. Independent Members**

- 3.1 The Panel has previously agreed to co-opt two independent members onto the Panel for a term of four years (July 2006).
- 3.2 The lead authority will undertake the selection process on behalf of the Panel for co-opting independent members which will include a reasonable period of public advertisement for the positions. The closing date for the receipt of applications will not be less than two weeks from the date the advertisement is first placed.
- 3.3 Information packs will be prepared and sent to those requesting application forms.
- 3.4 The applications will be considered against agreed eligibility criteria and then the Chairman and Deputy Chairman of the Panel and three other Panel members will be invited to meet to consider applications and interview candidates, in accordance with the “balanced appointment objective”.
- 3.5 Following the interviews, the five members will make recommendations to the Panel about the appointments.
- 3.6 Additional members who are councillors will be appointed by the Panel for a 12 month term.

### **4 Vacancies**

- 4.1 A vacancy on the Panel arises when a County Councillor, a District Councillor or an independent member ceases to be a member of the Panel for any reason.
- 4.2 Each council will fill vacancies for elected members in accordance with the arrangements in their constitution. Vacancies for independent members will be filled in accordance with the selection process outlined in section 3.

### **5 Resignation and Removal of Members** Arrangements to be decided.

### **6. Conditions for reappointment of members**

- 6.1 Councillors may serve more than one 12 month term.
- 6.2 Co-opted members may be eligible to apply for a subsequent four year term but may not serve more than two consecutive four year terms.

### **7. Costs of the Panel**

- 7.1 The costs of the Panel will be borne by the constituent councils. The Home Office has agreed to provide funding for administrative costs.
- 7.2 An annual lump sum allowance will be paid to each member of the Panel in recognition of their personal commitment and expenses arising in undertaking their role on the Panel. The allowance will be agreed annually by the Panel.
- 7.3 The lead authority will have responsibility for the financial arrangements to support the operation of the Panel, including the receipt of funds (whether paid by the Home secretary or otherwise) and the making of payments between the constituent councils and to panel members.

## **Lancashire Police and Crime Panel Procedure Rules**

### **1 Chairman of the Police and Crime Panel**

- 1.1 The Chairman of the Panel will be appointed by the Panel at its Annual meeting each year and will be drawn from amongst the councillors sitting on the Panel.
- 1.2 The Deputy Chairman will be appointed by the Panel at its Annual meeting each year and will be drawn from amongst the councillors sitting on the Panel.
- 1.3 In the event of the resignation of the Chairman or Deputy Chairman or removal of Chairman/Deputy Chairman, a new Chairman/Deputy Chairman will be appointed at the next meeting and will be drawn from amongst the councillors sitting on the Panel.
- 1.4 The Panel will elect a councillor member to preside at a meeting if the Chairman and Deputy Chairman are not present.
- 1.5 The Panel may consider the removal of the Chairman during the year if it is satisfied that he/she:
  - a. has, without reasonable excuse, failed to carry out the duties for a continuous period of six months;
  - b. has acted improperly, recklessly or negligently in relation to his/her duties;
  - c. is otherwise unable or unfit to perform his/her duties;
  - d. or that the circumstances are such that they are exceptional and would warrant the removal of the chair e.g. a conviction or caution in respect of a relevant criminal offence.

### **2 Meetings of the Police and Crime Panel**

- 2.1 There shall be a minimum of four ordinary meetings of the Panel held in public in each municipal year to carry out the functions of the Panel. The Panel will determine the schedule of dates and times of its ordinary meetings each year, including a date for its Annual Meeting.
- 2.2 Extraordinary meetings of the Panel may also be called from time to time by the chairman or by four members of the Panel giving notice to the Secretary to the Panel.
- 2.3 An extraordinary meeting may also be called by the Secretary to the Panel if he/she considers that to be necessary.
- 2.4 Ordinary meetings of the Panel will:
  - (i) receive any declarations of interest from members
  - (ii) approve the minutes of the last meeting
  - (iii) consider reports from officers and panel members
- 2.5 The Secretary to the Panel will give notice to the public of the time and place of any meeting in accordance with Access to Information requirements. At least five clear working days before a meeting, the Secretary shall send notice of the meeting to every Panel member. The notice shall give the date, time and place of each meeting and specify the business to be transacted, and shall be accompanied by such reports as are available.
- 2.6 The publication of reports or recommendations is subject to the exclusion of any exempt or

confidential information as defined in the rules on access to information in the Local Government Act 1972 (as amended).

### **3 Quorum**

- 3.1 A meeting of the Panel cannot take place unless not less than one third of the whole number of its members is present.
- 3.2 In the event of a meeting being inquorate, it shall stand temporarily adjourned for 15 minutes and if, thereafter, there is still not a quorum the meeting shall stand finally adjourned. At the point of adjournment, or subsequently, the Chairman may agree arrangements for the meeting to be reconvened.

### **4 Work Programme**

- 4.1 The Panel will set its own work programme and, in doing so, may wish to take into account the priorities defined by the Commissioner and the wishes of its members.
- 4.2 The work programme must include the functions described in the terms of reference for the Panel.

### **5 Agenda Items**

Any member of the Panel shall be entitled to give notice to the Secretary of the Panel that he or she wishes an item relevant to the functions of the Panel to be included on the agenda for the next available meeting.

### **6 Reports from Police and Crime Panel**

- 6.1 Where the Panel makes a report to the Commissioner on the discharge of its functions, it must choose to publish the report or recommendations
- 6.2 The Panel must by notice in writing require the Commissioner, as appropriate, within one month of the date on which the Commissioner receives the report or recommendations to:
  - a) Consider the report or recommendations;
  - b) Respond to the Panel indicating what (if any) action the Commissioner proposes to take;
  - c) Where the Panel has published the report or recommendations, publish the response;
  - d) Where the Panel has provided a copy of the report; or recommendations to a member, provide a copy of the response to the member.
- 6.3 If the Panel cannot unanimously agree on the terms of any report to the Commissioner then a report agreed by the majority of the Panel will be submitted for consideration together with a separate report prepared by the minority.

### **7 Police and Crime Commissioner and Officers Giving Account**

- 7.1 The Panel may scrutinise and review decisions made or actions taken in connection with the Commissioner's role.

As well as reviewing documentation, in fulfilling its scrutiny role it may require the Commissioner, and members of the Commissioner's staff, to attend before the Panel (at reasonable notice) to answer any questions which appear to the Panel to be necessary in

order to carry out its functions.

- 7.2 Where the Commissioner, or a member of the Commissioner's staff, is required to attend the Panel under this provision the Secretary will inform them in writing giving, where practicable, reasonable notice of the meeting. The notice will state the nature of the item on which he or she is required to attend to give account and whether any papers are required for production for the Panel. Where it is necessary to produce a report, sufficient time will be given to allow preparation of that report.
- 7.3 Where, in exceptional circumstances, the Commissioner is unable to attend on the required date, then an alternative date for attendance may be arranged, following consultation with the chairman of the Panel.
- 7.4 If the Panel require the Commissioner to attend a meeting, the Panel may (at reasonable notice) request the Chief Constable to attend on the same occasion to answer any questions which appear to the Panel to be necessary in order for it to carry out its functions.

## **8 Attendance by Others**

The Panel may invite people other than those referred to in Paragraph 7 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders, councillors who are not members of the Panel and officers in other parts of the public sector.

## **9 Task Groups**

- 9.1 Time limited task groups may be established from time to time by the Panel to undertake specific, task-based work.
- 9.2 Task groups may not co-opt other persons.
- 9.3 The special functions of the Panel specified in paragraph 9.4 below may not be discharged by a task group of the Panel.
- 9.4 In this paragraph 'special functions' means the functions conferred on the Panel by:
- a) Section 28(3) of Police Reform and Social Responsibility Act (the Act) (scrutiny of Police and Crime Plan).
  - b) Section 28 (4) of the Act (scrutiny of annual report).
  - c) Paragraphs 10 and 11 of Schedule 1 of the Act (review of senior appointments).
  - d) Schedule 5 of the Act (issuing precepts) Part 1 of Schedule 8 of the Act (scrutiny of appointment of the Chief Constable).
- 9.5 The work undertaken by a task group will be scoped and defined by the Panel beforehand, together with the timeframe within which the work is to be completed and the reporting time for the outcome of the work.

## **10 Carrying out 'Special Functions'**

Reports and recommendations made in relation to the functions outlined in the Terms of Reference will be carried out in accordance with the procedure outlined at section 7 above.

## **10.1 Senior appointments**

- 10.1.1 Where the Panel exercises its powers to review the Commissioner's proposed appointments of Chief Constable, Chief Executive, Chief Finance Officer and Deputy Police and Crime Commissioner, the meetings held to confirm these appointments must be held in public.
- 10.1.2 The Panel will be notified by the Commissioner of the need for a confirmatory hearing in respect of proposed senior appointments. This will be held at the next available meeting of the Panel unless the appointment timescale requires an earlier hearing, in which case an extraordinary meeting will be arranged.
- 10.1.3 In relation to the appointment of the Chief Constable, the Panel is required to hold a hearing within the period of three weeks from the day on which it receives notification from the Commissioner.
- 10.1.4 At a confirmatory hearing the candidate is requested to appear for the purpose of answering questions relating to the appointment. Following this hearing, the Panel is required to review the proposed appointment and make a report to the Commissioner.
- 10.1.5 For a confirmatory hearing for the proposed appointment of the Chief Constable, in addition to the requirement to review and report, the Panel must make a recommendation on the appointment and has the power to veto the appointment.
- 10.1.6 Having considered the appointment, the Panel will be asked to either:
- a) support the appointment without qualification or comment;
  - b) support the appointment with associated recommendations, or
  - c) veto the appointment of the Chief Constable (by the required majority of at least two thirds of the persons who are members of the Panel at the time when the decision is made).
- 10.1.7 If the Panel vetoes the appointment of the candidate, the report to the Commissioner must include a statement that the Panel has vetoed the appointment with reasons.

## **10.2 Appointment of an Acting Police and Crime Commissioner**

- 10.2.1 The Panel must appoint a person to act as Commissioner if:
- a) no person holds the office of Commissioner;
  - b) the Commissioner is incapacitated; or
  - c) the Commissioner is suspended.
- 10.2.2 The person appointed as acting Commissioner must at the time of the appointment be a member of the Commissioner's staff.
- 10.2.3 In appointing a person as acting Commissioner in a case where the Commissioner is incapacitated, the Panel must have regard to any representations made by the Commissioner in relation to the appointment.
- 10.2.4 The appointment of an acting Commissioner ceases to have effect upon the occurrence of the earliest of these events:

- a) the election of a person as Commissioner;
- b) the termination by the Panel, or by the acting Commissioner, of the appointment of the acting Commissioner;
- c) in a case where the acting Commissioner is appointed because the Commissioner is incapacitated, the Commissioner ceasing to be incapacitated, or
- d) in a case where the acting Commissioner is appointed because the Commissioner is suspended, the Commissioner ceasing to be suspended.

### **10.3 Proposed precept**

- 10.3.1 The Commissioner will notify the Panel of the precept which he/she is proposing to issue for the financial year. The Panel must review the proposed precept and make a report to the Commissioner including recommendations.
- 10.3.2 Having considered the precept, the Panel will either:
- a) support the precept without qualification or comment;
  - b) support the precept and make recommendations, or
  - c) veto the proposed precept (by the required majority of at least two thirds of the persons who are members of the Panel at the time when the decision is made).
- 10.3.3 If the Panel vetoes the proposed precept the report to the Commissioner must include a statement that the Panel has vetoed the proposed precept with reason and the Panel will require a response to the report and any such recommendations.

### **10.4 Complaints**

- 10.4.1 Non-criminal complaints in relation to the Commissioner or other office holders should be dealt with and/or delegated in accordance with the Act and the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012.

### **10.5 Suspension of the Police and Crime Commissioner**

- 10.5.1 The Panel may suspend the Commissioner if it appears to the Panel that:
- a) the Commissioner has been charged in the United Kingdom, the Channel Islands or the Isle of Man with an offence, and
  - b) the offence is one which carries a maximum term of imprisonment exceeding two years.
- 10.5.2 The suspension of the Commissioner ceases to have effect upon the occurrence of the earliest of these events:
- a) the charge being dropped;
  - b) the Commissioner being acquitted of the offence;
  - c) the Commissioner being convicted of the offence but not being disqualified under Section 66 of the Act by virtue of the conviction; or
  - d) the termination of the suspension by the Panel.
- 10.5.3 In this section references to an offence which carries a maximum term of imprisonment exceeding two years are references to:
- a) an offence which carries such a maximum term in the case of a person who has attained the age of 18 years, or
  - b) an offence for which, in the case of such a person, the sentence is fixed by law as life imprisonment.

## **10.6 Suspension and Removal of the Chief Constable**

- 10.6.1 The Panel will receive notification from the Commissioner if he/she suspends the Chief Constable.
- 10.6.2 The Commissioner must notify the Panel in writing of his/her proposal to call upon the Chief Constable to retire or resign together with a copy of the reasons given to the Chief Constable in relation to that proposal.
- 10.6.3 The Commissioner must provide the Panel with a copy of any representations from the Chief Constable about the proposal to call for his/her resignation or retirement.
- 10.6.4 If the Commissioner is still proposing to call upon the Chief Constable to resign, he/she must notify the panel accordingly (the 'further notification').
- 10.6.5 Within six weeks from the date of receiving the further notification the Panel must make a recommendation in writing to the Commissioner as to whether or not he/she should call for the retirement or resignation. Before making any recommendation the Panel may consult Her Majesty's Chief Inspector of Constabulary and must hold a scrutiny hearing.
- 10.6.6 The scrutiny hearing is a Panel meeting held in private to which the Commissioner and Chief Constable are entitled to attend to make representations in relation to the proposal to call upon the Chief Constable to retire or resign. Appearance at the scrutiny hearing can be by attending in person, or participating by telephone or video link.
- 10.6.7 The Panel must publish the recommendation it makes at 10.6.5 by any means the Panel considers appropriate and must send a copy to each of the constituent councils.

## **11. Rules of debate**

The Panel to determine.

## **12. Public participation**

The Panel to determine.

# **OFFICER DELEGATION SCHEME**

## **PART 1**

### **1.0 Introduction**

- 1.1 This Scheme of Delegation has been agreed which will give appropriate empowerment to officers. This means that the Full Council and the Cabinet have delegated the day to day management of services to officers unless otherwise stated.
- 1.2 The Chief Executive, Directors, heads of service and service managers shall be empowered to authorise officers in their departments to exercise on their behalf the powers delegated under this Scheme. In accordance with Section 100 G (2) of the Local Government Act 1972 a list of authorised officers will be held by the Monitoring Officer and will be available for public inspection during normal office hours. Any decisions taken under this authority shall remain the responsibility of the Chief Executive, relevant Director, head of service and service manager and must be taken in the name of that officer.
- 1.3 Decisions taken must clearly identify the officer responsible for taking the decision.
- 1.4 Part 1 sets out the framework to decision making and establishes a system to document decisions taken under the scheme which officers must follow.
- 1.5 The following sections assist officers avoid the pitfalls in the decision making process. They are not a substitute for legal and other specialist advice which should always be sought in the case of doubt.

### **2.0 Background**

- 2.1 Section 101 of the Local Government Act 1972 and section 15 of the Local Government Act 2000 and Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 set out the framework of delegation. They provide that a Full Council and a Cabinet can arrange for the discharge of functions through a committee, sub-committee or officer of the authority, or any other local authorities. Committees can delegate to sub-committees or to officers, and sub-committees can delegate to officers, unless expressly prohibited. Section 32 of the Local Government Act 2000 enables the Secretary of State through Regulations to provide for the discharge of functions by:

- a) Committees
- b) Sub-committees
- c) an individual member
- d) any officer of the authority.

- 2.2 Subject only to the very limited exceptions in Section 101 of the 1972 Act (for example, setting the council tax and considering certain reports from designated officers), there are few limits on the extent of the delegation to officers which local authorities are permitted to make.

### **3.0 Decision Making – The Process**

- 3.1 Before taking any decision, an officer must satisfy themselves of the following matters when relevant:

- i. the facts upon which the decision must be based;
- ii. any legislative requirements, including the need to secure value for money;
- iii. the strategies and policies of the Full Council including any plans, objectives relating to their service or the Full Council;
- iv. any relevant national or regional guidance;
- v. the available options;
- vi. the financial, staffing and legal implications, following consultations with the Head of Finance, the Monitoring Officer and the Head of Paid Service, as appropriate;
- vii. the views/advice of Statutory Officers;
- viii. any consultations undertaken, the views of any consultees and any other representations received;
- ix. any implications for any other areas of the Council's activities including the views of the Chief Executive or relevant Director or Service Head whose services may be affected and whether any consultation has taken place;
- x. the need to inform the appropriate councillors such as the relevant Chair or Vice Chair or the Leader or Deputy Leader or ward councillors;
- xi. the Constitution, including the Contract Procedure Rules and the Financial Procedure Rules.

3.2 Officers are responsible for determining when further consultation and public participation would be appropriate.

#### **4.0 Decision Making - Accountability**

4.1 Decisions are open to challenge and review in a number of ways and it is, therefore, important to be able to demonstrate that decisions have been taken in a proper manner that avoids challenge.

4.2 It is important to remember that decisions which are overturned will invariably have been successfully challenged not because they were 'wrong', but because they have been reached following a flawed process.

4.3 The principal avenues for challenge to a decision are:

Designated Officers – Head of Paid Service, Monitoring Officer and Chief Finance Officer, Central Government and the Courts by way of Judicial Review.

4.4 There are a number of areas of action and decision-making by local authorities which typically give rise to challenge. They include failure to take into account relevant considerations, either as required by law or such as would be taken into account by any reasonable person, taking into account irrelevant considerations, acting so unreasonably such that no reasonable body of persons could have so acted, failure to direct itself properly in law, exercising a power for a purpose for which it was not conferred, acting in bad faith or for an improper motive, fettering or

- ii. failing to exercise discretion, through improper delegation, failure to consult or to consult properly, either as a matter of statute or legitimate expectation, failure to act fairly or observe procedural requirements. Officers are accountable to the Council for any day to day decisions they make and may be required to report to, and to answer questions from, the Overview and Scrutiny Committee in respect of any decision which they make.

## **5.0 Decision Making – Recording the Decision**

- 5.1 Officers should first consider if a decision should more appropriately be taken via a member committee as a transparent method of recording a decision. The Chief Executive or relevant Director, head of service and service managers will need to exercise judgement in determining whether any delegated day to day decisions are significant enough to require formally recording. These decisions will be known as significant day to day decisions. Decisions are significant if they propose to incur revenue or capital expenditure in excess of £15,000.

Other decisions which need to be recorded are those which:

- a) relate to human resources matters as set out Part 2 Section 4.0 of this Scheme;
- b) require the acquisition or disposal of land or an interest in land in excess of £10,000
- c) require a virement of funding within approved virement powers of officers;

- 5.2 On making a significant day to day decision, the officer must provide the Monitoring Officer with a completed Record of Decision Form within 10 working days of the date of taking the decision.
- 5.3 The Monitoring Officer will maintain a record of all significant day to day decisions made by an officer, including any information relied upon when the decision was made. The Monitoring Officer will also ensure that the Record of Decisions is available for inspection during all normal office hours; the public has the right to be provided with a copy of any part of that Record, excluding any exempt or confidential information, upon payment of a reasonable copying and administrative charge. The Record of Decisions will also be made available for perusal by councillors.
- 5.4 It is essential that the contents of the Record of Decision Form are clear in conveying the decision taken. The reasons for the decision and any legal or financial implications must be set out by the officer.
- 5.5 If a decision is challenged it is vital to be able to demonstrate that the proper processes were complied with. To be able to do this it is essential that adequate records are kept so they can be referred to and produced if necessary. These records should include, for example, a minuted report to the Council's Corporate Management Team and copies of all papers considered in making a decision.
- 5.6 The Council will retain a record of all delegated decisions for a six-year period.
- 5.7 It is important that where officers involved in making decisions have a registrable interest this is declared on the form to preserve the integrity of the process. Where officers have a registrable interest they should seek the advice and approval of the Monitoring Officer prior to taking any decision in relation to that interest.
- 5.8 There is no requirement to maintain a record of decision involving expenditure less than £15,000 for the purpose of councillor or public access save for the acquisition of an interest in land as set out in 5.1 above. However, officers are responsible for ensuring that sufficient evidence is kept about the decision and the reasons for it. Evidence may be required for a Judicial Review, Employment Tribunal, Ombudsman or other proceedings or investigation, and for ensuring that all those who need to know are informed promptly of the decision.
- 5.9 Officers are also responsible for ensuring that consultation is undertaken where appropriate,

and especially when they are aware that the decision is likely to be controversial.

## **PART 2**

### **GENERAL DELEGATIONS TO OFFICERS**

#### **1.0 General Delegation**

- 1.1 The Chief Executive, Directors, heads of service and service managers have delegated powers to make decisions on behalf of the Council on those matters contained within this scheme and delegated for decision by them.
- 1.2 Where an officer referred to in 1.1 above is to be absent for any period, that officer may nominate to the Chief Executive, in writing, another officer to act in that capacity during the period of absence.
- 1.3 In the Chief Executive's absence a member of Corporate Management Team can act temporarily on behalf of the Chief Executive. In the Monitoring Officer's absence, the Deputy Monitoring Officer can act as Monitoring Officer. In the Head of Finance/S151 Officer's absence the Finance Manager can act as Deputy S151 Officer.

#### **2.0 Financial Matters**

##### **2.1 Revenue Expenditure**

- a) To incur expenditure in respect of items included in approved revenue budgets in accordance with the Council's policies, procedures and Financial Regulations and Rules of Procedures. Items outside this framework must be referred to the appropriate body or committee;
- b) In an emergency, to incur immediately necessary lawful expenditure that shall be reported to the Head of Finance and subsequently to the Cabinet or appropriate committee

##### **2.2 Capital Expenditure**

To incur expenditure on capital schemes in accordance with the arrangements set out in the Rules of Procedure of the Council and subject to 3.0 below.

#### **3.0 Contract Issues**

Officers will deal with contracts in accordance with the Contract Procedure Rules in Part 3 of the Constitution.

#### **4.0 Human Resources Issues**

##### **4.1 Appointments and Dismissals**

- a) In consultation with the Head of Paid Service, the appointment of all staff other than the Head of Paid Service, Chief Officers (and other officers paid in accordance with the Joint Negotiating Committee for Chief Officers of Local Authorities) within the approved budgets of the Council;
- b) In consultation with the Head of Paid Service, to exercise control and discipline in accordance with the Council's human resources policies and procedures;
- c) In consultation with the Head of Paid Service, to consider appeals made within the disciplinary procedure on disciplinary sanctions up to and including final written warning;
- d) In consultation with the Head of Paid Service, to consider appeals made under the

#### 4.2 Establishment

- a) In consultation with the Head of Paid Service, to approve changes to the number, distribution and terms of conditions of posts below Chief Officer level for which they are responsible subject to sufficient resources being available in the current and future years, the maximum of new posts or changes to the establishment being limited to ten and full consultation must take place with the Chief Executive, Head of Finance, Head of People and Policy and the appropriate Portfolio Holder and relevant trade unions;
- b) In consultation with the Head of Paid Service, to approve overtime or honorarium payments to officers, subject to there being budgetary provision;
- c) In consultation with the Head of Paid Service, to approve or otherwise requests for variations of periods of notice to terminate employment;
- d) In consultation with the Head of Paid Service, to consider applications for re-grading subject to the Council's human resources policies and procedures;
- e) In consultation with the Head of Paid Service, to determine applications for early retirement on medical grounds in respect of all posts for which he or she is responsible for the purposes of the superannuation regulations in cases where the occupational health provider recommends early retirement on the grounds that an officer is incapable of performing their duties (or the duties of his or her former employment in the case of a former officer) and the officer concerned agrees in writing with that recommendation

#### 4.3 Leave

In accordance with the Council's human resources policies and procedures:

- a) To authorise leave of absence with or without pay;
- b) To authorise the carry-over of leave from one year to the following year;
- c) To authorise additional leave for personal and domestic reasons in circumstances set out in the Local Conditions of Service

#### 5.0 General Day to Day Management of Services

- a) Subject to any statutory requirements or provisions contained in this Constitution including Rules of Procedure and Financial Regulations, the Chief Executive and Directors, heads of service and service managers are authorised to carry out any function or task to ensure the effective and efficient day to day management of council services;
- b) To take any action delegated to him or her under any council policies, plans or procedures;
- c) Subject to the Contract Procedure Rules, to appoint consultants and to obtain outside professional and technical advice and assistance subject to there being sufficient resources in the service revenue budget.
- d) Unless otherwise referred to in Part 3 of this Scheme authority to exercise all powers conferred to the Council by legislation, including the legislation set out in Appendix 1 or any

other statute or regulations through the:

- serving of notices
- granting or refusal of permissions
- determination of applications
- exercising of powers
- issuing of certificates
- servicing of warrants
- making of orders
- authorisation of officers
- taking of enforcement action
- institution of legal proceedings
- issuing of licences
- determination of grants
- determination of plans
- taking of samples
- entering of premises
- undertaking of data matching exercises
- obtaining of information
- obtaining of particulars of persons interested in land
- undertaking any other necessary powers or duties of the Council

## **Part 3**

### **DELEGATIONS TO SPECIFIC OFFICERS**

#### **1.0 General Exceptions**

- 1.1 The following delegations to specific officers provide for the discharge of any functions of the Council with the exception of:
- i. those functions reserved to the Full Council
  - ii. those functions reserved to officers by legislation;
  - iii. those matters which the Chief Executive, Directors or heads of service consider that the delegated authority should not be exercised and that he or she should be referred to the Cabinet or an appropriate committee or sub-committee for consideration.

#### **2.0 Chief Executive**

- 2.1 The Chief Executive shall be authorised to discharge any function not otherwise delegated to Directors and heads of service or which cannot be undertaken by the Cabinet.
- 2.2 The Chief Executive shall be authorised to act as the Council's proper officer for the purpose of any function not otherwise delegated under these arrangements.
- 2.3 The Chief Executive is also authorised to act in place of the Directors or heads of service in cases of absence or unavailability unless statutory provisions prevent this.
- 2.4 The Chief Executive is also authorised to discharge the functions of Head of Paid Service.
- 2.5 The Chief Executive in consultation with the Leader and Deputy Leader of the Council and the Leader of all political groups shall be authorised to agree any in year amendments or changes to the appointment of members to Cabinet, committees, sub-committees, Outside Bodies or Working Groups and that these changes be reported to the next Full Council meeting for information.
- 2.6 To agree action which due to an emergency must be taken to safeguard the interest of the Council or the borough of Rossendale.
- 2.7 To make any amendments to the committee meetings schedule approved at the Annual meeting of the Council.
- 2.8 The Chief Executive be authorised to exercise strategic control of People and Policy and Legal and Democratic Services.
- 2.9 The Chief Executive is responsible for the day to day management of the Council's functions in relation to:
- a) industrial relations
  - b) employment
  - c) health and safety matters
  - d) administration of payroll function
  - e) organisational development
3. In consultation with the relevant Portfolio Holder - to develop and implement all appropriate policies (procedures, plans and strategies) in relation to employees, equalities and

employment.

- 3.1 The Head of Paid Service the Chief Executive is responsible for the day to day management of the Council's functions in relation to:
- a) performance management
  - b) preparation and monitoring of the Corporate Plan

#### 4.0 Director of Communities

- 4.1 The Director of Communities shall be responsible for: ICT, Public Protection, Operations, Customer Services and e- government (including the Service Assurance Team), Communities and Partnerships; and shall be responsible for the day to day management of the Council's functions in relation to:

- a) managing partnership arrangements
- b) effective community involvement and engagement
- c) the Strategic Board for Capita

The Director of Communities is responsible for the day to day control and management of refuse and recycling, parks, open spaces, cemeteries, community safety, including the following powers under the Clean Neighbourhoods and Environmental Protection Act 2005:

##### 1. Vehicles

Power to authorise officers and other suitably qualified support persons to:

- a) Under section 6 issue fixed penalty notices for the offences of exposing vehicles for sale or repairing a vehicle on the road.
- b) Sub-section 8 fix the amount of the penalty at £100 which can be amended under sub-section 9.
- c) Under section 2A issue a fixed penalty notice set at £200 in respect of an offence of abandoning a vehicle.
- d) Under section 11 issue notice of removal of vehicles immediately.
- e) Under section 12 dispose of abandoned vehicles immediately where neither a registration mark or current licence is displayed.
- f) Under section 15 issue notices of removal.

##### 2. Litter and Refuse

Power to authorise officers and other suitably qualified support persons to:

- a) Under section 19 issue fixed penalty notices for the offence of dropping litter; where the authority sets no amount the fixed penalty shall be £75.
- b) Under section 20 issue and serve litter clearing notices.
- c) Under section 92c enter land to remove litter and refuse where an offence has been committed and the litter clearing notice has not been complied with.
- d) Under section 21 issue street litter control notices requiring occupier of premises to deal with litter and refuse.
- e) Under section 22 issue fixed penalty notices for failing to comply with street litter control notices.
- f) Under section 23 make orders to designate areas to control the distribution of printed matter.
- g) Under section 23 issue consents for the distribution of free literature in a designated area.
- h) Seize the material when an offence is committed.
- i) Issue a fixed penalty notice for these offences; where the Authority sets no amount, the fixed

penalty shall be £75.

- j) Issue fixed penalty notices associated with the offence of dropping litter, litter clearing notices, street litter control notices and the distribution of printed matter.

### 3. Graffiti and Other Defacement

Power to authorise officers and other suitably qualified support to:

- a) Issue fixed penalty notices for the offences of graffiti and fly posting; where the aAuthority sets no amount, the base amount is £75.
- b) Issue removal notices requiring the removal of graffiti and fly posters under section 31.
- c) Under section 32 authorise appropriate officers to have a programme of enforcement action under its local weights and measures powers to deal with the offence of selling aerosol paints to persons aged under 16 under section 54 of the Anti-Social Behaviour Act 2003.
- d) Under section 34 serve notices for removal of illegally displayed placards and posters and to recover the costs of removal.
- e) Enter premises for removal purposes.

### 4. Waste

Power to authorise officers and other suitably qualified support persons to:

- a) Under section 42 incur investigation and enforcement costs associated with the seizure of vehicles involved in the offence under section 33 of the Environmental Protection Act 1990 relating to the unauthorised or harmful deposit of waste and to claim those costs in court proceedings.
- b) Incur costs in dealing with the removing of waste that has been illegally deposited and to claim those costs in any court proceedings under the Environmental Protection Act 1990.
- c) Under section 44 accept by order of a court exercising its powers within the Environmental Protection Act 1990 possession of forfeited vehicles and their contents.
- d) Under section 45 issue fixed penalty notices set at £300 for the failure to comply with a requirement to furnish documents under regulations made under section 34 of the Environmental Protection Act 1990.
- e) Under section 46 seize a vehicle and its contents where it is reasonably believed that the vehicle has been, is being or is about to be used in the commission of an offence under sections 33 or 34 of the Environmental Protection Act 1990.
- f) Under section 46 issue notices under section 71(2) of the Environmental Protection Act 1990 to include functions conferred by new sections 34C and 34D of the 1990 Act.
- g) Under section 48 issue a fixed penalty notice where the authority has reason to believe that a person has committed an offence under sections 46 or 47 of the 2005 Act; where the authority sets no amount, the fixed penalty shall be £100.
- h) Under section 50 issue notices to require the owner of land to remove waste and where an owner fails to comply with requirements of the notice the authority to enter the land, remove the waste or take such specified steps and recover the costs of doing so from the owner or occupier of land.

### 5. Noise

Power to authorise officers and other suitably qualified support persons to:

- a) Under section 69 designate alarm notification areas requiring the occupier/owner of any

premises to notify the local authority of the details of the keyholder for the premises.

- b) Under section 70 withdraw a designation made under section 69.
- c) Under section 73 issue a fixed penalty notice for the offence of failing to nominate or to notify a keyholder to the local authority with the specified time period.
- d) Under section 74 adopt regulations governing the power of the local authority to set local fixed penalty rates and circumstances in respect of which a local authority may provide reduced early payments.
- e) Under section 75 adopt regulations allowing the local authority to retain the receipts arising from fixed penalty notices under regulations about how local authorities can use their penalty receipts.
- f) Under section 77 enter a property in order to silence an intruder alarm.
- g) Under section 78 enter premises using reasonable force following the issue of a warrant by a Justice of the Peace.
- h) Under section 79 recover expenses reasonably incurred by it in connection with entering the premises and silencing the alarm.
- i) Under section 82 issue fixed penalty notices for an offence committed under the Noise Act 1996 which permitted a local authority to deal with noise exceeding permitted levels from dwellings at night time.
- j) Section 82 enables the local authority to set the level of fixed penalty in its area; where the Authority sets no amount the fixed penalty is £100.
- k) Section 84 amends the Noise Act 1996 extending its effect to certain licensed premises as well as dwellings. Under section 84 the power to issue fixed penalty notice where the alleged offence relates to licensed premises, the amount of the fixed penalty will be fixed at £500 and no power for a local authority to set an alternative.
- l) Section 83, adopt the provisions dealing with the use by local authorities of receipts from fixed penalty notices given under Section 8 of the Noise Act 1996 above.
- m) Under section 84 take action to deal with noise at night in respect of licensed premises to issue a fixed penalty notice in respect of licensed premises set at £500 with no power for a local authority to set an alternative rate in its area for an offence committed under the Noise Act 1996 Section 4a.
- n) Under section 86 amending Section 80 of the Environmental Protection Act 1990, defer the issuing of an abatement notice in respect of noise.

## 6. Shopping and Luggage Trolleys

Under section 99 which amends Schedule 4 to the Environmental Protection Act 1990, power to enable a local authority to charge the person believed to be the owner of an abandoned shopping or luggage trolley for its removal, storage and disposal.

## 7. The Director of Communities has powers to deal with Statutory Nuisances, including:

- 1) the power to deal with the following nuisances:
  - a) Under section 101 amending section 79 of the Environmental Protection Act 1990 so as to include in the statutory nuisances listed in that section “insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance.
  - b) Under section 102 amending section 79 of the Environmental Protection Act 1990 so as to provide that the statutory nuisances listed in that section including “artificial light emitted from premises so as to be prejudicial to health or a nuisance”.
- 2) The power to deal with all issues relevant to dogs contained in the Control of Dogs Order 1992, The Dangerous Dogs Act 1991 and Anti-Social Behaviour, Crime and Policing Act 2014. Issue fixed penalty notices in respect of offences provided for; where the Council sets no

amount, the fixed penalty shall be £75

- 3) To be authorised to take action necessary to tackle anti-social behaviour, relating to the Crime and Disorder Act 1989, the Anti- Social Behaviour Act 2003 and the Anti- Social Behaviour, Crime and Policing Act 2014.

8. The power to deal with:

d) Regulatory licensing matters:

- House to house and street collections
- Licensing of hackney carriage vehicles and drivers
- Licensing of private hire operators, vehicles and drivers
- Second hand goods dealers
- Hypnotism
- Sex Establishments
- Street Trading
- Licensing Matters (Licensing Act 2003)
- Licensing Matters (Gambling Act 2005)

9. The Director of Communities shall be identified as the “Appropriate Officer” under Section 243 of the Housing Act 2004.

## 5.0 Director of Economic Development

- 5.1 The Director of Economic Development is responsible for Economic Development, Development Control, Forward Planning, Building Control, Strategic Housing, Property Services, tourism, business development and public car parks.

- 5.2 The Director of Economic Development has power to determine planning applications.

- 5.3.1 The Director of Communities is responsible for the control of Strategic Housing and Private Sector Housing, including:

- ii) other private sector renewal activities, for example, clearance, area renewal, etc.
- iii) disabled facilities grant service
- iv) policies and procedures relating to the condition and occupation of the stock, for example,
  - a. empty properties
  - b. liaison with and accreditation of private landlords
  - c. the Housing Strategy.

## MATTERS DELEGATED TO THE DIRECTOR OF ECONOMIC DEVELOPMENT

The Director of Economic Development shall be responsible for the day to day management of the Council's functions in relation to

- 1) Development Management
- 2) Conservation

### 3) Forward Planning

### 4) Building Control

To act on behalf of the Council and in accordance with the legislation, in relation to all Town and Country Planning and Development Management matters as set out in Regulation 2 and Schedule 1 to the Local Government (Functions and Responsibilities) (England) Regulations 2000, including determining applications for:

Planning Permission,

Advertisement Consent,

Listed Building Consent,

Tree Works Consent,

Conservation Area Consent,

Lawful Development Certificates and

under the Building Regulations.

Also, responding to consultations and all other matters submitted for the determination; formal approval or comments of the Council as Local Planning Authority under the relevant Town and Country Planning Act and associated legislation.

Also for:

The determination of the validity of all types of applications;

Declining to accept repeat applications which have previously been refused, where there has been no material change in circumstances and raise no significant new issues;

The refusal of any application for insufficient information (all types of applications);

Determination of whether amendments to existing permissions may be treated as non-material amendments and the determination of these amendments, where a further planning application is not required;

Determining matters submitted for approval in accordance with a condition of a planning permission;

The imposition of conditions on planning permissions and consents and the determination of reasons for imposing conditions;

The determination of reasons for refusal;

The authorisation of the completion, variation or discharge of Section 106 Agreements;

Prior Notification applications and determination of details (including those where prior approval is not required);

Technical Consent applications;

Certificates of Lawfulness of existing or proposed uses or development;

Determination of whether an environmental statement is required, the adoption of screening opinions and scoping opinions under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999;

Determination of whether claims for deemed hazardous substances consent are invalid;

The settlement of the amount of costs awarded to or against the Council on appeal;  
Appointment of consultants in connection with any planning applications or any appeal;  
Planning applications for approval which **do not** fall within the following:-

1. a) the provision of dwelling houses where:-

i) 10 or more dwellings are to be provided; or

ii) the site area is 0.5 hectare or more; or

b) buildings are to be provided with a floor space of 1000 square metres or more; or

c) the site to be developed is 1 hectare or more; or

d) developments which require an Environmental Statement.

2. Applications which have received 3 or more material planning objections and are recommended by officers for approval.

3. Applications which have been called in for sound planning reasons, in accordance with the Council's Call-in procedure.

4. Applications made by the Council, councillors, or their spouses or partners, members of staff or where the Director of Economic Development or Monitoring officer has been made aware that a member of the Council or an officer has an interest in the property.

5. All planning applications on Council owned land, by or on behalf of the Council, its partners, organisations, or other agents.

6. The consideration of objections and the confirmation/modification of Tree Preservation Orders to which objections have been received.

7. The nomination of any member of the Development Control Committee to represent the Council at any hearing or inquiry, where the decision was made, contrary to policy and officer advice.

### **Enforcement Matters**

Enforcement Action, Service of Enforcement Notices, Breach of Condition Notices, Stop Notices, Temporary Stop Notices, Tree Replacement Notices and Untidy Land Notices under the Town and Country Planning Act 1990;

Enforcement Action, Service of Repair, Urgent Works and Building Preservation Notices under the Planning (Listed Buildings and Conservation Areas) Act 1990;

The carrying out of work where notices have not complied and the recovery of costs incurred;

Service of Planning Contravention Notices and consideration of any offers and representations pursuant to such notices;

Service of Discontinuance Notices under the Town and Country Planning (Control of Advertisements) Regulations;

Notices and action under the Building Act 1984;

Powers to deal with dangerous and dilapidated buildings, dangerous trees and dangerous excavations on land accessible to the public;

Injunction proceedings;

To exercise powers of entry under the anti-social behaviour legislation;  
To authorise the use of powers of entry under local government legislation;  
All powers to serve notices shall include power to withdraw such notices.

### **Environmental Matters**

The making of Article 4 Directions withdrawing permitted development rights conferred by a development order, subject to consultation with the relevant Portfolio Holder;

All functions/consultations relating to footpaths/bridleways, byways and rights of way;

To exercise the powers of the Council relating to the protection of important hedgerows under the Hedgerow Regulations 1997;

To determine all complaints made under Part 8 of the Anti-social Behaviour Act 2003 for high hedges;

The making/ modification and amendment of tree preservation orders and the confirmation of tree preservation orders where no objections have been received;

Consent to fell, lop or top protected trees.

### **MATTERS TO BE SUBJECT TO CONSULTATION WITH THE PORTFOLIO HOLDER**

Consultation responses to Government papers.

### **EXERCISE OF DELEGATED POWERS**

The Director of Economic Development may authorise the Head of Planning, Principal Planning and Senior Planning Officers, to determine these matters on their behalf.

## **6. The Monitoring Officer**

6.1 The Monitoring Officer is responsible for the control of Legal, Land Charges, Elections and Committee and Member Services.

6.2 The Monitoring Officer shall be authorised to act as legal representative to the Council and to take any action intended to give effect to a decision of the Full Council, committees, sub-committees or an officer.

6.3 The Monitoring Officer is also authorised to discharge the functions of the Monitoring Officer; (the Legal Officer shall act as Deputy Monitoring Officer in the absence of the Monitoring Officer) and authority is given by Full Council on 24<sup>th</sup> September 2008 to provide that the Monitoring Officer may update the list of Legislation at Appendix 1 as required.

6.4 The Monitoring Officer is responsible for the day to day management of the Council's functions in relation to:

- a) the commencement, defence, withdrawal or settlement of legal or other proceedings
- b) the authorisation of Council employees to conduct legal matters in court
- c) preparation and agreement of contracts and leases
- d) the requirements of the Data Protection Act 2018, Freedom of Information Act 2000 and the Regulation of Investigatory Powers Act 2000 and the Environmental Information Regulations 2004. The Monitoring Officer is the Senior Responsible Officer for the purposes of the

Regulation of Investigatory Powers Act 2000.

e) Land Charges

6.5 The Monitoring Officer has the power to determine whether a standards complaint proceeds to a Standards Hearing Panel (in consultation with the Independent Person), and there is no right of appeal on this decision.

6.6 The Monitoring Officer is able to grant dispensations:

This includes general dispensations relating to:

- a) any allowance payment or indemnity granted to a member.
- b) setting the Council Tax or a precept under the Local Government Finance Act 1992.

(A general dispensation has been granted to all members of the Council for the period of four years from 14th December 2020).

6.7 The Monitoring Officer will consider and determine Community Right to Bid nominations and provide feedback/reasons for the decision to nominating groups.

## **MATTERS DELEGATED TO THE MONITORING OFFICER**

To make applications to the Home Secretary for consent to make Orders under the Public Order Act 1986 upon such terms as the Monitoring Officer considers appropriate having regard to any application of the Chief Constable and in consultation with the Leader or their Deputy if unavailable and consideration of any provision of the Human Rights Act 1998 and any other legislative or legal provision the Monitoring Officer deems appropriate. The authorisation includes the making of any appropriate Orders following the receipt of any consent of the Home Secretary.

## **MATTERS TO BE SUBJECT TO CONSULTATION WITH THE PORTFOLIO HOLDER**

Amendments to minutes in cases of error.

Consultation responses to Government papers.

## **7. The Monitoring Officer**

7.1 The Monitoring Officer shall be authorised to exercise strategic control of Elections, Civic and Ceremonial, Committee Management, Committee and Member Services, and Town Twinning.

## **8. Head of Finance**

8.1 The Head of Finance is authorised to discharge all the functions of the Chief Financial Officer (including Sections 114, 115 and 151 of the Local Government Act 1972).

8.2 The Head of Finance is responsible for the control of the Council's functions in relation to:

- a) financial services
- b) development and agreement of the Medium Term Financial Strategy
- c) development and agreement of the Capital Strategy
- d) in consultation with the appropriate Director and head of service, authority to determine requests for grants, financial assistance including hardship and discretionary charitable relief,

- discretionary rate relief and support up to £5000
- e) the treasury management function
- f) accountancy
- g) insurance arrangements and risk management
- h) the writing off of debts up to £5000
- i) pensions
- j) creditor payments
- k) collection of sundry debtors
- l) banking arrangements
- m) setting the Council Tax base
- n) contract management of the audit function
- o) procurement

7.3.1 The Head of Finance, in consultation with the relevant Portfolio Holder, has authority to deal with all assets where the Council's valuer values the asset at less than £100,000.

7.3.2 The Head of Finance, in consultation with the relevant Portfolio Holder, is responsible for the day to day management of the Council's functions in relation to:

- a) property valuation
- b) authority, in consultation with the relevant Portfolio Holder to deal with all land and property matters where the Council's valuer values the land and property at less than £100,000 including:-
  - acquisition of land and property
  - appropriation of land
  - disposal of land and property – equal to or in excess of the valuer's valuation
  - other dealings with land or any interest in land
- c) authority to refuse requests for the purchase or lease of land or property vested in the Council or the grounds that disposal would not be in the interests of the Council.
- d) authority to approve all acquisitions and disposals of land, buildings or other property interests when the Council's valuer values the land, buildings or other property interests at more than £100,000 but less than £250,000 and it is proposed to accept the highest bid and the highest bid matches or exceeds that of the Council's valuer.

8. **The Head of People and Policy** is responsible for the day to day management, delegated by the Chief Executive, in relation to:

- a) Health and safety
- b) Policy and performance
- c) Emergency planning
- d) Business continuity
- e) Communications
- f) Human resources, payroll and pensions
- g) Safeguarding
- h) Equalities

9. **The Head of Customer Services** is responsible for the contract management of the Council's functions in relation to:

- a) the administration of benefits and management responsibility for the outsourced Revenues

- and Benefits service
- b) the administration of Council Tax and National Non-Domestic Rates
- c) benefit fraud
- d) Customer Services
- e) contract management arrangements in relation to telephones and IT
- f) e-government and information services

10. **The Elections Manager** is responsible for the day to day management of the electoral services function.

#### 11. **Public Protection Manager**

The Public Protection Manager has delegated authority in relation to:

##### **Street Trading**

- a) Refuse the application when a valid objection is deemed to have been received, in consultation with the Chair of the Licensing Committee.
- b) Grant an application where no objections are received.
- c) Decide the extent of consultation for each application.
- d) Issue consent to the organiser of an event which is run on a non-profit making basis to enable the organiser in turn to allow trading on a specific site.
- e) Consult with ward councillors on static consents who will be given 3 working days to respond.

##### **Licensing Act 2003**

The licensing authority will exercise and delegate functions in accordance with Appendix 1 – Table of exercise and delegation of functions – as listed in the Statement of Licensing Policy.

##### **Gambling Act 2005**

The licensing authority will exercise and delegate functions in accordance with Appendix B – Summary of licensing authority delegations permitted – as listed in the Statement of Principles.

##### **Policy for the Licensing of:**

**Hackney Carriage Drivers and Vehicles   Private Hire Operators Drivers and Vehicles**

##### **Hackney Carriage Intended 'Use' Policy**

The licensing authority will exercise and delegate functions in accordance with the approved Officer Authorisation List.

## **PART 4 PROPER OFFICERS**

### **1.0 LEGISLATION**

1.1 Legislation requires the Council to appoint specific officers and to identify officers for particular responsibilities.

### **2.0 PRINCIPAL APPOINTMENTS**

2.1 The principal appointments are set out below:

<b><i>Statutory Requirements</i></b>	<b><i>Officer Appointed</i></b>
Section 151 Local Government Act 1972 Responsibility for financial administration	Head of Finance
Section 4 Local Government and Housing Act 1989 Head of Paid Service	Chief Executive
Section 5 Local Government and Housing Act 1989 Monitoring Officer	Monitoring Officer
Section 8 Representation of People Act 1983 Registration Officer	Chief Executive
Section 35 Representation of People Act 1983 Returning Officer	Chief Executive
Part III of the Public Health (Control of Disease) Act 1984	Director of Communities

## **LEGISLATION**

Accounts and Audit Regulations 2015  
Animal Boarding Establishments Act 1963  
Anti-social Behaviour Act 2003  
Anti-social Behaviour, Crime and Policing Act 2014  
Breeding of Dogs Act 1973 as amended  
Building Act 1984  
Building Regulations 2001 (as amended)  
Caravan Sites Act 1968  
Caravan Sites and Control of Development Act 1960  
Cinema Licence Act 1985  
Cinematograph Acts 1909 to 1982  
Civil Contingencies Act 2004  
Clean Air Act 1993  
Clean Neighbourhoods and Environmental Protection Act 2005  
Collection Fund (England) Regulations 1989  
Construction (Design and Management) Regulations 2015  
Controlled Waste Regulations 2012  
Control of Asbestos Regulations 2012  
Control of Pollution Act 1974  
Control of Pesticides Regulations Act 1986  
Consumer Safety (Amendment) Act 1986  
Coronavirus Act 2020  
Council Tax (General) Regulations 1992  
County of Lancashire Act 1984  
Criminal Justice and Public Order Act 1994  
Criminal Justice and Public Order Act 1994, s167  
Criminal Procedures and Investigations Act 1996  
Dangerous Dogs Act 1991  
Dangerous Wild Animals Act 1976  
Data Protection Act 2018  
Defective Premises Act 1972  
Deregulation (Taxis and Private Hire Vehicles) Order 1998, SI 1998/1946  
Disability at Work Act 1994  
Disability Discrimination Act 1995 (Taxis) (Carrying of Guide Dogs etc) (England and Wales) Regulations 2000, SI 2000/2990  
Dogs Act 1906  
Electoral Administration Act 2006  
Electoral Registration and Administration Act 2013  
Environment Act 1995  
Environmental Protection Act 1990 (and all subsequent amendments)  
Equality Act 2010  
European Communities Act 1972  
European Parliamentary Elections Act 2002  
European Union Referendum Act 2015  
Food and Drugs (Control of Food Premises) Act 1976  
Food and Environment Protection Act 1985  
Food Hygiene (England) Regulations 2013  
Food Premises (Registration) Regulations 1991 (as amended)

Food Safety Act 1990  
 Food Safety (Fishery Products) Regulations 1992 (as amended)  
 Freedom of Information Act 2000  
 Gambling Act 2005  
 Gas Safety (Installation and Use) Regulations 1998  
 Guard Dogs Act 1975  
 Hazardous Waste Regulations 2005 (and all subsequent amendments)  
 Health Act 2006  
 Health and Safety at Work etc. Act 1974  
 Highways Act 1980 (as amended)  
 Home Energy Conservation Act 1995  
 Household Waste Recycling Act 2003  
 Household Waste (Fixed Penalty and Penalty Charge) Regulations 2015  
 House to House Collections Act 1939  
 House to House Collections regulations 1947  
 Housing Acts 1957, 1961, 1969, 1974, 1980, 1985, 1996 and 2004  
 Housing and Planning Act 2016  
 Housing Benefit (General) Regulations 1987  
 Housing (Financial Provisions) Act 1958  
 Housing Grants, Construction and Regeneration Act 1996  
 Human Rights Act 1998  
 Hypnotism Act 1952 (as amended)  
 Land Drainage Act 1991  
 Landlord and Tenants Acts 1985 and 1990  
 Leasehold Reform Act 1967  
 Legislative Reform (Local Authority Consent Requirements) (England and Wales) Order, SI 2008/2840  
 Licensed Taxis (Hiring at Separate Fares) Order 1986, SI 1986/1386  
 Licensing Act 2003  
 Litter Act 1983  
 Littering from Vehicles outside London (Keepers: Civil Penalties) Regulations 2018  
 Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012  
 Local Authorities (Funds) (England) Regulations 1992  
 Local Democracy, Economic Development and Construction Act 2009  
 Local Government Act 1972 / 1974 / 1985 / 1999 / 2000 / 2003  
 Local Government Act 1972, Sch 14  
 Local Government Finance Acts 1988 and 1992  
 Local Government (Miscellaneous Provisions) Act 1976  
 Local Government (Miscellaneous Provisions) Act 1982, Sch 4  
 Local Government and Housing Act 1989  
 Local Government (Miscellaneous Provisions) Acts 1976 and 1982  
 Local Government Public Involvement in Health Act 2007 and associated Regulations Localism Act 2011  
 Local Services (Operation by Taxis) Regulations 1986, SI 1986/567  
 Management of Health and Safety at Work Regulations 1999  
 Microchipping of Dogs Regulations 2015  
 Mineral Workings Act 1985  
 Mobile homes Act 2013  
 National Parks and Access to the Countryside Act 1949  
 New Roads and Street Works Act 1991

Noise Act 1996  
 Noise and Statutory Nuisance Act 1993  
 Noise Insulation Regulations 1975  
 Offices, Shops and Railway Premises Act 1963  
 Party Wall Act 1996  
 Performing Animals (Regulation) Act 1925  
 Pet Animals Act 1951  
 Planning Act 2008  
 Planning and Compensation Act 1991  
 Planning and Compulsory Purchase Act 2004  
 Planning (Control of Major Accident Hazards) Regulations 1999  
 Planning (Listed Buildings and Conservation Areas) Act 1990  
 Planning (Hazardous Substances) Act 1990  
 Planning (Hazardous Substances) Regulations 1992  
 Police Act 1997 and DBS Code of Practice  
 Police and Criminal Evidence Act 1984  
 Police and Justice Act 2006  
 Police, Factories, etc (Miscellaneous Provisions) Act 1916  
 Police Reform and Social Responsibility Act 2011  
 Political Parties, Elections and Referendums Act 2000  
 Pollution Prevention and Control Act 1999  
 Prevention of Damage by Pests Act 1949  
 Private Hire Vehicles (Carriage of Guide Dogs etc) Act 2002  
 Private Security Industry Act 2001 S 19 (2)  
 Products of Animal Origin (Third Country Imports)(England) Regulations 2006  
 The Products of Animal Origin (Third Country Imports)(England)(Amendment) Regulations 2007  
 Protection from Harassment Act 1997  
 Public Health Act 1936 and 1961  
 Public Health Act 1875, s 171  
 Public Health Act 1925 s 76  
 Public Health Act 1936, ss 300 - 302  
 Public Health (Control of Disease) Act 1984  
 Public Passenger Vehicle Act 1981, ss 1 and 2 and Sch 1  
 Public Utilities Street Works Act 1950  
 Referendum Act 1975  
 Refuse Disposal (Amenity Act) 1978  
 Regulatory Reform (Housing Assistance) (England and Wales) Order 2002  
 Regulation of Investigatory Powers Act 2000  
 Regulatory Enforcement and Sanctions Act 2008  
 Rehabilitation of Offenders Act 1974  
 Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, SI 1975/1023  
 Rent (Agriculture) Act 1976  
 Representation of the People Act 1981 / 1983 / 1985 / 2000  
 Reservoirs Act 1975  
 RIDDOR 2013 (Reporting of Injuries, Diseases or Dangerous Occurrences Regs)  
 Riding Establishments Acts 1963 and 1964  
 Road Traffic Act 1972  
 Road Traffic Act 1988  
 Road Traffic Regulation Act 1984  
 Road Traffic Regulation (Special Events) Act 1994  
 Safety of Sports Grounds Act 1975

Scrap Metal Dealers Act 2013  
 Shops Act 1950  
 Smoke Control Areas (Exempted Fireplaces) Order 2015  
 Smoke-free (Exemptions and Vehicles) Regulations 2007  
 Smoke-free (Premises and Enforcement) Regulations 2006  
 Smoke-free (Signs) Regulations 2012  
 Social Security Administration Act 1992  
 Social Security Administration (Fraud) Act 1997  
 Social Security Fraud Act 2001  
 Sporting Events (Control of Alcohol etc.) Act 1985  
 Sunday Trading Act 1994  
 Sunbeds (Regulation) Act 2010 (c. 20)  
 Sustainable Communities Act 2007  
 Taximeters (EEC Requirements) Regulations 1979, SI 1979/1379  
 Theatres Act 1968  
 The Food Information Regulations 2014  
 Thefts Act 1968 and 1978  
 The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020  
 The Measuring Instruments (Taximeters) Regulations 2006, SI 2006/2304  
 The Openness of Local Government Bodies Regulations 2014  
 The Private Water Supply regulations 2009  
 The Protection From Eviction Act 1977 (As Amended)  
 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015  
 The Smoke-free (Penalties and Discounted Amounts) Regulations 2007 as amended  
 The Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007  
 The Smoke-free (Private Vehicles) Regulations 2015  
 Town and Country Planning (Use Classes) Order 1987  
 Town and Country Planning Act 1990 (as amended)  
 Town and Country Planning (Development Management Procedure) Order 2015 (and all subsequent amendments)  
 Town and Country Planning (General Permitted Development) Order 2015 (and all subsequent amendments)  
 Town and Country Planners (Environmental Impact Assessment) (England and Wales) Regulations 1999  
 Town Police Clauses Act 1847  
 Town Police Clauses Act 1847, ss 37 – 68  
 Town Police Clauses Act 1889, ss 3 - 6  
 Trade Descriptions Acts 1968-72  
 Transport Acts 1968 and 1985  
 Transport Act 1980 s 64  
 Transport Act 1981 s 35  
 Transport Act 1985 s 10 – 13 and Sch 7, para 1  
 Transport Act 1985, S 15 – 16 and Sch 7, para 3  
 Waste Regulations 2011 (and all subsequent amendments)  
 Water Industry Act 1991  
 Workplace (Health, Safety and Welfare) Regulations 1992  
 Zoo Licensing Act 1981  
 and such other regulations and legislation as amended from time to time.

## **COMMITTEE DELEGATIONS**

Each committee will be requested at least annually to review the extent which officers are able to take delegated decisions for the functions which they are responsible. In certain cases councillors may wish to specify the instances when officers must refer an issue to councillors for consideration.

# Part 4

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## **RULES OF PROCEDURE**

- 1. Council Procedure Rules**
- 2. Cabinet Procedure Rules**
- 3. Committee Procedure Rules**
- 4. Financial Procedure Rules**
- 5. Contract Procedure Rules**
- 6. Budget and Policy Framework Procedure Rules**
- 7. Overview and Scrutiny Procedure Rules**
- 8. Access to Information Procedure Rules**
- 9. Standards Panel Procedure Rules**
- 10. Employment Procedure Rules**
- 11. Planning Call in Procedure**
- 12. Licensing Hearings Procedure**

# **1. COUNCIL PROCEDURE RULES**

## **(Standing Orders relating to the Council)**

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## **1. ANNUAL MEETING OF THE COUNCIL**

### **1.1 Timing and Business**

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May, but normally in May. In either case, the date will be fixed by the Council.

The annual meeting will:

- i) elect a person to preside if the Mayor or Deputy Mayor are not present;
- ii) elect the Chair of Council (Mayor);
- iii) elect the Vice-Chair of Council (Deputy Mayor);
- iv) approve the minutes of the last meeting;
- v) receive any announcements from the Chair (Mayor) and/or Head of Paid Service
- vi) approve a programme of ordinary meetings of the Council for the year (if not previously agreed at a meeting of Full Council); and
- vii) consider any business set out in the notice convening the meeting;

### **1.2 Selection of Councillors on the Committees and Outside Bodies**

At the annual meeting, the Council will consider a report by the Head of Paid Service on the annual appointment of committees in respect of:

- i) the committees for the Municipal Year;
- ii) the size of the Cabinet and committees;
- iii) the allocation of seats to political groups in accordance with the political balance rules;
- iv) the appointment of Councillors to outside bodies except where appointment to those bodies has been delegated by the Council;
- v) the appointment of Chairs and Vice Chairs to the committees.

## **2. ORDINARY MEETINGS**

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

Question Time will be held prior to ordinary full Council Meetings to enable members of the public and councillors to ask questions (see section 9 and 10 for further details).

The agenda for Ordinary meetings will take the following form:

- i. apologies and notification of substitutes;
- ii. approve the minutes of the previous meeting(s);
- iii. receive any declarations of interest from members;
- iv. receive any announcements or communications from the Mayor, Leader or the Head of
- v. Paid Service;
- vi. deal with any outstanding business from the last Council;
- vii. to receive reports, and recommendations of the Cabinet and committees;
- viii. consider members notices of motion if any; and viii) consider any other business specified in the summons to the meeting;
- ix. to consider reports from members of Outside Bodies to report back to Council.
- x. to receive notification of the names of people who the Council considers proud of their achievements and who have been put forward to be considered for the Roll of Honour as part of the Community Awards for their outstanding voluntary community contribution

#### Roll of Honour Criteria

- Outstanding voluntary contribution
- Significant community impact
- Momentous achievement

### **3. EXTRAORDINARY MEETINGS**

#### **3.1 Calling Extraordinary Meetings of the Council**

Those listed below may require the Chief Executive to call extraordinary meetings of the Council.

- i) the Council by resolution;
- ii) the Mayor;
- iii) the Chief Executive, the Monitoring Officer and/or the Chief Finance Officer; and
- iv) any five Members of the Council if they have signed a requisition presented to the Mayor and he or she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.
- v) An Overview and Scrutiny Committee arising from consideration of a call-in.

#### **3.2 Business**

No business other than that specified in the summons to the meeting may be considered at an extraordinary meeting.

### **4. VACANCIES ON COMMITTEES**

#### **4.1 Vacancies on the Cabinet and Committees**

- i) In the event of a vacancy occurring on the Cabinet or any committee or sub-committee during the municipal year it shall be filled by the appointment of that member from the political group to which the vacant seat is allocated as is notified in writing to the Chief Executive by the Leader of the political group so as to give effect to the wishes of the political group.

### **5. DATE, TIME AND PLACE OF MEETINGS**

The Council will approve a programme for annual and ordinary meetings of the Council for each year to be held at the Council Chamber, 6.30pm unless otherwise specified in the summons.

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

The Head of Paid Service will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear working days before a meeting, the Head of Paid Service will send a summons signed on his or her behalf to every councillor. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by reports and documents for consideration (unless special circumstances or exemptions apply). If an item is added to the agenda later, the revised agenda and any reports/documents for consideration, will be open to inspection from the time the item was added to the agenda. If urgent business is allowed copies of any reports will be made available to the public (unless exemptions apply).

## **7. QUORUM**

The quorum of a meeting of the Council will be one quarter of the whole number of councillors; during any meeting if the Chair counts the number of councillors of the authority present and declares there is not a quorum present, then the meeting will adjourn immediately.

Remaining business will be considered at a time and date fixed by the Chair. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **8. DURATION OF MEETING**

### **8.1 Interruption of the Meeting**

If the business of a meeting of the Council has not been concluded within three hours of the start of the meeting, the Mayor must interrupt the meeting and any councillor speaking must immediately sit down. The Mayor will call for a vote on whether the meeting should continue, and if it is agreed, to discontinue the meeting, the Council must consider whether the outstanding business should stand adjourned to the next Council meeting or whether an extraordinary Council meeting should be called to dispose of that business.

## **9. QUESTION TIME**

### **9.1 General**

Members of the public can speak and ask questions in accordance with the Council's Procedure for Public Speaking at Question Time. The procedure can be found on the Councils' web site at the following link: [http://www.rossendale.gov.uk/downloads/download/255/procedure\\_for\\_public\\_speaking](http://www.rossendale.gov.uk/downloads/download/255/procedure_for_public_speaking) Public Question time will be limited to 30 minutes.

### **9.2 Notice of Questions for Question Time**

Written notice of your question is required by 9.00am 2 days in advance of the meeting.

### **9.3 Order of Questions**

For Question Time questions will be asked and answered in the order in which they are received by the Head of Paid Service.

### **9.4 Number of Questions**

At any one meeting a questioner can only ask one question, which shall be of a length considered reasonable by the Mayor/Chair and should be no longer than three minutes.

### **9.5 Scope of Questions**

The Mayor after consultation with the Head of Paid Service and/or the Monitoring Officer may reject a question if it:

- i) is not about a matter for which the local authority has a responsibility or which affects the borough
- ii) requires the disclosure of exempt or confidential information
- iii) is defamatory, frivolous or offensive
- iv) is a personal attack on a councillor
- v) is substantially the same as a question which has been asked at a meeting of the Council or its committees in the past six months.

## **9.6 Record of Questions**

The Head of Paid Service will immediately send a copy of written questions to the Leader and/or the appropriate committee Chair. Rejected questions will include reasons for rejection.

## **9.7 Asking the Question at the Meeting**

The Mayor will invite the questioner to read the written question. If a questioner who has submitted a written question is unable to be present a written reply will be given.

## **9.8 Answers to Questions**

The Leader of the Council will determine which Cabinet Member will answer a particular question.

## **9.9 Written Answers**

Any question which cannot be dealt with during Public Question Time will be dealt with by a written answer.

# **10 QUESTIONS BY MEMBERS**

10.1 Subject to Council Procedure Rule 10.2, a Member of the Council may put a written question to:

- The Leader
- A Member of the Cabinet
- The Chair of any committee or sub-committee
- The Councillor appointed to a Joint Authority and nominated as spokesperson for the Joint Authority.
- The Councillor appointed as the Council's representative on an Outside Body.

The Question must be on any matter for which the Council has a responsibility or which affects the borough.

A Member must submit written questions to Committee and Member Services by 9.00am at least 2 days before the day of Question Time (not including weekends or public holidays).

The Mayor shall determine the relevance and the number of questions to be put.

Only questions, not statements, are permitted.

## **10.2 Answers**

10.2.1 An answer to a question (Council Procedure Rule 10.1) or to a supplementary question (Council Procedure Rule 10.3) may take the form of:

- a) A direct oral answer, or
- b) Where the information is in a publication of the Council or other published work, a reference to that publication or other work, or
- c) Where the reply cannot conveniently be given orally, a written answer will be given to the question or supplementary question and circulated to all members within a week of Question Time.

10.2.2 The Leader shall determine which councillor shall answer a particular question.

10.2.3 Questions and answers should not exceed 3 minutes each.

10.2.4 Every question shall be put and answered without discussion

### 10.3 Supplementary Questions

10.3.1 A Member putting a question under Council Procedure Rule 10.1 may, put one supplementary question to the member to whom the first question was put. The supplementary question must arise directly out of the original question or the answer.

10.4 Questions by councillors and members of the public shall not without the consent of the Mayor exceed a total period of one hour.

## 11 NOTICES OF MOTION AT COUNCIL

### 11.1 Notice

Except for motions which can be moved without notice under rule 12, written notices of motion can be submitted to the Chief Executive for inclusion on the Council agenda as follows:

- Notification of a Notice of Motion must be received at least 8 clear working days prior to the meeting.
- The Notice of Motion must be confirmed by at least 2 members in writing (email confirmation will suffice) and be with the Chief Executive at least 5 clear working days prior to the meeting if it is to be included on the Council agenda.
- The Notice of Motion must be verified as valid by the S151 Officer, Monitoring Officer and Chief Executive before it is included on the Council agenda. (see 11.3 for the scope of motions)

### 11.2 Motion Set Out in Agenda

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

### 11.3 Scope

Motions must be about matters for which the Council has a responsibility or which affect the borough.

## PREVIOUS DECISION AND MOTIONS

### 11.4 Motion to Rescind a Previous Decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 12 members or unless it is a recommendation contained in the minutes of a committee and the summons to attend the meeting of that committee contained notice that the matter was to be considered.

11.5 A committee or sub-committee of the Council acting under delegated powers may rescind a resolution adopted under delegated powers within a period of six months provided the summons to attend the meeting of the committee or sub-committee contains a notice that the matter is to be reconsidered.

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

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 12 members. Once the motion or amendment is dealt with, no-one can propose a similar motion or amendment for six months.

## **12. MOTIONS WITHOUT NOTICE AT FULL COUNCIL**

The following motions may be moved without notice:-

- a) to appoint a chair of the meeting at which the motion is moved;
- b) in relation to the accuracy of the minutes;
- c) to change the order of business in the agenda;
- d) to refer a matter to the Cabinet or a committee or an appropriate body or individual;
- e) to receive reports or adoption of recommendations of the Cabinet, committees or officers and any resolutions following from them
- f) to withdraw a motion;
- g) to amend a motion;
- h) to proceed to the next business;
- i) that the question be now put;
- j) to adjourn a debate;
- k) to adjourn a meeting;
- l) to adjourn the meeting or resolve to continue the meeting in accordance with Article 8.1;
- m) to suspend a particular Council Procedure Rule;
- n) to exclude the public and press in accordance with the Access to Information Rules;
- o) not to hear further a member named under Rule 20.1 or to exclude him or her from the meeting under Rule 20.2;
- p) to give the consent of the Council where its consent is required by this Constitution;
- q) to extend the time limits for speeches;
- r) to request a recorded vote.

## **13 RULES OF DEBATE AT COUNCIL**

### **13.1 General Rules of Debate**

- 1. Each member, on speaking, shall rise from their seat and address themselves to the Mayor or Chair and not to any other councillor, and the members shall speak to each other during the transaction of business by the respective titles of 'Mayor' or 'Councillor' as the case may be.
- 2. During the time when a councillor is speaking no other councillor shall rise or interrupt such councillor's speech, unless they rise for the purpose of taking the ruling of the Mayor or Chair on a point of order, or to seek permission to make a personal explanation as hereinafter provided.
- 3. Whenever the Mayor or Chair rises to speak or give a ruling or to call a councillor to order, no other councillor shall continue standing, nor shall any other councillor rise until the Chair is resumed.
- 4. If two or more councillors rise at the same time to speak the Mayor or Chair shall determine to whom belongs the priority of speaking.
- 5. Any councillor shall be entitled to take the ruling of the Mayor or Chair on a point of order at any time during the meeting.

6. No councillor shall speak except upon the question before the Council unless it be to make a personal explanation by permission of the Mayor or Chair and any councillor permitted to make such an explanation must confine their observations strictly to the personal question.
7. If a councillor rises for the purpose of taking the ruling of the Mayor or Chair on a point of order, or to seek permission to make a personal explanation, the councillor speaking at the time shall resume their seat, and the councillor so rising shall resume their seat immediately on the Mayor or Chair rising to give his ruling on the point of order or as to admissibility of the proposed personal explanation.
8. The ruling of the Mayor on a point of order, or as to the admissibility of a proposed personal explanation, shall be final and not open to discussion.
9. The Mayor shall decide all questions of order or procedure not provided for by these Procedure Rules.

### **13.2. Content and Length of Speeches**

Speeches must be directed to the question under discussion or to a personal explanation or to a point of order. No speech shall exceed ten minutes except by consent of the Council. The Council may consent to an extension of a speech by a further period not exceeding five minutes and only one such extension will be allowed.

The Mayor will have overall control of the content and number of speeches and will decide when a matter has been discussed enough for the debate to be closed and a vote taken.

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

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

- a) on a point of order; and
- b) by way of personal explanation;
- c) to reply to a question put during a debate
- d) with the consent of the Mayor

### **13.4 Amendments to Motions**

- a) 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.
- b) If an amendment is not carried, other amendments to the original motion may be moved.
- c) 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.
- d) After an amendment has been carried, if required the Mayor/Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

### **13.5 Alteration of Motion**

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

### **13.6 Withdrawal of Motion**

A councillor may withdraw a motion which he/she has 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.

### **13.7 Motions Which May be Moved During Debate**

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

- a) to withdraw a motion
- b) to amend a motion
- c) to proceed to the next business
- d) that the question be now put
- e) to adjourn a debate
- f) to adjourn a meeting
- g) after three hours of the start of the meeting, to approve the remaining business before the Council in accordance with the process set out in Rule 8.1.
- h) to exclude the public and press in accordance with the Access to Information Rules;
- i) not to hear further a Member named under Rule 20.1 or to exclude him or her from the meeting under Rule 20.2.

### **13.8 Closure Motions**

- a) A councillor may move the following motions at the end of a speech of another member:
  - i. to proceed to the next business;
  - ii. that the question be now put;
  - iii. to adjourn a debate; or
  - iv. to adjourn a meeting;
- a) The mover and seconder of the motion shall not comment and there shall be no discussion on such motion.
- b) If a motion to proceed to the next business is seconded and the Mayor is of the opinion that the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- c) If a motion that the question be now put is seconded and the Mayor is of the opinion that the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor is of the opinion that the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

### **13.9 Point of Order**

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

### **13.10 Personal Explanation**

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

## **14 DEBATING MOTIONS**

### **14.1 Motion Moved**

1. The mover of the motion may and if he/she so desires must reserve their right of reply.
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.

### **14.2 Right to Require Motion in Writing**

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

### **14.3 Motion Seconded**

When seconding a motion or amendment, a councillor may and if he/she so desires must reserve their speech until later in the debate. Any councillor who reserves his/her speech may not speak at the time of seconding the motion.

### **14.4 Debate**

Members will proceed to debate the motion in accordance with the general rules of debate.

### **14.5 Voting on Motion**

At the conclusion of the debate the Mayor will ask if there are any amendments to the motion. (If an amendment is moved earlier in the debate, the procedures at paragraph 15 apply and there will be no right of reply for the original mover and seconder, unless the amendment is lost and the original motion is returned to).

If there are no amendments the Mayor will then call for a vote on the motion. If there are amendments, they will be dealt with as set out in paragraph 15.

## **15 Procedure for Amendments**

15.1 Once a councillor has moved an amendment another councillor must second the amendment or the amendment will fail.

15.2 The mover of the amendment will have a right of reply at the conclusion of the debate of the amendment.

15.3 Councillors will proceed to debate the amendment in accordance with the general rules of debate.

15.4 At the conclusion of the debate the mover will reply.

15.5 The Mayor will then call for a vote on the amendment. If the amendment is lost the Mayor will ask if there are any other amendments and this procedure will repeat as above until all amendments have been dealt with.

15.6 If the amendment is carried the amendment then becomes the substantive motion and the Mayor will ask if there are any amendments to that.

## **16 VOTING**

### **16.1 Majority**

Any matter will be decided by a simple majority of those councillors voting and present in the room at the time the question was put.

### **16.2 Chair's Casting Vote**

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

### **16.3 Show of Hands**

Unless a ballot or recorded vote is demanded under Rules 16.4 and 16.5, the Mayor will take the vote by councillors by a show of hands or if there is no dissent, by the affirmation of the meeting.

### **16.4 Ballots**

The vote will take place by ballot if a majority of those councillors voting and present at the meeting demand it. The Mayor will announce the numerical result of the ballot immediately the result is known.

### **16.5 Recorded Vote**

If 3 Members 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.

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

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

### **16.7 Voting on Appointments**

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

### **16.8 Recorded Vote for Budget Setting and Council Tax**

A recorded vote will be taken at the Council budget setting meeting on any decision relating to the budget or council tax.

## **17 MINUTES**

### **17.1 Signing the Minutes**

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

### **17.2 No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting**

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

### **17.3 Form of Minutes**

Minutes will contain all motions and amendments in the exact form and order the Mayor puts them.

## **18 RECORD OF ATTENDANCE**

18.1 The Head of Paid Service will record the names of all councillors present during the whole or part of a meeting.

18.2 Members must notify the Chair if they leave the meeting.

## **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 4 of this constitution or Rule 21 (Disturbance by Public).

## **20 MEMBERS' CONDUCT**

### **20.1 Member Not to be Heard Further**

The Council expects high standards of behaviour from its elected representatives. If a councillor persistently disregards the ruling of the Mayor by behaving improperly or offensively or deliberately obstructs business, the Mayor may move that the councillor be not heard further. If seconded, the motion will be voted on without discussion.

### **20.2 Member to Leave the Meeting**

If the councillor continues to behave improperly after such a motion is carried, the Mayor 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 and without discussion.

### **20.3 General Disturbance**

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

## **21 DISTURBANCE BY PUBLIC**

### **21.1 Removal of Member of the Public**

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

### **21.2 Clearance of Part of Meeting Room**

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

## **22 SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

### **22.1 Suspension**

All of these Council Rules of Procedure except Rules 16.5 and 17.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting or for the particular item under discussion.

### **22.2 Amendment**

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

## **23 ATTENDANCE AT MEETINGS**

If a councillor fails to attend a meeting for a duration of six months the Chief Executive will report on the matter to the Council.

## **24 STATE OF THE BOROUGH DEBATE**

### **24.1 Calling of Debate**

The Leader will call a state of the borough debate annually on a date and in a form to be agreed with the Mayor.

### **24.2 Form of Debate**

The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity.

### **24.3 Chairing of Debate**

The debate will be chaired by the Mayor.

### **24.4 Results of Debate**

The results of the debate will be:

- i. disseminated as widely as possible within the community and to agencies and organisations in the area; and
- ii. considered by the Leader in proposing the budget and policy framework to the Council for the coming year.

## **2. CABINET PROCEDURE RULES**

### **1. Discharge of Cabinet Functions**

The arrangements for the discharge of Cabinet Functions are set out in Part 3 of this Constitution. The Cabinet may provide for Cabinet Functions to be discharged by:

1. The Cabinet as a whole.
2. An officer.
3. Another local authority or joint arrangements.
4. A Portfolio Holder
5. A committee of the Cabinet

### **2. Frequency of Meetings**

The Cabinet will meet at least six times a year at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

### **3. Meetings of the Cabinet**

Any part of a Cabinet meeting where a Key Decision is to be taken must be open to the public unless confidential or exempt information is to be discussed.

### **4. Quorum**

The quorum for a meeting of the Cabinet shall be 3 members of the Cabinet.

### **5. How Decisions are taken by the Cabinet**

- a) Decisions will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution unless the urgency procedure applies.

### **6. Conduct of Cabinet Meetings**

If the Leader is present, he/she will preside. In his or her absence the Deputy Leader will preside and if he/she is absent as well, the person appointed to do so by those present shall preside.

### **7. Substitutes**

There will be no substitutes on the Cabinet.

### **8. Attendance at Meetings**

Councillors who are not members of the Cabinet and members of the public, may attend meetings of the Cabinet and committees of the Cabinet. This right is subject to the rules which exclude access when confidential or exempt information is being discussed. These are set out in the Access to Information Procedures. Chief Officers and statutory officers are entitled to attend.

### **9. Order of Business**

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

1. Apologies and Declarations of Interest.
2. Consideration of the Minutes of the last meeting.
3. Matters referred to the Cabinet (whether by Overview and Scrutiny or by the Council).
4. Consideration of reports from Overview and Scrutiny.
5. Matters set out in the Agenda for the meeting. The agenda will indicate which matters are key decisions and which are not.

## **10. Consultation**

All reports to the Cabinet of proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and the Overview and Scrutiny Committee and the outcome of that consultation.

Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## **11. Agenda Formation**

1. Subject to 2-5 below the Leader will decide upon the agenda for the meetings for the Cabinet. He or she may put on the agenda of any Cabinet meeting any matter which he or she wishes. The Head of Paid Service will comply with the Leader's requests in this respect.
2. Any member of the Cabinet may require the Head of Paid Service to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If he or she receives such a request the Head of Paid Service will comply.
3. The Head of Paid Service will make sure the item is placed on the agenda of the next available meeting of the Cabinet where a relevant Overview and Scrutiny Committee or a Full Council have resolved that an item be considered by the Cabinet. However, there may only be up to four such items on any one agenda. Once this number has been reached any further items will be deferred to the next meeting of the Cabinet.
4. Any councillor may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will name councillor who asked for the item to be considered. This councillor will be required to attend the meeting and if this councillor does not attend the meeting it will be at the discretion of the Cabinet as to whether or not to consider the matter. However, there may only be up to two such items per Cabinet meeting and once this number has been reached any further items will be deferred to the next meeting of the Cabinet. If the Leader does not agree with the request for the item to be included on the agenda of a Cabinet meeting, he or she will write to the councillor concerned giving a reason for the refusal.
5. The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on an agenda of a Cabinet meeting and may require the Head of Paid Service to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Cabinet meeting, if there is no meeting of the Cabinet soon enough to deal with the issue in question, then the persons entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

## **12. Public Involvement**

Councillors who are not members of the Cabinet, and members of the public, who are present at a meeting may address the Cabinet or a committee of the Cabinet on any agenda item. The Leader may limit the time for speaking, or may withdraw the permission to speak in order to bring the speech to a close.

## **13. Urgency Procedure**

Urgent Cabinet decisions which cannot be delayed until the next meeting of the Cabinet may be taken by the Chief Executive or Director after consultation with the following:

- a) Leader  
Deputy Leader  
Relevant Portfolio Holder (if any) plus one of the following:  
Chief Executive or in the absence of the Chief Executive or if the Chief Executive is a decision taker Monitoring Officer in the absence of the Chief Executive.
- b) In the absence of the Leader, Deputy Leader or Portfolio Holder (if any) the consent of another Cabinet member will be required.
- c) The urgent decision, the reason for it and the reason for the use of the urgency procedure must be reported to the next meeting of the Council.

## **14. Application of Council Procedure Rules**

The following Council Procedure Rules apply to the meetings of the Cabinet:

- 1. Duration of meeting
- 2. Notice of and summons to meetings
- 3. Members conduct
- 4. Public Question Time
- 5. Disturbance by the public
- 6. Voting
- 7. Previous decisions and motions
- 8. Procedure for amendments
- 9. Minutes
- 10. Record of attendance

## **3. Committee Procedure Rules**

### **1 Substitutes on Committees**

- 1.1 That in the event of a member of a political group on the Council being unable to attend a particular meeting of the committee/sub-committee/Working Party to which he or she has been appointed by the Council, such member may nominate a member from his or her political group to whom the seat has been allocated to act as his or her substitute subject to the following:-
- a) the appointment of a substitute to be for the duration of the particular meeting with full voting rights.
  - b) where the councillor nominating a substitute is the Chair/Vice-Chair the substitute shall not be entitled to act in this capacity unless appointed so to act by the committee/sub-committee/Working Party.
  - c) the nominated substitute to declare his/her appointment verbally at the commencement of the meeting under an agenda item "Apologies and Notification of Substitutes" stating the name of the councillor for whom he/she is acting as substitute.
  - d) for the avoidance of doubt and since the appointment of a substitute is for the duration of a particular meeting it be not permitted under any circumstances for the substitute to be changed or for a councillor to replace their nominated substitute once the nominated substitute has declared his/her appointment at the commencement of the meeting in accordance with (c) above.
  - e) the appointment of a substitute member to be recorded in the minutes in the list of members present at the meeting.
  - f) In the case of the Appointment and Appeals Committee, Development Control Committee and the Licensing Committee, if a councillor wishes a substitute to attend a meeting in his or her place, the councillor shall inform the Monitoring Officer or his or her representative before the start of the meeting that he or she is unable to attend and a substitute will attend in his or her place.
  - g) Substitutes shall not be permitted on the Standards Panel unless they have attended Standards training.

### **2 Urgent Meetings of a Committee**

An urgent meeting of a committee can be called at the discretion of the Chair or Vice Chair of the committee. Wherever possible dates and times of meetings will not be changed, and only with the agreement of the Chair and a member of the Opposition. Failure to serve notice of a meeting will not invalidate a meeting.

### **3 Quorum**

The quorum of a meeting of a committee will be three elected members of the authority; and the quorum of a meeting of a sub-committee will be two Members.

### **4 Duration of Meeting**

Unless the majority of councillors present vote for the meeting to continue, any meeting which has not concluded its business within 3 hours will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **5 Notice of Questions for Committees**

Notice of a question need not be given for committees although the Council would encourage this.

## **6 Order of Questions**

Written questions will be given priority and the Chair will then determine the order of any other questions raised.

## **7 Right to Address Committees and Sub Committees**

Members of the public are allowed to address committees and sub-committees. This will normally be after a report has been made and before the debate begins. Normally a member of the public will only be allowed to speak once.

## **8 Regulatory Committees**

Separate procedures exist for questions and speaking at Development Control Committee and Licensing Committee. Separate procedures also exist for voting at Development Control Committee (see Part 2 – Article 3).

## **9 Minutes and Proceedings of Committees**

The Chair will move that the minutes be accepted and this will be seconded. Questions and observations will follow. After the conclusion of observations on the minutes of a particular committee any member of the committee shall have the right to move an amendment to the motion for confirmation of those minutes but only to the extent that such amendments relate to the accuracy of those minutes.

## **10 Application of Council Procedure Rules**

The following Council Procedure Rules apply to meetings of Committees:

1. Notice of and summons to meetings
2. Members conduct
3. Public Question Time
4. Disturbance by the public
5. Voting
6. Previous decisions and motions
7. Procedure for amendments
8. Minutes
9. Record of attendance

## **4. Financial Procedure Rules**

### **CONTENTS**

Financial Management Standards

Performance Plans

Risk Management

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## **FINANCIAL MANAGEMENT STANDARDS**

### **Why is this important?**

1.01 All officers and councillors have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

### **Key Controls**

1.02 The key controls and control objectives for financial management standards are:

- a) their promotion throughout the authority
- b) a monitoring system to review compliance with financial standards, and regular comparisons of performance indicators and benchmark standards that are reported to full council.

### **Responsibilities of the Head of Finance**

1.03 To ensure the proper administration of the financial affairs of the authority.

1.04 To set the financial management standards and to monitor compliance with them.

1.05 To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff throughout the authority.

1.06 To advise on the key strategic controls necessary to secure sound financial management.

1.07 To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

### **Responsibilities of Directors and heads of service**

1.08 To promote the financial management standards set by the Head of Finance in their departments and to monitor adherence to the standards and practices, liaising as necessary with the Head of Finance.

1.09 To promote sound financial practices in relation to the standards, performance and development of staff in their departments.

## **MANAGING EXPENDITURE**

Scheme of virement

### **Why is this important?**

1.10 The scheme of virement is intended to enable Directors and heads of service and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the full council, and therefore to optimise the use of resources.

### **Key Controls**

#### 1.11 Key controls for the scheme of virement are:

- a) it is administered by the Head of Finance within guidelines set by the Full Council. Any variation from this scheme requires the approval of the Full Council
- b) the overall budget is agreed and approved by the Full Council. Directors and head of service and service managers are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. The rules below cover virement; that is, switching resources between approved estimates or heads of expenditure. For the purposes of this scheme, a budget head is considered to be a line in the approved estimates report, or, as a minimum, at an equivalent level to the standard service subdivision as defined by CIPFA's Service Expenditure Analysis
- c) virement does not create additional overall budget liability. Directors and heads of service are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Directors and heads of service must plan to fund such commitments from within their own budgets.
- d) virement or any budgeted expenditure does not allow Directors and heads of service to evade corporate priorities and policies. For example and inter alia no IT equipment (either hardware or software) may be purchased by Directors and heads of service without the prior approval of the Head of Finance. This ensures compatibility with the authority's IT systems and controls any ongoing service cost implications.

#### **Responsibilities of the Head of Finance**

- 1.12 To prepare jointly with the Directors and heads of service a report to Council where virements in excess of £30k are proposed.

#### **Responsibilities of Directors and heads of service**

- 1.13 Directors and heads of service may exercise virement on budgets under his or her control for amounts up to £30k on any one budget head during the year, following notification to the Head of Finance and in consultation with the appropriate councillor under arrangements agreed by the Full Council, provided there is no material negative effect on service delivery and subject to the conditions in paragraphs 1.15 to 1.17 below.
- 1.14 Amounts greater than £30k require the approval of Cabinet, following a joint report by the Head of Finance and the Directors and heads of service, which must specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial year. Amounts greater than £50k require the approval of the Full Council.
- 1.15 The prior approval of the Council is required for any virement, of whatever amount, where it is proposed to:
- vire between budgets of different accountable committees
  - vire between budgets managed by different Directors and heads of service.
- 1.16 Virement that is likely to impact on the level of service activity of Directors and heads of service should be implemented only after agreement with the relevant Directors and heads of service.

- 1.17 No virement relating to a specific financial year should be made after 31 March in that year.
- 1.18 Virement should where applicable follow any existing Scheme of Delegation.
- 1.19 Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:
- a) the amount is used in accordance with the purposes for which it has been established
  - b) the Council has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to Council.

## **Treatment of Year-End Balances**

### **Why is this important?**

- 1.20 The authority's scheme of virement sets out the authority's treatment of year-end balances. It is administered by the Head of Finance within guidelines set by the Full Council. Any variation from the scheme of virement (as set out above) requires the approval of the Full Council.
- 1.21 The rules below cover arrangements for the transfer of resources between accounting years, ie a carry-forward. For the purposes of this scheme, a budget heading is a line in the estimates report, or, as a minimum, at an equivalent level to the standard service subdivision as defined by CIPFA in its Service Expenditure Analysis.

### **Key Controls**

- 1.22 Appropriate accounting procedures are in operation to ensure that carried-forward totals are correct.

### **Responsibilities of the Head of Finance**

- 1.23 To administer the scheme of carry-forward within the guidelines approved by the Full Council.
- 1.24 To report all overspendings and underspendings on service estimates carried forward to the Full Council.

### **Responsibilities of the Directors and Heads of Service**

- 1.25 Any overspending on service estimates in total on budgets under the control of the Directors and heads of service must be carried forward to the following year, and will constitute the first call on service estimates in the following year. The Head of Finance will report the extent of overspendings carried forward to the Council and to the Full Council.
- 1.26 50% of Net underspendings on service estimates under the control of the Directors and heads of service may be carried forward, subject to the agreement of the Head of Finance and reporting to the Council the source of underspending or additional income and the proposed application of those resources.
- 1.27 All internal business unit surpluses shall be retained for the benefit of the authority and their application shall require the approval of Council.

## **ACCOUNTING POLICIES**

### **Why is this important?**

- 1.28 The Head of Finance is responsible for the preparation of the authority's statement of accounts, in accordance with proper practices as set out in the format required by the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC), for each financial year ending 31 March.

### **Key Controls**

- 1.29 The key controls for accounting policies are:
- a) systems of internal control are in place that ensure that financial transactions are lawful
  - b) suitable accounting policies are selected and applied consistently
  - c) proper accounting records are maintained
  - d) financial statements are prepared which present fairly the financial position of the authority and its expenditure and income.

### **Responsibilities of the Head of Finance**

- 1.30 To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the statement of accounts, which is prepared at 31 March each year, and covers such items as:
- a) separate accounts for capital and revenue transactions
  - b) the basis on which debtors and creditors at year end are included in the accounts
  - c) details on substantial provisions and reserves
  - d) fixed assets
  - e) depreciation
  - f) capital charges
  - g) work in progress
  - h) stocks and stores
  - i) deferred charges
  - j) accounting for value added tax
  - k) government grants
  - l) leasing
  - m) pensions.

### **Responsibilities of Directors and Heads of Service**

- 1.31 To adhere to the accounting policies and guidelines approved by the Head of Finance.

## **ACCOUNTING RECORDS AND RETURNS**

### **Why is this important?**

- 1.32 Maintaining proper accounting records is one of the ways in which the authority discharges its responsibility for stewardship of public resources. The authority has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year. These are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the authority's resources.

## **Key Controls**

1.33 The key controls for accounting records and returns are:

- a) all members, finance staff, Directors and heads of service operate within the required accounting standards and timetables
- b) all the authority's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis
- c) procedures are in place to enable accounting records to be reconstituted in the event of systems failure
- d) reconciliation procedures are carried out to ensure transactions are correctly recorded
- e) prime documents are retained in accordance with legislative and other requirements.

## **Responsibilities of the Head of Finance**

1.34 To determine the accounting procedures and records for the authority. Where these are maintained outside the finance department, the Head of Finance should consult the Directors and heads of service concerned.

1.35 To arrange for the compilation of all accounts and accounting records under his or her direction.

1.36 To comply with the following principles when allocating accounting duties:

- a) separating the duties of providing information about sums due to or from the authority and calculating, checking and recording these sums from the duty of collecting or disbursing them
- b) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.

1.37 To make proper arrangements for the audit of the authority's accounts in accordance with the Accounts and Audit Regulations 1996.

1.38 To ensure that all claims for funds including grants are made by the due date.

1.39 To prepare and publish the audited accounts of the authority for each financial year, in accordance with the statutory timetable and with the requirement for the Full Council to approve the statement of accounts before the statutory deadline.

1.40 To administer the authority's arrangements for under - and overspendings to be carried forward to the following financial year.

1.41 To ensure the proper retention of financial documents in accordance with statutory requirements.

## **Responsibilities of Directors and Heads of Service**

1.42 To consult and obtain the approval of the Head of Finance before making any changes to accounting records and procedures.

1.43 To comply with the principles outlined in paragraph 1.38 when allocating accounting duties.

1.44 To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.

- 1.45 To supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the Head of Finance.

## **THE ANNUAL STATEMENT OF ACCOUNTS**

### **Why is this important?**

- 1.46 The authority has a statutory responsibility to prepare its own accounts to present fairly its operations during the year. The Audit and Accounts Committee is responsible for approving the statutory annual statement of accounts.

### **Key controls**

- 1.47 The key controls for the annual statement of accounts are:

- the authority is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of these affairs. In this authority, that officer is the Head of Finance
- the authority's statement of accounts must be prepared in accordance with proper practices as set out in the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (the SORP) (CIPFA/LASAAC).

### **Responsibilities of the Head of Finance**

- 1.48 To select suitable accounting policies and to apply them consistently.
- 1.49 To make judgements and estimates that are reasonable and prudent.
- 1.50 To comply with CIPFA Best Value Accounting Code of Practice and prepare an annual statement of Internal Financial Controls.
- 1.51 To sign and date the statement of accounts, stating that it presents fairly the financial position of the authority at the accounting date and its income and expenditure for each year ended 31 March.
- 1.52 To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.

### **Responsibilities of Directors and Heads of Service**

- 1.53 To comply with accounting guidance provided by the Head of Finance and to supply the Head of Finance with information when required.

## **PERFORMANCE PLANS**

### **Why is this important?**

- 2.01 Each local authority has a responsibility to publish an annual performance plan. The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement.

## **Key Controls**

2.02 The key controls for performance plans are:

- a) to ensure that the plan is produced and that they are consistent
- b) to ensure that all performance information is accurate, complete and up to date
- c) to provide improvement targets which are meaningful, realistic and challenging.

## **Responsibilities of the Head of Finance**

2.03 To advise and supply the financial information that needs to be included in the performance plan.

2.04 To contribute to the development of corporate and service targets and objectives and performance information.

2.05 To ensure that systems are in place to measure activity and collect accurate information for use as performance indicators.

2.06 To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.

## **Responsibilities of Directors and Heads of Service**

2.07 To contribute to the development of the performance plan.

2.08 To contribute to the development of corporate and service targets and objectives and performance information.

## **BUDGETING**

### **Format of the budget**

### **Why is this important?**

2.09 The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, the operation of cash limits and sets the level at which funds may be reallocated within budgets.

## **Key Controls**

2.10 The key controls for the budget format are:

- a) the format complies with all legal requirements
- b) the format complies with CIPFA's *Best Value Accounting – Code of Practice*
- c) the format reflects the accountabilities of service delivery.

## **Responsibilities of the Head of Finance**

2.11 To advise Members and Directors and heads of service on the format of the budget that is approved by the Full Council.

## **Responsibilities of Directors and Heads of Service**

2.12 To comply with accounting guidance provided by the Head of Finance.

## **Revenue budget preparation, monitoring and control**

### **Why is this important?**

2.13 Budget management ensures that once the budget has been approved by the Full Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the authority to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.

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

2.15 For the purposes of budgetary control by service managers, a budget will normally be the planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required by the Directors and heads of service scheme of delegation.

### **Key Controls**

2.16 The key controls for managing and controlling the revenue budget are:

- a) service managers should be responsible only for income and expenditure that they can influence
- b) there is a nominated budget manager for each cost centre heading
- c) service managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities
- d) service managers follow an approved certification process for all expenditure
- e) income and expenditure are properly recorded and accounted for
- f) performance levels and levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget.

## **Responsibilities of the Head of Finance**

2.17 To establish an appropriate framework of budgetary management and control that ensures that:

- a) budget management is exercised within annual cash limits unless the Full Council agrees otherwise
- b) each Director and head of service has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities
- c) expenditure is committed only against an approved budget head
- d) all officers responsible for committing expenditure comply with relevant guidance, and the financial regulations
- e) each cost centre has a single named manager, determined by the relevant Director or head of service. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure

- f) significant variances from approved budgets are investigated and reported by budget managers regularly.

2.18 To administer the authority's scheme of virement.

2.19 To submit reports to the Cabinet and to the Full Council, in consultation with the relevant Director or Head of Service, where a Director or Head of Service is unable to balance expenditure and resources within existing approved budgets under his or her control.

2.20 To prepare and submit reports on the authority's projected income and expenditure compared with the budget on a regular basis.

### **Responsibilities of Directors and Heads of Service**

2.21 To maintain budgetary control within their departments, in adherence to the principles in 2.17 and to ensure that all income and expenditure are properly recorded and accounted for.

2.22 To ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Director and heads of service (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.

2.23 To ensure that spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.

2.24 To ensure that a monitoring process is in place to review performance levels and levels of service in conjunction with the budget and is operating effectively.

2.25 To prepare and submit to Council committees, reports on the service's projected expenditure compared with its budget, in consultation with the Head of Finance should members request such a report.

2.26 To ensure prior approval by the Full Council for new proposals, of whatever amount, that:

- a) create financial commitments in future years. *NB - A report on new proposals should explain the full financial implications, following consultation with the Head of Finance. Unless the Full Council has agreed Directors and heads of service must plan to contain the financial implications of such proposals within their cash limit.*
- b) change existing policies, initiate new policies or cease existing policies
- c) materially extend or reduce the authority's services.

2.27 To ensure compliance with the scheme of virement.

2.28 To agree with the relevant Director or Head of Service where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Directors and heads of service level of service activity.

### **Budgets and Medium-Term Planning**

#### **Why is this important?**

2.29 The authority is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in

accordance with carefully weighed priorities. The budget is the financial expression of the authority's plans and policies.

- 2.30 The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the full council. Budgets (spending plans) are needed so that the authority can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for an authority to budget for a deficit.
- 2.31 Medium-term planning (or a three- to five-year planning system) involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the authority is always preparing for events in advance.

### **Key Controls**

2.32 The key controls for budgets and medium-term planning are:

- a) specific budget approval for all expenditure
- b) service managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Council for their budgets and the level of service to be delivered
- c) a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

### **Responsibilities of the Head of Finance**

- 2.33 To prepare and submit reports on budget prospects for the Council, including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.
- 2.34 To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by the Full Council, and after consultation with the Council and Directors and heads of service.
- 2.35 To prepare and submit reports to the Council on the aggregate spending plans of departments and on the resources available to fund them, identifying, where appropriate, the implications for the level of council tax to be levied.
- 2.36 To advise on the medium-term implications of spending decisions
- 2.37 To conduct financial appraisals of development or savings options, and in developing financial aspects of service planning.
- 2.38 To advise the Full Council and Council committees on proposals in accordance with his or her responsibilities under section 151 of the Local Government Act 1972.

### **Responsibilities of Directors and Heads of Service**

- 2.39 To prepare estimates of income and expenditure, in consultation with the Head of Finance, to be submitted to Council committees.
- 2.40 To prepare budgets that are consistent with any relevant cash limits, with the authority's annual budget cycle and with guidelines issued by the Council. The format should be prescribed by the Head of Finance in accordance with the Full Council's general directions.

- 2.41 To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.
- 2.42 In consultation with the Head of Finance and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by the appropriate committee.

## **Resource Allocation**

### **Why is this important?**

- 2.44 A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil need/desire. It is therefore imperative that needs/desires are carefully prioritised and that resources are fairly allocated, in order to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods and materials.

### **Key Controls**

- 2.45 The key controls for resource allocation are:
- a) resources are acquired in accordance with the law and using an approved authorisation process
  - b) resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for
  - c) resources are securely held for use when required
  - d) resources are used with the minimum level of waste, inefficiency or loss for other reasons.

## **Responsibilities of the Head of Finance**

- 2.46 To advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.
- 2.47 To assist in the allocation of resources to service managers.

## **Responsibilities of Directors and Heads of Service**

- 2.48 To work within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.
- 2.49 To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

## **Capital Programmes**

### **Why is this important?**

- 2.50 Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the authority, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.

- 2.51 The Government places strict controls on the financing capacity of the authority. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.
- 2.52 The authority will have in place a 3 year rolling capital expenditure and receipts programme, reviewed at least annually by Full Council.

### **Key Controls**

2.53 The key controls for capital programmes are:

- a) specific approval by the Full Council for the programme of capital expenditure
- b) expenditure on capital schemes is subject to the approval of the Head of Finance
- c) a scheme and estimate, including project plan, progress targets and associated revenue expenditure is prepared for each capital project, for approval by the Council
- d) approval by the Full Council where capital schemes are to be financed from the revenue budgets
- e) proposals for improvements and alterations to buildings must be approved by the appropriate Director or head of service
- f) schedules for individual schemes within the overall budget approved by the Full Council must be submitted to the Head of Finance for approval (for example, minor works), or under any other arrangements approved by the Full Council
- g) the development and implementation of asset management plans
- h) accountability for each proposal is accepted by a named manager
- i) monitoring of progress in conjunction with expenditure and comparison with approved budget.

### **Responsibilities of Head of Finance**

- 2.54 To prepare capital estimates jointly with Directors and heads of service and the Corporate Management Team and to report them to the Council for approval. Full Council member approval is required where a Director or head of service proposes to bid for or exercise additional borrowing approval not anticipated in the capital programme. This is because the extra borrowing may create future commitments to financing costs.
- 2.55 To prepare and submit reports to the Council on the projected income, expenditure and resources compared with the approved estimates.
- 2.56 To issue guidance concerning capital schemes and controls, for example, on project appraisal techniques. The definition of 'capital' will be determined by the Head of Finance, having regard to government regulations and accounting requirements.
- 2.57 To obtain authorisation from the Council for individual schemes where the estimated expenditure exceeds the capital programme provision by more than a specified amount.

### **Responsibilities of Directors and Heads of Service**

- 2.58 To comply with guidance concerning capital schemes and controls issued by the Head of Finance.
- 2.59 To ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the Head of Finance.

- 2.60 To prepare regular reports reviewing the capital programme provisions for their services. They should also prepare a quarterly return of estimated final costs of schemes in the approved capital programme for submission to the Head of Finance.
- 2.61 To ensure that adequate records are maintained for all capital contracts.
- 2.62 To proceed with projects only when there is adequate provision in the capital programme and with the agreement of the Head of Finance, where required.
- 2.63 To prepare and submit reports, jointly with the Head of Finance, to the Council, of any variation in contract costs greater than the approved limits. The Council may choose to meet cost increases of up to 5% by virement from savings elsewhere within their capital programme.
- 2.64 To prepare and submit reports, jointly with the Head of Finance, to the Council, on completion of all contracts where the final expenditure exceeds the approved contract sum by more than the specified amount.
- 2.65 To ensure that credit arrangements, such as leasing agreements or any other long term liability arrangements, are not entered into without the prior approval of the Head of Finance and, if applicable, approval of the scheme through the capital programme.
- 2.66 To consult with the Head of Finance and to seek Council approval where the Director or head of service proposes to bid for supplementary credit approvals to be issued by government departments to support expenditure that has not been included in the current year's capital programme.

## **MAINTENANCE OF RESERVES**

### **Why is this important?**

- 2.67 The local authority must decide the level of general reserves it wishes to maintain before it can decide the level of council tax. Reserves are maintained as a matter of prudence. They enable the authority to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

### **Key Controls**

- 2.68 To maintain reserves in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC) and agreed accounting policies.
- 2.69 For each reserve established, the purpose, usage and basis of transactions should be clearly identified.
- 2.70 Authorisation and expenditure from reserves by the appropriate Director or head of service in consultation with the Head of Finance.

### **Responsibilities of the Head of Finance**

- 2.71 To advise the Council and/or the Full Council on prudent levels of reserves for the authority, and to take account of the advice of the external auditor in this matter.

## **Responsibilities of Directors and Heads of Service**

2.72 To ensure that resources are used only for the purposes for which they were intended.

## **RISK MANAGEMENT**

### **Why is this important?**

3.01 All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively, whether by insurance or other methods.

3.02 It is the overall responsibility of the Council to approve the authority's risk register and to promote a culture of risk management awareness throughout the authority.

### **Key Controls**

3.03 The key controls for risk management are:

- a) A risk register is in place to identify, assess, prevent or contain material known risks.
- b) a monitoring process is in place to review regularly the effectiveness of the risk register and the operation of these controls. The risk management process should be conducted on a continuing basis
- c) managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management
- d) provision is made for losses that might result from the risks that remain
- e) procedures are in place to investigate claims within required timescales
- f) acceptable levels of risk are determined and insured against where appropriate
- g) the authority has a business continuity plan for implementation in the event of a major disaster that results in significant loss or damage to its resources.

## **Responsibilities of the Head of Finance**

3.04 To prepare and promote the authority's risk management policy statement and .

3.05 To develop risk management controls in conjunction with other Directors and heads of service.

3.06 To include all appropriate employees of the authority in a suitable fidelity guarantee insurance.

3.07 To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.

## **Responsibilities of Directors and Heads of Service**

3.08 To notify the Head of Finance immediately of any loss, liability or damage that may lead to a claim against the authority, together with any information or explanation required by the Head of Finance or the authority's insurers.

- 3.09 To take responsibility for risk management, having regard to advice from the Head of Finance and other specialist officers (eg crime prevention, fire prevention, health and safety).
- 3.10 To ensure that there are regular reviews of risk within their departments and that risk management is seen as a tool in service delivery.
- 3.11 To notify the Head of Finance promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.
- 3.12 To consult the Head of Finance and the Monitoring Officer on the terms of any indemnity that the authority is requested to give.
- 3.13 To ensure that employees, or anyone covered by the authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim
- 3.14 To ensure that a specific risk register is completed for each corporate project.

## **INTERNAL CONTROLS**

### **Why is this important?**

- 3.15 The authority is complex and beyond the direct control of individuals. It therefore requires internal controls to manage and monitor progress towards strategic objectives.
- 3.16 The authority has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.
- 3.17 The authority faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.
- 3.18 The system of internal controls is established in order to provide measurable achievement of:
  - a) efficient and effective operations
  - b) reliable financial information and reporting
  - c) compliance with laws and regulations
  - d) risk management.

### **Key controls**

- 3.19 The key controls and control objectives for internal control systems are:
  - a) key controls should be reviewed on a regular basis and the authority should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively
  - b) managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities

- c) financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and Information systems
- d) an effective internal audit function that is properly resourced to ensure the Head of Finance (s.151 Officer) is able to perform his statutory duties. It should operate in accordance with the principles contained in the Auditing Practices Board's auditing guideline *Guidance for Internal Auditors*, CIPFA's *Code of Practice for Internal Audit in Local Government in the United Kingdom* and with any other statutory obligations and regulations.

## **Responsibilities of the Head of Finance**

- 3.19 To assist the authority to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations. In addition, enabling the s.151 officer to make an annual statement in annual accounts as to the effectiveness of the authorities system of internal control.

## **Responsibilities of Directors and Heads of Service**

- 3.20 To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.
- 3.21 To review existing controls in the light of changes affecting the authority and to establish and implement new ones in line with guidance from the Head of Finance. Directors and heads of service should also be responsible for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.
- 3.22 To ensure officers have a clear understanding of the consequences of lack of control.

## **AUDIT REQUIREMENTS**

### **Internal Audit**

#### **Why is this important?**

- 3.23 The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations 1996 (SI 1996/590), regulation 5, more specifically require that a “relevant body shall maintain an adequate and effective system of internal audit of their accounting records and control systems”.
- 3.24 Accordingly, internal audit is an independent and objective appraisal function established by the authority for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

### **Key controls**

- 3.25 The key controls for internal audit are:

- a) that it is independent in its planning and operation

- b) the Head of Internal Audit has direct access to the head of paid service, all levels of management and directly to elected members
- c) the internal auditors comply with the Auditing Practices Board's guideline *Guidance for Internal Auditors*, as interpreted by CIPFA's *Code of Practice for Internal Audit in Local Government in the United Kingdom*.

### **Responsibilities of the Head of Finance**

3.26 To ensure that internal auditors have the authority to:

- a) access authority premises at reasonable times
- b) access all assets, records, documents, correspondence and control systems
- c) receive any information and explanation considered necessary concerning any matter under consideration
- d) require any off to account for cash, stores or any other authority asset under his or her control
- e) access records belonging to third parties, such as contractors, when required
- f) directly access the head of paid service, the Council and Audit Committee.

3.27 To approve the strategic and annual audit plans prepared by the head of internal audit, which take account of the characteristics and relative risks of the activities involved.

3.28 To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

### **Responsibilities of Directors and Heads of Service**

3.29 To ensure that internal auditors are given access at all reasonable times to premises, officers, documents and assets that the auditors consider necessary for the purposes of their work.

3.30 To ensure that auditors are provided with any information and explanations that they seek in the course of their work.

3.31 To consider and address actions promptly to recommendations in audit reports.

3.32 To notify the Head of Finance immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority's property or resources. Pending investigation and reporting, the chief officer should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.

3.33 To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Head of Internal Audit prior to implementation.

### **External Audit**

#### **Why is this important?**

3.34 The Local Government Finance Act 1982 set up the Audit Commission, which is responsible for appointing external auditors to each local authority in England and Wales. The external auditor has rights of access to all documents and information necessary for audit purposes.

3.35 The basic duties of the external auditor are defined in the Audit Commission Act 1998 and the Local Government Act 1999. In particular, section 4 of the 1998 Act requires the Audit Commission to prepare a code of audit practice, which external auditors follow when carrying

out their duties. The code of audit practice issued in March 2000 sets out the auditor's objectives to review and report upon:

- a) the financial aspects of the audited body's corporate governance arrangements
- b) the audited body's financial statements
- c) aspects of the audited body's arrangements to manage its performance, including the preparation and publication of specified performance information and compliance in respect of the preparation and publication of the BVPP.

3.37 The authority's accounts are scrutinised by external auditors, who must be satisfied that the statement of accounts 'presents fairly' the financial position of the authority and its income and expenditure for the year in question and complies with the legal requirements.

### **Key Controls**

3.38 External auditors are appointed normally for a minimum period of five years. The local audit framework prepares a code of audit practice, which external auditors follow when carrying out their audits.

### **Responsibilities of the Head of Finance**

3.39 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.

3.40 To ensure there is effective liaison between external and Internal Audit.

3.41 To work with the external auditor and advise councillors, Directors and heads of service on their responsibilities in relation to external audit.

### **Responsibilities of Directors and Heads of Service**

3.42 To ensure that external auditors are given access at all reasonable times to premises, officers documents and assets which the external auditors consider necessary for the purposes of their work.

3.43 To ensure that all records and systems are up to date and available for inspection.

## **PREVENTING FRAUD AND CORRUPTION**

### **Why is it this important?**

3.44 The authority will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the authority.

3.45 The authority's expectation of propriety and accountability is that members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

3.46 The authority also expects that individuals and organisations (eg suppliers, contractors, service providers) with whom it comes into contact will act towards the authority with integrity and without thought or actions involving fraud and corruption.

## **Key Controls**

3.47 The key controls regarding the prevention of financial irregularities are that:

- a) the authority has an effective anti-fraud and anti-corruption policy and maintains a culture that will not tolerate fraud or corruption
- b) all councillors and officers act with integrity and lead by example
- c) senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the authority or who are corrupt
- d) high standards of conduct are promoted amongst councillors by the standards committee
- e) the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded
- f) whistleblowing procedures are in place and operate effectively
- g) legislation including the Public Interest Disclosure Act 1998 is adhered to.

## **Responsibilities of the Head of Finance**

3.48 To develop and maintain an anti-fraud and anti-corruption policy.

3.49 To maintain adequate and effective internal control arrangements.

3.50 To ensure that all suspected irregularities are reported to the Chief Internal Auditor, the Head of Paid Service and the Audit and Accounts Committee.

## **Responsibilities of Directors and Heads of Service**

3.51 To ensure that all suspected irregularities are reported to the Chief Internal Auditor.

3.52 To instigate the authority's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.

3.53 To ensure that where financial impropriety is discovered, the Head of Finance is informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place.

3.54 To maintain a departmental register of interests.

## **ASSETS**

### **Security**

### **Why is this important?**

3.55 The authority holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

## **Key Controls**

3.56 The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:

- a) resources are used only for the purposes of the authority and are properly accounted for
- b) resources are available for use when required
- c) resources no longer required are disposed of in accordance with the law and the regulations of the authority so as to maximise benefits
- d) an asset register is maintained for the authority, assets are recorded when they are acquired by the authority and this record is updated as changes occur with respect to the location and condition of the asset
- e) all officers are aware of their responsibilities with regard to safeguarding the authority's assets and information, including the requirements of data protection legislation and regulation and software copyright legislation
- f) all officers are aware of their responsibilities with regard to safeguarding the security of the authority's IT systems, including maintaining restricted access to the information held on them and compliance with the authority's computer and internet security policies.

### **Responsibilities of the Head of Finance**

3.57 To ensure that an asset register is maintained in accordance with good practice for all fixed assets with a value in excess of £10,000. The function of the asset register is to provide the authority with information about fixed assets so that they are:

- safeguarded
- used efficiently and effectively
- adequately maintained.

3.58 To receive the information required for accounting, costing and financial records from each Director and Head of Service.

3.59 To ensure that assets are valued in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC).

### **Responsibilities of Directors and Heads of Service**

3.60 The appropriate Director or head of service shall maintain a property database in a form approved by the Head of Finance for all properties, plant and machinery and moveable assets currently owned or used by the authority. Any use of property by a department or establishment other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use.

3.61 To ensure that lessees and other prospective occupiers of council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Director or head of service in consultation with the Head of Finance, has been established as appropriate.

3.62 To ensure the proper security of all buildings and other assets under their control.

3.63 Where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a joint report by the Director or head of service and the Head of Finance.

3.64 To pass title deeds to the appropriate Director or head of service who is responsible for custody of all title deeds for their safe keeping.

3.65 To ensure that no authority asset is subject to personal use by an officer without proper authority.

- 3.66 To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the authority.
- 3.67 To ensure that the department maintains a register of moveable assets in accordance with arrangements defined by the Head of Finance.
- 3.68 To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- 3.69 To consult the Head of Finance in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 3.70 To ensure cash holdings on premises are kept to a minimum and adequately secured.
- 3.71 To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Head of Finance as soon as possible.
- 3.72 To record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless, following consultation with the Head of Finance, councillors agree otherwise.
- 3.73 To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Head of Finance.
- 3.74 To ensure that all officers are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the authority in some way.

## **Inventories**

- 3.75 To maintain inventories and record an adequate description of furniture, fittings, equipment, plant and machinery above £500 in value.
- 3.76 To carry out an annual check of all items on the inventory in order to verify location, review, condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as IT equipment should be identified with security markings as belonging to the authority.

## **Stocks and Stores**

- 3.77 To make arrangements for the care and custody of stocks and stores in the department.
- 3.78 To ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.
- 3.79 To investigate and remove from the authority's records (ie write off) discrepancies as necessary, or to obtain Council approval if they are in excess of a predetermined limit.

- 3.80 To authorise or write off disposal of redundant stocks and equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction, unless, following consultation with the Head of Finance, councillors decide otherwise in a particular case.
- 3.8 To seek Council approval to the write-off of redundant stocks and equipment in excess of a predetermined sum.

## **Intellectual Property**

### **Why is this important?**

- 3.83 Intellectual property is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Various acts of Parliament cover different types of intellectual property.
- 3.84 Certain activities undertaken within the authority may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property.

### **Key Controls**

- 3.85 In the event that the authority decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with the authority's approved intellectual property procedures.

## **Responsibilities of the Head of Finance**

- 3.86 To develop and disseminate good practice through the authority's intellectual property procedures.

## **Responsibilities of Directors and Heads of Service**

- 3.87 To ensure that controls are in place to ensure that officers do not carry out private work in council time and that they are aware of an employer's rights with regard to intellectual property.

## **Asset Disposal**

### **Why is this important?**

- 3.88 It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations of the authority.

### **Key controls**

- 3.89 Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the authority, and best price is obtained, bearing in mind other factors, such as environmental issues. For items of significant value, disposal should be by competitive tender or public auction.
- 3.90 Procedures protect officers involved in the disposal from accusations of personal gain.

## **Responsibilities of the Head of Finance**

3.91 To issue guidelines representing best practice for disposal of assets.

3.92 To ensure appropriate accounting entries are made to remove the value of disposed assets from the authority's records and to include the sale proceeds if appropriate.

## **Responsibilities of Directors and Heads of Service**

3.93 To seek advice from purchasing advisors on the disposal of surplus or obsolete materials, stores or equipment.

3.94 To ensure that income received for the disposal of an asset is properly banked and coded.

## **TREASURY MANAGEMENT**

### **Why is this important?**

3.95 Many millions of pounds pass through the authority's books each year. This led to the establishment of codes of practice. These aim to provide assurances that the authority's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the authority's capital sum.

### **Key Controls**

3.96 That the authority's borrowings and investments comply with the *CIPFA Code of Practice on Treasury Management*, the *Prudential Code on Treasury Management* and with the authority's treasury policy statement.

## **Responsibilities of Head of Finance – treasury management and banking**

3.97 To arrange the borrowing and investments of the authority in such a manner as to comply with the *CIPFA Code of Practice on Treasury Management* and the authority's treasury management policy statement and strategy.

3.98 To report regularly throughout the year on treasury management activities to the Council.

3.99 To operate bank accounts as are considered necessary – opening or closing any bank account shall require the approval of the Head of Finance.

## **Responsibilities of Directors and Heads of Service – Treasury Management and Banking**

3.100 To follow the instructions on banking issued by the Head of Finance.

## **Responsibilities of Head of Finance – Investments and Borrowing**

3.101 To ensure that all investments of money are made in the name of the authority or in the name of nominees approved by the Full Council.

3.102 To ensure that all securities that are the property of the authority or its nominees and the title deeds of all property in the authority's ownership are held in the custody of the appropriate Director or head of service.

3.103 To effect all borrowings in the name of the authority.

- 3.104 To act as the authority's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the authority.

### **Responsibilities of Directors and Heads of Service – investments and borrowing**

- 3.105 To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Full Council, following consultation with the Head of Finance.

### **Responsibilities of Directors and Heads of Service – Trust Funds and Funds Held for Third Parties**

- 3.106 To arrange for all trust funds to be held, wherever possible, in the name of the authority. All officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the Head of Finance, unless the deed otherwise provides.
- 3.107 To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Head of Finance, and to maintain written records of all transactions.
- 3.108 To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

### **Responsibilities of the Head of Finance – Imprest Accounts**

- 3.109 To provide employees of the authority with cash or bank imprest accounts to meet minor expenditure on behalf of the authority and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed the prescribed amount.
- 3.110 To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.
- 3.111 To reimburse imprest holders as often as necessary to restore the imprests, but normally not more than monthly.

### **Responsibilities of Directors and Heads of Service – Imprest Accounts**

- 3.112 To ensure that officers operating an imprest account:
- a) obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained
  - b) make adequate arrangements for the safe custody of the account
  - c) produce upon demand by the Head of Finance cash and all vouchers to the total value of the imprest amount
  - d) record transactions promptly
  - e) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder
  - f) provide the Head of Finance with a certificate of the value of the account held at 31 March each year
  - g) ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made

- h) on leaving the authority's employment or otherwise ceasing to be entitled to hold an imprest advance, an officer shall account to the Head of Finance for the amount advanced to him or her.

## **STAFFING**

### **Why is this important?**

- 3.113 In order to provide the highest level of service, it is crucial that the authority recruits and retains high calibre, knowledgeable officers, qualified to an appropriate level.

### **Key Controls**

- 3.114 The key controls for staffing are:

- a) an appropriate policy exists.
- b) procedures are in place for forecasting staffing requirements and cost
- c) controls are implemented that ensure that officer time is used efficiently and to the benefit of the authority
- d) checks are undertaken prior to employing new officers to ensure that they are appropriately qualified, experienced and trustworthy.

### **Responsibilities of the Head of Finance**

- 3.115 To ensure that budget provision exists for all existing and new employees.
- 3.116 To act as an advisor alongside the People and Policy Team on areas such as National Insurance and pension contributions, as appropriate.

### **Responsibilities of Directors and Heads of Service**

- 3.117 To ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).
- 3.118 To monitor officer activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.
- 3.119 To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.
- 3.120 To ensure that the People and Policy Team and the Head of Finance are immediately informed if the staffing budget is likely to be materially over - or underspent.

## **GENERAL**

### **Why is this important?**

- 4.01 Departments have many systems and procedures relating to the control of the authority's assets, including purchasing, costing and management systems. Departments are increasingly reliant on IT for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.

4.02 The Head of Finance has a professional responsibility to ensure that the authority's financial systems are sound and should therefore be notified of any new developments or changes.

### **Key Controls**

The key controls for systems and procedures are:

- a) basic data exists to enable the authority's objectives, targets, budgets and plans to be formulated
- b) performance is communicated to the appropriate managers on an accurate, complete and timely basis
- c) early warning is provided of deviations from target, plans and budgets that require management attention
- d) operating systems and procedures are secure.

### **Responsibilities of the Head of Finance**

4.03 To make arrangements for the proper administration of the authority's financial affairs, including to:

- a) issue advice, guidance and procedures for officers and others acting on the authority's behalf
- b) determine the accounting systems, form of accounts and supporting financial records
- c) establish arrangements for audit of the authority's financial affairs
- d) approve any new financial systems to be introduced
- e) approve any changes to be made to existing financial systems.

### **Responsibilities of Directors and Heads of Service**

4.04 To ensure that accounting records are properly maintained and held securely.

4.05 To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Head of Finance.

4.06 To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.

4.07 To incorporate appropriate controls to ensure that, where relevant:

- a) all input is genuine, complete, accurate, timely and not previously processed
- b) all processing is carried out in an accurate, complete and timely manner
- c) output from the system is complete, accurate and timely.

4.08 To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.

4.09 To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.

4.10 To ensure that systems are documented and staff trained in operations.

4.11 To consult with the Head of Finance before changing any existing system or introducing new systems.

- 4.12 To establish a scheme of delegation identifying officers authorised to act upon the chief officer's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.
- 4.13 To supply lists of authorised officers, with specimen signatures and delegated limits, to the Head of Finance, together with any subsequent variations.
- 4.14 To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- 4.15 To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that officers are aware of their responsibilities under the legislation.
- 4.16 To ensure that relevant standards and guidelines for computer systems issued by the Directors and heads of service are observed.
- 4.17 To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.
- 4.18 To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
- a) only software legally acquired and installed by the authority is used on its computers
  - b) staff are aware of legislative provisions
  - c) in developing systems, due regard is given to the issue of intellectual property rights

## **INCOME AND EXPENDITURE**

### **Income**

#### **Why is this important?**

- 4.19 Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the authority's cashflow and also avoids the time and cost of administering debts.

#### **Key Controls**

- 4.20 The key controls for income are:
- a) all income due to the authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed
  - b) all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery
  - c) effective action is taken to pursue non-payment within defined timescales
  - d) formal approval for debt write-off is obtained
  - e) appropriate write-off action is taken within defined timescales
  - f) appropriate accounting adjustments are made following write-off action
  - g) all appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule

#### **Responsibilities of the Head of Finance**

- 4.21 To agree arrangements for the collection of all income due to the authority and to approve the procedures, systems and documentation for its collection.
- 4.22 To order and supply to departments all receipt forms, books or tickets and similar items and to satisfy himself or herself regarding the arrangements for their control.
- 4.23 To agree the write-off of bad debts up to an approved limit in each case and to refer larger sums to Council (eg inter alia The Scheme of Delegation).
- 4.24 To approve all debts to be written off in consultation with the relevant chief officer and to keep a record of all sums written off up to the approved limit and to adhere to the requirements of the Accounts and Audit Regulations 1996.
- 4.25 To obtain the approval of Council in consultation with the relevant chief officer for writing off debts in excess of the approved limit.
- 4.26 To ensure that appropriate accounting adjustments are made following write-off action.

### **Responsibilities of Directors and Heads of Service**

- 4.27 To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly, in line with corporate policies.
- 4.28 To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.
- 4.29 To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- 4.30 To issue official receipts or to maintain other documentation for income collection.
- 4.31 To hold securely receipts, tickets and other records of income for the appropriate period.
- 4.32 To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.
- 4.33 To ensure that income is paid fully and promptly into the appropriate authority bank account in the form in which it is received. Appropriate details should be recorded on to paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis.
- 4.34 To ensure income is not used to cash personal cheques or other payments.
- 4.35 To supply the Head of Finance with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Head of Finance to record correctly the sums due to the authority and to ensure accounts are sent out promptly. To do this, Directors and heads of service should use established performance management systems to monitor recovery of income and flag up areas of concern to the Head of Finance. Directors and heads of service have a responsibility to assist the Head of Finance in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the authority's behalf. Only up to approved levels of cash can be held on the premises.

- 4.36 To keep a record of every transfer of money between employees of the authority. The receiving officer must sign for the transfer and the transferor must retain a copy.
- 4.37 To recommend to the Head of Finance all debts to be written off and to keep a record of all sums written off up to the approved limit. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- 4.38 To obtain the approval of the Head of Finance when writing off debts in excess of the approved limit, and the approval of the Council where required.
- 4.39 To notify the Head of Finance of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Head of Finance and not later than 30 April.

## **Ordering and Paying for Work, Goods and Services**

### **Why is this important?**

- 4.40 Public money should be spent with demonstrable probity and in accordance with the authority's policies. Authorities have a statutory duty to achieve value for money in part through economy and efficiency. The authority's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the authority's code of practice on tenders and contracts. See also Contract Procedure Rules and Procurement Policies.

### **General**

- 4.41 Every officer and councillor has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the authority, in accordance with appropriate codes of conduct.
- 4.42 Official orders must be in a form approved by the Head of Finance. Official orders must be issued for all work, goods or services to be supplied to the authority, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Head of Finance.
- 4.43 Each order must conform to the guidelines approved by the Full Council on central purchasing and the standardisation of supplies and materials. Standard terms and conditions must not be varied without the prior approval of the Head of Finance.
- 4.44 Apart from petty cash, and other payments from advance accounts, the normal method of payment from the authority shall be by BACS or other instrument or approved method, drawn on the authority's bank account by the Head of Finance. The use of direct debit shall require the prior agreement of the Head of Finance.
- 4.45 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of authority contracts.

### **Key Controls**

- 4.46 The key controls for ordering and paying for work, goods and services are:

- a) all goods and services are ordered only by appropriate persons and are correctly recorded
- b) all goods and services shall be ordered in accordance with the authority's code of practice for tenders and contracts unless they are purchased from sources within the authority
- c) goods and services received are checked to ensure they are in accordance with the order. Goods should not be received by the person who placed the order
- d) payments are not made unless goods have been received by the authority to the correct price, quantity and quality standards
- e) all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method
- f) all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention schedule
- g) all expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected
- h) in addition, the effect of e-business/e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.
- i) where a contract includes the receipt of income on behalf of the Council, by the contractor (by way of an agency agreement or similar) the contractual arrangements should not allow netting off, by the contractor, of the contractors expenses, unless Officers can demonstrate an advantage to the Council.

### **Responsibilities of the Head of Finance**

- 4.48 To ensure that all the authority's financial systems and procedures are sound and properly administered.
- 4.49 To approve any changes to existing financial systems and to approve any new systems before they are introduced.
- 4.50 To approve the form of official orders and associated terms and conditions.
- 4.51 To make payments from the authority's funds on the Directors and heads of service authorisation that the expenditure has been duly incurred in accordance with financial regulations.
- 4.52 To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- 4.53 To make payments to contractors on the certificate of the appropriate chief officer, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.
- 4.54 To provide advice and encouragement on making payments by the most economical means.
- 4.55 To ensure that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be taken into account in budget monitoring reports.

### **Responsibilities of Directors and Heads of Service**

- 4.56 To ensure that unique pre-numbered official orders are used for all goods and services, other than the exceptions specified in 4.43.

- 4.57 To ensure that orders are only used for goods and services provided to the department . Individuals must not use official orders to obtain goods or services for their private use.
- 4.58 To ensure that only those officers authorised by him or her sign orders and to maintain an up to date list of such authorised officers, including specimen signatures identifying in each case the limits of their authority. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Value for money principles should underpin the authority's approach to procurement and should always be achieved.
- 4.59 To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories or stores records.
- 4.60 To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming:
- a) receipt of goods or services
  - b) that the invoice has not previously been paid
  - c) that expenditure has been properly incurred and is within budget provision
  - d) that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices
  - e) correct accounting treatment of tax
  - f) that the invoice is correctly coded
  - g) that discounts have been taken where available
  - h) that appropriate entries will be made in accounting records.
- 4.61 To ensure that two authorised officers are involved in the ordering, receiving and payment process. If possible, a different officer from the person who signed the order, and in every case, a different officer from the person checking a written invoice, should authorise the invoice.
- 4.62 To ensure that the department maintains and reviews periodically a list of officers approved to authorise invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the Head of Finance.
- 4.63 To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice. Any instances of these being rendered should be reported to the Head of Internal Audit.
- 4.64 To encourage suppliers of goods and services to receive payment by the most economical means for the authority. It is essential, however, that payments made by direct debit have the prior approval of the Head of Finance.
- 4.65 To ensure that the department obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the best practice guidelines issued by the Head of Finance, which are in line with value for money principles and contained in the authority's code of practice for tenders and contracts.
- 4.66 To utilise the central purchasing procedures established by the Head of Finance in putting purchases, where appropriate, out to competitive quotation or tender. These will comply with the code of practice on tenders and contracts and will cover:
- a) authorised officers and the extent of their authority

- b) advertisement for tenders
- c) procedure for creating, maintaining and revising a standard list of contractors
- d) selection of tenderers
- e) compliance with UK and EC legislation and regulations
- f) procedures for the submission, receipt, opening and recording of tenders
- g) the circumstances where financial or technical evaluation is necessary
- h) procedures for negotiation
- i) acceptance of tenders
- j) the form of contract documentation
- k) cancellation clauses in the event of corruption or bribery
- l) contract records.

4.67 To ensure that officers are aware of the national code of conduct for local government employees (summarised in the procedures and conditions of employment manual).

4.68 To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Head of Finance. This is because of the potential impact on the authority's borrowing powers, to protect the authority against entering into unapproved credit arrangements and to ensure that value for money is being obtained.

4.69 To notify the Head of Finance of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Head of Finance and, in any case, not later than 30 April.

4.70 With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Head of Finance the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.

4.71 To notify the Head of Finance immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.

4.72 To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention schedule.

## **Payments to Officers and Councillors**

### **Why is this important?**

4.73 Staff costs are the largest item of expenditure for most authority services. It is therefore important that payments are accurate, timely, made only where they are due for services to the authority and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that members' allowances are authorised in accordance with the scheme adopted by the Full Council.

### **Key Controls**

4.74 The key controls for payments to officers and councillors are:

- a) proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:

- starters
- leavers
- variations
- enhancements

and that payments are made on the basis of timesheets or claims

- b) frequent reconciliation of payroll expenditure against approved budget and bank account
- c) all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule
- d) that Inland Revenue regulations are complied with.

### **Responsibilities of the Head of Finance**

- 4.75 To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him or her, on the due date.
- 4.76 To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions.
- 4.77 To make arrangements for payment of all travel and subsistence claims or financial loss allowance.
- 4.78 To make arrangements for paying members travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- 4.79 To provide advice and encouragement to secure payment of salaries and wages by the most economical means.
- 4.80 To ensure that there are adequate arrangements for administering superannuation matters in line with guidance from Lancashire County Council.

### **Responsibilities of Directors and Heads of Service**

- 4.81 To ensure appointments are made in accordance with the regulations of the authority and approved establishments, grades and scale of pay and that adequate budget provision is available.
- 4.82 To notify the Head of Finance of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Head of Finance.
- 4.83 To ensure that adequate and effective systems and procedures are operated, so that:
  - payments are only authorised to bona fide employees
  - payments are only made where there is a valid entitlement
  - conditions and contracts of employment are correctly applied
  - officers' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- 4.84 To send an up-to-date list of the names of officers authorised to sign records to the Head of People and Policy, together with specimen signatures. The payroll provider should have signatures of personnel officers and officers authorised to sign timesheets and claims.

- 4.85 To ensure that payroll transactions are processed only through the payroll system. Directors and heads of service should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. The Inland Revenue applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Head of Finance.
- 4.86 To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the authority, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the Head of Finance is informed where appropriate.
- 4.87 To ensure that the Head of Finance is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
- 4.88 To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

### **Responsibilities of Councillors**

- 4.89 To submit claims for councillors' travel and subsistence allowances on a monthly basis and, in any event, within one month of the year end.

## **TAXATION**

### **Why is this important?**

- 4.90 Like all organisations, the authority is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

### **Key Controls**

- 4.91 The key controls for taxation are:
- a) service managers are provided with relevant information and kept up to date on tax issues
  - b) service managers are instructed on required record keeping
  - c) all taxable transactions are identified, properly carried out and accounted for within stipulated timescales
  - d) records are maintained in accordance with instructions
  - e) returns are made to the appropriate authorities within the stipulated timescale.

### **Responsibilities of the Head of Finance**

- 4.92 To complete all Inland Revenue and other agency returns regarding PAYE, NI, Superannuation, etc.
- 4.93 To complete a monthly return of VAT inputs and outputs to HM Customs and Excise.
- 4.94 To provide details to the Inland Revenue regarding the construction industry tax deduction scheme.

- 4.95 To maintain up-to-date guidance for authority employees on taxation issues in the accounting manual and the tax manual.

### **Responsibilities of Directors and Heads of Service**

- 4.96 To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Customs and Excise regulations.
- 4.97 To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.
- 4.98 To ensure that all persons employed by the authority are added to the authority's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.
- 4.99 To follow the guidance on taxation issued by the Head of Finance in the authority's accounting manual and VAT manual.

## **TRADING ACCOUNTS AND BUSINESS UNITS**

### **Why is this important?**

- 4.100 Trading accounts and business units have become more important as local authorities have developed a more commercial culture. Authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost. They are also required to disclose the results of significant trading operations

### **Responsibilities of the Head of Finance**

- 4.101 To advise on the establishment and operation of trading accounts and business units.

### **Responsibilities of Directors and Heads of Service**

- 4.102 To consult with the Head of Finance where a business unit wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the authority. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.
- 4.103 To observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and to produce an annual report in support of the final accounts.
- 4.104 To ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units.
- 4.105 To ensure that each business unit prepares an annual business plan.

## **PARTNERSHIPS**

### **Why is this important?**

- 5.01 Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership

with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.

5.02 Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

## **General**

5.03 The main reasons for entering into a partnership are:

- a) the desire to find new ways to share risk
- b) the ability to access new resources
- c) to provide new and better ways of delivering services
- d) to forge new relationships.

5.04 A partner is defined as either:

- a) an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project
- b) a body whose nature or status give it a right or obligation to support the project.

5.05 Partners participate in projects by:

- a) acting as a project deliverer or sponsor, solely or in concert with others
- b) acting as a project funder or part funder
- c) being the beneficiary group of the activity undertaken in a project.

5.06 Partners have common responsibilities:

- a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation
- b) to act in good faith at all times and in the best interests of the partnership's aims and objectives
- c) be open about any conflict of interests that might arise
- d) to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors
- e) to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature
- f) to act wherever possible as ambassadors for the project.

## **Key Controls**

5.07 The key controls for authority partners are:

- a) if appropriate, to be aware of their responsibilities under the authority's financial regulations and the code of practice on tenders and contracts
- b) to ensure that risk management processes are in place to identify and assess all known risks
- c) to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise
- d) to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences, particularly in the area of document recording,

- control and procedures, where external funding is being managed and which will result in later internal/external auditor verification
- e) to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.
  - f) To be aware of the implications of the Council becoming an accountable body in a partnership arrangement.

### **Responsibilities of the Head of Finance**

5.08 To advise on effective controls that will ensure that resources are not wasted.

5.09 To advise on the key elements of funding a project. They include:

- a) a scheme appraisal for financial viability in both the current and future years
- b) risk appraisal and management
- c) re-sourcing, including taxation issues
- d) audit, security and control requirements
- e) carry-forward arrangements.
- f) The implications of the Council becoming an accountable body (if applicable)

5.10 To ensure that the accounting arrangements are satisfactory.

### **Responsibilities of Directors and Heads of Service**

5.11 To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the Head of Finance.

5.12 To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Head of Finance.

5.13 To ensure that such agreements and arrangements do not impact adversely upon the services provided by the authority.

5.14 To ensure that all agreements and arrangements are properly documented and signed by the Head of Legal, Chief Executive or a senior officer nominated by them to sign the agreement.

5.15 To provide appropriate information to the Head of Finance to enable a note to be entered into the authority's statement of accounts concerning material items.

## **EXTERNAL FUNDING**

### **Why is this important?**

5.16 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the authority. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies provide additional resources to enable the authority to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the authority's overall plan.

### **Key Controls**

5.17 The key controls for external funding are:

- a) to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood
- b) to ensure that funds are acquired only to meet the priorities approved in the policy framework by the Full Council
- c) to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.

### **Responsibilities of the Head of Finance**

5.18 To ensure that all funding notified by external bodies is received and properly recorded in the authority's accounts.

5.19 To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.

5.20 To ensure that audit requirements are met.

### **Responsibilities of Directors and Heads of Service**

5.21 To ensure that all claims for funds are made by the due date.

5.22 To ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.

5.23 To mitigate any future risk of clawback by a funding body

## **WORK FOR THIRD PARTIES**

### **Why is this important?**

5.24 Current legislation enables the authority to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is intra vires.

### **Key Controls**

5.25 The key controls for working with third parties are:

- a) to ensure that proposals are costed properly in accordance with guidance provided by the Head of Finance
- b) to ensure that contracts are drawn up using guidance provided by the Head of Finance and that the formal approvals process is adhered to
- c) to issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.
- d) to ensure the principles of robust project management are followed where appropriate, to include amongst other things: business case, measurable outcomes, governance, and risk management.

## **Responsibilities of Head of Finance**

5.25 To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

## **Responsibilities of Directors and Heads of Service**

5.26 To ensure that the approval of Council is obtained before any negotiations are concluded to work for third parties.

5.27 To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Head of Finance.

5.28 To ensure that appropriate insurance arrangements are made.

5.29 To ensure that the authority is not put at risk from any bad debts.

5.30 To ensure that no contract is subsidised by the authority.

5.31 To ensure that, wherever possible, payment is received in advance of the delivery of the service.

5.32 To ensure that the department/unit has the appropriate expertise to undertake the contract.

5.33 To ensure that such contracts do not impact adversely upon the services provided for the authority.

5.34 To ensure that all contracts are properly documented.

5.35 To provide appropriate information to the Head of Finance to enable a note to be entered into the statement of accounts.

## **5. CONTRACT PROCEDURE RULES**

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## **1.0 The Scope of the Contract Procedure Rules**

**1.1** These Contract Procedure Rules must be followed every time the Council enters into a contract or arrangement for works, goods, land or services.

**1.2** All public procurement legislation in force for the time being must be followed as appropriate.

**1.3** In these Contract Procedure Rules:

1.3.1 "Directors and heads of services" means the Chief Executive, Head of Finance, Head of Legal, Directors or a head of service of the Council;

1.3.2 "Contract" includes any arrangement under which the Council pays or receives money for work, goods, land, or services, including contracts, agreements, partnership arrangements, private finance initiatives, joint ventures, contracts with consultants and Service Level Agreements with partners, including voluntary organisations. It includes where the Council is acting as an "Accountable Body" for any government funding;

1.3.3 "Contract Conditions" means the Council's standard terms and conditions as amended from time to time;

1.3.4 "Corporate Management Team" means the Chief Executive, Directors, Head of Legal (Monitoring Officer), Head of Finance(s151 Officer) and Head of People and Policy.;

1.3.5 "Goods" includes materials, equipment and non-land assets;

1.3.6 "Head of service" means the head of the relevant council service or any person authorised by him or her to act on his or her behalf;

1.3.7 "Land" includes land, premises and buildings;

1.3.8 "Most financially favourable tender "or" most economically advantageous tender" means, subject to Paragraph 13.3, the lowest tender or quote if payment is made by the Council and the highest if payment is made to the Council;

1.3.9 "Procurement Strategy" means the Council's Commissioning and Procurement Strategy as agreed by the Council from time to time;

1.3.10 "Tender" includes all offers, quotations, quotes proposals, submissions or other bids for contracts.

**1.4** The highest standards of probity are required of all councillors and officers involved in the procurement, award and management of council contracts. At all times during the procurement process all councillors and officers shall consider and implement the principles of non-discrimination, equal treatment and transparency.

**1.5** These Contract Procedure Rules are intended to help and inform officers making purchasing decisions. Advice on their use is available from the Monitoring Officer and the Head of Finance. Any officer can contact Internal Audit if he or she believes that the provisions of these Contract Procedure Rules are not being followed in a particular case.

- 1.6 The use of e-procurement technology (for example, e-auctions) does not negate the requirement to comply with all elements of these Contract Procedure Rules.

## **2. Exceptions**

- 2.1 The Corporate Management Team in consultation with the relevant Portfolio Holder can allow exceptions to these Contract Procedure Rules regardless of contract value after considering a Scheme of Delegation.

- 2.2 These Contract Procedure Rules shall not apply if:

- i) the head of service, in consultation with the Head of Finance, is satisfied that there is no genuine competition, for example, where:
  - a) the goods are proprietary articles or are sold only at a fixed price and no satisfactory alternative is available;
  - b) the price of goods or services are wholly controlled by trade organisations or government order;
  - c) the goods or services are required for repairing or servicing existing specialist plant or equipment;
  - d) the work is to be carried out by public service providers.

Where there appears to be no genuine competition, advice must be sought from the Monitoring Officer and the Head of Finance as to the options available.

- ii) the proposed contract for the execution of work forms part of a serial programme, the terms having been negotiated with the contractor on the basis of the rates and prices contained in an initial contract awarded competitively following an invitation to tender in accordance with the provisions of these Contract Procedure Rules;
- iii) the head of service, in consultation with the Head of Finance, considers it desirable in the best interest of the Council that a tender be invited for the execution of work from a contractor selected by the Council or negotiated with a contractor already engaged by the Council;
- iv) the goods, materials or services are required due to an emergency;
- v) the head of service and the Head of Finance agree that significant financial loss may be incurred if the letting of the contract is delayed.

- 2.3 In cases (iv) and (v) above, the head of service may obtain verbal quotations provided that they are subsequently confirmed in writing.

- 2.4 If the head of service and the Head of Finance are of the opinion that any of these Contract Procedure Rules should not apply to a contract, then a report shall be submitted to the Corporate Management Team – See Paragraph 2.1.

- 2.5 Where the Council carries out work using a Standard Form of Contract (for example, the JCT Minor Works Building Contract) procedural requirements may differ to those laid down in these Contract Procedure Rules.

## **3. Estimating Contract Values**

- 3.1 Contract values shall be calculated on a total overall basis, for example, where a contract is for £10,000 per year for five years the contract value will be £50,000. Particular elements of the contract shall not be split in an attempt to avoid these Contract Procedure Rules. Where the length of a contract is not known the head of service shall use his or her best estimate.

## **4. Pre-Procurement Procedure**

4.1 Before commencing a procurement, it is essential that the head of service leading the procurement has identified the needs and fully assessed all options for meeting those needs. Consideration shall be given to the Procurement Strategy as appropriate. Before undertaking a procurement the head of service shall where appropriate:

- i) Establish a business case for the purchase, including ensuring that there are sufficient funds in the relevant budget to cover the cost of the purchase;
- ii) Plan out the time period to deal with all aspects of the purchase; iii) Consider all means of satisfying the needs, including sustainability issues; iv) Consult the Head of Finance to ascertain whether there is an appropriate framework that should be used or whether there are options available to purchase collaboratively with other authorities;
- v) Consider the form of the contract in consultation with the Monitoring Officer;
- vi) Choose a course of action which must represent value for money to the Council;
- vii) Consult with users of the service;
- viii) Prepare a written specification which describes the Council's requirements in sufficient detail to enable the submission of competitive offers;
  - ix) 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.
- x) Ensure the tender documents are available in electronic format;
- xi) Prepare project initiative documents where appropriate.

4.2 When any officer or any employee of a service provider may be affected by any transfer arrangements, the head of service shall ensure that Transfer of Undertaking (Protection of Employment) ('TUPE') issues are considered and obtain advice from the Monitoring Officer and the Head of People and Policy before proceeding to invite tenders.

4.3 In conducting any procurement exercise, the Council must treat all contractors equally and without discrimination, and must act in a transparent and proportionate manner.

4.4 Before commencing a procurement exercise, the head of service may consult with the market with a view to preparing the procurement exercise and informing contractors of the Council's procurement plans and requirements.

4.5 In carrying out market consultations, the head of service 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 Corporate Management Team, must be sought before seeking advice from anyone who may have a commercial interest in the contract to which the procurement exercise relates.

## **5 Framework Agreements**

5.1 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 as appropriate.

5.2 Where a framework is established with a total value exceeding the thresholds 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 Corporate Management Team, with full reasoning for the recommendation provided in the report seeking authorisation to start a procurement exercise. The framework agreement number must be included on all purchase orders for Freedom of Information purposes.

5.3 Contracts based on framework agreements shall be awarded by either:

- i) applying the terms laid down in the framework agreement (where such terms are sufficiently precise to cover the particular call-off) without reopening competition; or
- ii) where the terms laid down in the framework agreement are not precise enough or complete for the particular call-off, by holding a mini competition in accordance with the following procedure:
  - a) inviting the organisations within the framework agreement which are capable of executing the subject of the contract to submit a mini competition;
  - b) fixing a time limit which is sufficiently long to allow bids for each specific contract to be submitted, taking into account factors such as the complexity of the subject of the contract;
  - c) awarding each contract to the bidder who has submitted the best bid on the basis of the award criteria set out in the specifications of the framework agreement.

## **6 Levels of Contract Values – Quotes or Tenders**

6.1 Where values appear in these Contract Procedure Rules, these exclude VAT and are subject to annual inflation increases in line with the annual increase in the Retail Price Index (to the nearest £100). Contract values thresholds are as follows:-

Low Value – up to £25,000  
Medium Value – over £25,000 and up to £100,000  
High Value – Over £100,000

6.2 The value or amount of the contract shall in the following cases be calculated as follows:-

- a) Where periodical payments are to be made by the Council, by reference to the maximum total amount that the Council may be obliged to pay under the terms of the contract,
- b) Where there is an undefined quantity under the terms of the contract, by reference to an estimate by the head of service of the total value of the contract.

6.3 Heads of service shall ensure that, where proposed contracts, irrespective of their value, might be of interest to potential contractors located in other member states of the European Union, a sufficiently accessible advertisement is published. Generally, the greater the interest of the contract to potential bidders from other member states, the wider the coverage of the advertisement should be. Examples of where such advertisements may be placed include:

- the Council's Website;
- portal websites specifically created for contract advertisements;
- Contracts Finder
- Find a Tender Service
- Relevant official journals

## **6.4 Contracts under £25,000**

For contracts estimated to be under £25,000, the head of service shall consider the following:

Value for money shall be obtained, including full life costs;  
Use of existing framework agreements;

Alternative written quotes;

Heads of service shall be responsible for ensuring value for money is obtained by ensuring that they have obtained at least 3 written quotes.

The contract shall be subject to the Council's Contract Conditions

Should any clarification be required then the Monitoring Officer and the Head of Finance shall be contacted.

## **6.5 Contracts between £25,000 and £100,000**

6.5.1 Existing framework agreements must be used where appropriate.

6.5.2 In other cases, three written tenders shall be obtained, including at least one from a local supplier, if possible.

6.5.3 The tender shall be advertised as a minimum on Contracts Finder and the Council's website.

6.5.4 As an exception, where three written tenders or quotes cannot be obtained, for example, due to time constraints, the specialist nature of the contract or the most economically advantageous tender has not been selected then this shall be explained in the scheme of delegation

6.5.5 A file note shall be made of suppliers invited to tender or quote but who failed to tender or quote.

## **6.6 Contracts over £100,000**

6.6.1 Prior approval to seek tenders shall be obtained from the Corporate Management Team and Cabinet which shall include details of the purchasing process, the proposed contract award procedure including the pre-qualification and/or evaluation criteria to be applied shall be sought and the necessary delegations to accept the successful bid.

6.6.2 A minimum of four written tenders shall be obtained and the tender shall be advertised as a minimum on Contracts Finder and the Council's website.

6.6.3 As an exception, where four written tenders cannot be obtained, for example, due to time constraints or the specialist nature of the contract or the most financially favourable tender has not been selected the head of service shall explain this in the report to Corporate Management Team and Cabinet.

For all tenders:

6.6.4 A file note shall be made of suppliers invited to tender or quote but who failed to tender or quote

6.6.5 If there is a framework agreement available, advice shall first be taken from the Monitoring Officer and the Head of Finance about whether it is more appropriate to use that Agreement.

6.6.6 Heads of service shall ensure that sufficient time is allowed for the preparation of tenders, having regard to the value and complexity of the project. This shall normally be not less than four weeks. Invitations to tender shall be sent out by the head of service who shall record:

6.6.6.1 the name and nature of the contract,

6.6.6.2 the number of tender invitations,

6.6.6.3 the closing date and time for receipt of tenders.

6.6.7 Heads of service shall be responsible for judgements regarding any sub-division of work or supplies into packages, for example, to enable separate contracts to be let, with a view to seeking effective competition and to secure satisfactory service delivery.

6.6.8 A current financial appraisal and a company search shall be carried out of all contractors, in a form determined by the Head of Finance.

6.6.9 Should the contract value be over the thresholds, one of the procedures shall be used as appropriate for the procurement

6.6.10 The Council's Legal Section must approve all contracts prior to signature by either the Monitoring Officer or Chief Executive.

## **7 Procedures for Inviting Tenders**

**7.4** The following section identify steps that can be undertaken to invite a tender or quote. In all cases these Contract Procedure Rules and all public procurement regulations applicable to local authorities must be followed. Tenders must be sought through, but are not limited to, the following procedures:

- i. Open Tender
- ii. Restricted Tender
- iii. Competitive Dialogue
- iv. Competitive Dialogue with Negotiation
- v. Innovation Partnership
- vi. Negotiated Procedure without Prior Publication

For further information, please contact the Monitoring Officer or Head of Finance.

### **Open Tender Procedure**

The following requirements apply where Open tenders are sought. The advertisement for the tender opportunity must be published appropriate to the contract value as described in Contract Procedure Rules. The advertisement must:

- i. Invite tenders to be submitted
- ii. State the nature and purpose of the contract with sufficient detail to enable submission of competitive offers

iii. State where further details may be obtained

- iii. State the date and time by which tenders must be received. This must be at least 14 days after the publication of the advertisement. For tenders with an estimated value above the thresholds this date must be in accordance with procurement rules.

Only in situations where the estimate is above the thresholds can a more than one stage procurement be followed. The use of a Selection Questionnaire (SQ) can be used with an Invitation to Tender (ITT) or similar.

## **8 Preparation of Tender Documents**

**8.4** Tender documentation shall consist of one or more of the following, as appropriate:

- i) drawings;
- ii) a specification which describes the Council's requirements in sufficient detail to enable the submission of competitive offers;
- iii) bills of quantity;
- iv) conditions of contract;
- v) instructions to tenderers;
- vi) the form of tender
- vii) Certificate of Non-collusion and non-canvassing

**8.5** Other information may need to be made available to ensure that contractors' bids reflect service requirements and are competitively priced, including the following:

- i) an outline of the tender evaluation criteria ;
- ii) the terms and conditions under which assets etc. shall be made available;
- iii) workforce information required for the purpose of assessing prospective liability in relation to the possible transfer of an undertaking; to ensure consistency of provision of information, this shall be provided by the head of service and not by an existing contractor;
- iv) the amount of work likely to be available under the contract.

**8.6** The head of service shall ensure that:

- i) ambiguities and contradictions do not occur between documents and information provided;
- ii) any locally prepared variations to standard documentation are clear and use generally accepted terms;
- iii) Contract Conditions and specifications are in the best interest of the Council in respect of quality, cost and performance;
- iv) independent scrutiny of tender documentation occurs at this stage, as errors may eventually prove costly.

**8.7** To ensure consistency and to aid understanding by the Tenderer, tender documentation shall be collated by an experienced officer who shall obtain the advice and approval of the Monitoring Officer.

## **9 Joint Procurement, Collaborative and Shared Services Arrangements**

9.1 Any joint procurement arrangements with other local authorities, or public bodies including membership or use of purchasing consortia shall be approved by the Head of Finance and the Monitoring Officer prior to the commencement of any procurement by the Council.

- 9.2 Heads of service 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 OJEU/Find a Tender notice as having access to the arrangements and there must be scope in the arrangement to permit its lawful use for the purposes proposed. .
- 9.3 Any contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed which complies with the Contract Procedure Rules of the leading organisation, shall be deemed to comply with these Contract Procedure Rules and no exemption is required. However, advice must be sought from the Monitoring Officer and the Head of Finance.
- 9.4 Where the Council enters into a partnership arrangement with another organisation or agrees to act as Accountable Body, or enters into a shared service arrangement, the governance arrangements must include procurement and contract arrangements if any procurement will be undertaken.
- 9.5 Where the Council is the Lead Body or the Accountable Body for any arrangements, these Contract Rules should be included in the arrangements and followed as a minimum.
- 9.6 Before the Council agrees to enter into a contract on behalf of another organisation, the head of service must obtain written agreement from that organisation that it will provide sufficient funding and take any other action necessary for the Council to meet its obligations under the contract on behalf of that organisation.
- 9.7 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.

## **10 The Invitation to Tender (ITT)**

### **10.1 The ITT shall include details of the Council's requirements for the particular contract including:**

- i) A description of the works to be undertaken, the goods or services being purchased, including a specification which describes the Council's requirements in sufficient detail to enable the submission of competitive offers, including any sustainability issues;
- ii) The procurement timetable including the tender return date, which shall allow a reasonable period for the applicants to prepare their tenders subject to legislative requirements;
- iii) Information on whether any variations are permissible;
- iv) The Council's terms and conditions of contract or main contract clauses as relevant;
- v) The evaluation criteria including any weightings, for example, price, quality service, quality of response, understanding of requirements, successful track record;
- vi) Pricing formats or mechanisms and instructions for completion;
- vii) Whether the Council is of the view that TUPE will apply;
- viii) Form and content of Method Statements to be provided;
- ix) Rules for the submission of Tenders;
- x) Any further information which shall inform or assist tenderers

## **11 Submitting and Opening Tender**

### **11.1 Submitting Tenders**

- 11.1.1 Tenders shall be considered by post or by hand only if they are delivered to the Committee and Member Services Manager in a plain, securely sealed envelope, or in any special

envelope provided by the Council for the purpose. Such envelopes shall in no way indicate the identity of the sender.

- 11.1.2 The outside of the envelope shall be marked "Tender" and with the name of the contract to which the tender relates.
- 11.1.3 On receipt of each tender the envelope shall be endorsed with the date and time of arrival.
- 11.1.4 Tenders received by hand shall be receipted on request.
- 11.1.5 All electronic tenders shall be considered only if they are delivered to [tenders@rossendalebc.gov.uk](mailto:tenders@rossendalebc.gov.uk) prior to the closing deadline.
- 11.1.6 All tenders received shall remain unopened in the secure custody of the Committee and Member Services Manager or such other officer appointed by him or her for that purpose until the appointed time for opening.

## **11.2 Opening of tenders**

11.2.1 Tenders shall be opened in the presence of at least 2 officers from the following:

- 11.2.1.1 the Committee and Member Services Manager or his or her representative or
- 11.2.1.2 the head of service or his or her representative or

iii) the Head of Legal or his or her representative

together with the Head of Finance or his or her representative for all contracts above £100,000

- 11.2.2 Tenders shall be numbered by the Committee and Member Services Manager or his or her representative as they are opened.
- 11.2.3 The Committee and Member Services Manager shall immediately prepare a list of tenders received in a Tender Book detailing the names of tenderers and the tender sums and this shall be certified by those present as a true record.

## **12 Evaluation of Tenders and Correction of Errors**

- 12.1 Tenderers must complete all tender documentation or parts thereof. Any omissions shall render a tender null and void, with no further consideration given, save for omissions which are of an insignificant nature.
- 12.2 Tenders subject to EU Regulations shall be evaluated in accordance with the relevant EU Regulations and the evaluation criteria set out in the ITT. All other tenders shall be evaluated in accordance with the evaluation criteria set out in the ITT.
- 12.3 All contracts shall be awarded on the basis of the most financially favourable tender or the most economically advantageous tender for the Council. This means that the Council is not obliged to accept a tender just because it is the lowest price. Other non-price elements may also be taken into account such as quality, service, references, professionalism, sustainability, local economic benefits, environmental management systems etc. The evaluation criteria shall be prepared by the head of service and shall be listed in the ITT documentation. In addition, the

criteria shall be strictly observed (and remain unchanged) at all times throughout the contract award procedure.

- 12.4 All tenderers shall be compared impartially using the same criteria with a view to securing the most financially favourable tender or the most economically advantageous tender with the same degree of security and confidentiality as at all stages of the tendering process.
- 12.5 All tenders shall be checked for arithmetical accuracy, including the correct extension and summation of rates tendered in the bill of quantities.
- 12.6 At least the most financially favourable tender or the most economically advantageous tender received shall be evaluated; particular attention shall be given to rates and prices, percentage adjustments, balancing items, ambiguities, qualifications and alternative offers.
- 12.7 If a tender is found to contain ambiguities or arithmetical errors, the tender total shall be corrected and the tenderer notified accordingly. If, in the opinion of the head of service, any tendered rate is considered unrealistic, the tenderer may be given the opportunity of confirming the rate or withdrawing the tender. In order to preserve parity of tendering, amendment to tender rates after submission of tenders shall not be permitted. If the tenderer withdraws or the revised tender is no longer the most competitive, the next most competitive shall be examined and dealt with in the same way. Where the Council has made an error in a tender then all bidders shall be informed and given the opportunity to amend their tender.
- 12.8 The head of service must keep a written record of all amendments.
- 12.9 There shall be no significant changes in specification in any dealings with tenderers after tenders have been opened. Where post-tender negotiations are necessarily undertaken, no tenderer shall be given an opportunity to reconsider a tender on the original specification, unless similar opportunities are given to all tenderers.
- 12.10 Any changes which affect the original tendered sum(s) shall be notified to the Committee and Member Services Manager for inclusion in the Tender Book which shall be signed by the Committee and Member Services Manager or his or her representative and the head of service or his or her representative.
- 12.11 The head of service shall compile a report on the evaluation of the tendered amounts with the original estimate; this report shall form the basis for acceptance of the preferred tender by Corporate Management Team in consultation with the Portfolio Holder.

### **13 Late or Incomplete Tenders**

- 13.1 Late or incomplete tenders shall not be considered but shall be opened by the Committee and Member Services Manager or his or her representative to ascertain the name of the tenderer so that the tender may be promptly returned, subject to paragraph 32.2 below.

### **14 Acceptance of tenders**

- 14.1 Subject to the provisions below, the head of service shall accept the most financially favourable tender or the most economically advantageous tender received on behalf of the Council, provided that:-
  - i) It is within the approved estimate; in all cases, the head of service shall prepare a scheme of delegation form recording the preferred tenderer for approval by the Corporate Management Team and relevant Portfolio Holder.

- ii) The contract is awarded using the tender evaluation criteria.
- 14.2 All tenderers shall be notified promptly following the decision to accept a tender as to whether they have been successful or not.
- 14.3 Where the most financially favourable tender or the most economically advantageous tender is outside the approved estimate provision, the head of service shall either:
- i) write to all tenderers explaining the situation and giving them the opportunity to lower their tenders to within the approved estimate; or
  - ii) report to the Corporate Management Team, and Cabinet where appropriate, requesting an increase in the estimate provision; or
  - iii) report to the Corporate Management Team, and Cabinet where appropriate, requesting authority to revise the specification and seek new tenders. If it is decided to re-tender, all previous tenderers shall be asked to tender again, and no tenderers shall be given any information about any of the first tenders.
- 14.4 No tender other than the most financially favourable tender or the most economically advantageous tender shall be accepted until the Corporate Management Team has considered a report from the head of service which shall include the comments of the Monitoring Officer and s151 Officer. There may be sound commercial reasons why the head of service considers that work shall not be awarded to the lowest tenderer, such as:
- i) a tender which is too low to be credible;
  - ii) the potential ability of the tenderer to complete on time.
- 14.5 For all Low Value Contracts up to £25,000 the decision to award a contract shall be made by the head of service.
- 14.6 For all Medium Value contracts £25,000 - £100,000 the decision to award a contract shall be made by the head of service and approved by the Corporate Management Team and relevant Portfolio Holder.
- 14.7 For all High Value Contracts over £100,000 the decision to award a contract shall be made by the head of service or the relevant officer the decision has been delegated to by Cabinet or Council and approved by the Corporate Management Team and relevant Portfolio Holder.
- 14.8 Only Full Council can accept a tender that would require an increase in the Council's total revenue or capital budget.
- 14.9 Heads of service shall keep written records of contractors for a period of six years and enter the contract details into the Council's Contract Register. Written documents which relate to unsuccessful contractors may be electronically scanned or stored by some other suitable method after 12 months from award of a contract, provided there is no dispute about the award.

## **15 Letters of Intent / Payments Prior to the Signing of a Contract**

- 15.1 No payments shall be made to any supplier, partner or consultant prior to the signing of a contract or, in exceptional circumstances, a letter of intent has been issued. Any letter of intent shall only be issued with the agreement of the Monitoring Officer and then only after a risk assessment has been considered by the Corporate Management Team.

## **16 Contract Extension**

- 16.1 Any contract may be extended by the head of service in accordance with its terms. Where the terms do not expressly provide for extension then, subject to any legal constraints, the contract may be extended by negotiation. The head of service shall always be satisfied that the extension shall achieve value for money and is reasonable in all the relevant circumstances.
- 16.2 The Head of service shall seek prior agreement to such extensions by prepare a new scheme of delegation making reference to the original authority and once approved by the Corporate Management Team and relevant Portfolio Holder shall note the extension on the Council's Contract Register.
- 16.3 Once a contract has expired it cannot then be extended.

## **17 Contracting with the Not for Profit Sector**

- 17.1 These Contract Procedure Rules shall also apply in full to any contracts or Service Level Agreements made between the Council and any Not for Profit Organisation.
- 17.2 Where the Council is acting as an Accountable Body for any government funding then these Contract Procedure Rules shall also apply in full.

## **18 Form of Contracts**

- 18.1 All contracts shall be in writing, which can be a formal document, an official purchase order or a letter, and signed by both parties.
- 18.2 All contracts shall be in writing and signed by the Monitoring Officer or the Chief Executive. Contracts may also be in an electronic format and must include, as a minimum:
- i) The work to be undertaken, or the goods or services etc. to be supplied;
  - ii) The price and any discounts;
  - iii) The place of supply and/or delivery of goods or services;
  - iv) Any specific time scales to be achieved.

## **19 Nominated Sub-Contractors and Suppliers**

- 19.1 If a sub-contractor or supplier is to be nominated or named to a main contractor, quotations or tenders shall be invited in accordance with these Contract Procedure Rules and the terms of the invitation shall be compatible with the main contract.

## **20 Contract Conditions**

- 20.1 The Council's standard terms and conditions must be used together with any special terms and conditions, including clauses relating to liquidated damages by the contractor where there is a failure to complete the contract within the time stipulated, as the contract requires. Advice should be sought from the Monitoring Officer as necessary.

## **21 SEALING OF DOCUMENTS**

- 21.1 The Legal Section must approve all contracts and will arrange to seal contracts where appropriate thereby providing the Council with a longer time period in which to sue for breach of contract.

21.2 The persons authorised to witness the application of the seal are the Head of Paid Service or Monitoring Officer or any other person authorised by either of them from time to time.

21.3 Details of the sealing are recorded in the Council's Seal Book and signed by the person witnessing the seal.

## **22 PERFORMANCE BONDS**

22.1 Where the estimated amount of a contract exceeds £250,000 the head of service shall normally require the contractor to provide a bond or other security. Any decision not to require a bond will be recorded on the appropriate file.

22.2 If a bond or other security is deemed necessary, the amount shall be at least 10% of the contract sum.

## **23 AVOIDANCE OF RESTRICTIVE PRACTICES**

23.1 All contractors submitting a tender must sign a declaration that:

- i) they shall not communicate the amount of the proposed tender to anyone except the Council;
- ii) they shall not receive details of a proposed tender from any other contractor;
- iii) they shall not adjust the amount of a proposed tender as a result of an arrangement with any person other than the Council;
- iv) they shall not agree with any other person:
  - a) the amount of the proposed tender;
  - b) not to tender.

23.2 If the contractor is in breach, the Directors and heads of services shall be informed so that relevant action can be taken to include reporting to the Cabinet.

## **24 ASSIGNMENT AND SUB-LETTING**

24.1 All contracts shall include clauses preventing:

- i) the assignment of contracts except with the prior written permission of the Council;
- ii) the sub-letting of any part of the work contained in the contract except with the prior written approval of the Head of Service.

## **25 CANCELLATION AND DETERMINATION**

25.1 In the event of it being necessary to consider the termination of a contract, the head of service shall discuss the proposed course of action with the Monitoring Officer.

## **26. ENGAGEMENT OF CONSULTANTS**

26.1 Consultants shall only be used if in the opinion of the head of service, in consultation with the Head of Finance and Portfolio Holder, the work cannot be handled by officers. The head of service shall carry out all due diligence to verify a consultant's qualifications.

26.2 Where consultants are employed by the Council, the head of service shall ensure that the terms of engagement are based on the Council's Contract Conditions.

26.3 Any consultant who is to be responsible for supervising any stage of the contract process on behalf of the Council shall:

- i) comply in all aspects with these Contract Procedure Rules and the Council's Financial Procedure Rules and regulations;
- ii) hold, where appropriate, an adequate level of professional indemnity insurance to cover any potential loss that may arise;
- iii) produce all records maintained by him or her relating to the contract to the head of service or his or her representative whenever requested during the period of the contract;
- iv) pass all records to the head of service on completion of the contract.

26.4 There may be instances where use of these Contract Procedure Rules for the engagement of consultants would be inappropriate, for example, in the case of the engagement of a barrister. In such instances, consultants shall be appointed as follows:

- i) Low Value: appointed by a head of service;
- ii) Medium Value: appointed by the head of service;
- iii) High Value: appointed by the head of service and relevant Director;

The head of service shall:

- i) ensure that consultancies can be properly funded, within an approved budget and expenditure code;
- ii) consider the nature of the contract and how payments shall be made;
- iii) draw up a written contract with any consultants employed;
- iv) ensure that all documentation relating to a proposed consultancy is collated by an experienced officer in consultation with the Monitoring Officer.

26.5 When grants are awarded to outside bodies for feasibility studies, the organisation concerned shall be responsible for appointing and monitoring the consultants. Grant funded projects agreed by the Council shall proceed without any variation to the brief which would result in the Council incurring extra costs.

## **27. DISPOSAL OF LAND BY THE COUNCIL**

27.1 Land transactions and related negotiations shall only take place at the explicit consent of the Head of Finance and Monitoring Officer, having consulted the head of service and ward councillors. Such transactions and related negotiations may include disposals, acquisitions, exchanges of land, leases and other means of transaction.

27.2 Where the Head of Finance and the Monitoring Officer decides that land shall be disposed of by way of a formal open market competitive tender then:

- i) The procedure for the receipt, custody and opening of tenders and for dealing with late tenders shall be in accordance with these Contract Procedure Rules, except that:
  - a) a defined range of uses which may be acceptable to the Council shall be provided in the tender documentation;
  - b) any late tenders received shall be opened in the same way and a decision made by the Head of Finance whether or not the tender should be considered;
  - c) any letters sent out to successful tenderers shall contain a statement that in the event of any late tenders or further offers being received prior to the exchange of contract then these will be considered by the Head of Finance.
- ii) All persons by whom or on whose behalf a tender is submitted shall declare on the form of tender whether they are councillors or officers of the Council or whether they are related to

such a councillor or officer. Failure to make such a declaration or the making of a false declaration shall invalidate the tender and render voidable at the option of the Council any contract entered into as a result of the tender

- iii) A tender may be accepted in accordance with these Contract Procedure Rules provided that in the event of there being a proposal to accept a tender from a councillor or officer of the Council or a relative of such a person this shall be referred to the Cabinet for consideration.

27.3 Where the Directors and heads of services decides that land shall be disposed of at auction, then the Directors and heads of services shall have the necessary authority to appoint and instruct independent auctioneers. Reserve prices shall be agreed between the Monitoring Officer and the auctioneers instructed in conjunction with the Head of Finance. For each piece of land disposed of, a Scheme of Delegation shall be completed to confirm the land disposed of, auctioneers used, reserve prices and achieved receipts in order to record the decision in line with this Constitution.

27.4 Where there is a proposal to dispose of land to a councillor or officer of the Council other than by a competitive tender and the disposal is in the opinion of the Chief Executive not a routine disposal, the proposal shall be referred to the Cabinet for consideration and a full report shall be made by the Directors and heads of services on the proposal.

27.5 For the purpose of this Contract Procedure Rule persons shall be deemed to be related if they would be so deemed for the purposes of the Officer Employment Procedure Rules Rule 1.

27.6 For the purpose of this Contract Procedure Rule 'officers' includes any person who receives remuneration directly from the Council.

27.7 In the case of minor disposals of land (i.e. less than £10,000), the Council's Head of Regeneration shall have the authority to decide whether or not to treat with an individual on a transaction and shall be empowered to advise any interested parties that a particular property shall not be considered for disposal for any period up to one year unless exceptional circumstances cause a dramatic increase in value.

27.8 The Directors and heads of services shall have regard at the outset to matters of Value Added Tax on the acquisition and disposal of land; guidance can be sought from the Head of Finance.

## **28. RISK ASSESSMENT, CONTINGENCY PLANNING AND BUSINESS CONTINUITY**

28.1 For all Medium and High Value Contracts, heads of service must:

- i) maintain a risk register during the contract period;
- ii) undertake appropriate risk assessments and for identified risks;
- iii) ensure contingency measures and business continuity plans are in place.

## **6. BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **1. THE FRAMEWORK FOR CABINET DECISIONS**

The Council will be responsible for the adoption of its Policy Framework and Budget as set out in Article 4 ('The Full Council'). Once a policy framework or a budget is in place, it will be the responsibility of the Cabinet to implement it.

### **2. PROCESS FOR DEVELOPING THE FRAMEWORK AND MAKING DECISIONS**

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

- a) The Cabinet will publicise by including in the Forward Plan and publicise by such other methods as it considers appropriate 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 chair of the Overview and Scrutiny Committee will also be notified. The consultation period shall in each instance be not less than six weeks.
- b) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation.

If the Overview and Scrutiny Committee wishes to respond to the Cabinet in that consultation process then it may do so. As the Overview and Scrutiny Committee has responsibility for fixing its 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.

The Cabinet will take any response from the 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 Cabinet's response.

- c) Once the Cabinet has approved the firm proposals, the Chief Executive will refer them at the earliest opportunity to the Council for decision.
- d) In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place. Before reaching a decision having significant financial implications the Council shall consider a report from the Head of Finance.
- e) If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- f) The decision will be publicised in such manner as the Council determines and a copy shall be given to the Leader.
- g) An in-principle decision will automatically become effective ten working days from the date of the Council's decision, unless the Leader informs the Chief Executive in writing within five working days that he or she objects to the decision becoming effective and provides reasons why.

- h) In that case, the Chief Executive will call a Council meeting within a further ten working days. The Council will be required to re-consider its decision. The Council may:
  - i) approve the Cabinet's recommendation by a simple majority of votes cast at the meeting; or
  - ii) approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority.
- i) The decision shall then be made public and shall be implemented immediately;
- j) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in year changes to the policy framework which may be undertaken by the Cabinet, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the Council.

### **3. DECISION OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- a) Subject to the provisions of paragraph 5 (virement) the Cabinet, and any officers discharging Cabinet functions 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 full Council, then that decision may only be taken by the Council, subject to 4 below.
- b) If the Cabinet and any officers discharging Cabinet functions want to make such a decision, they shall take advice from the Chief Executive after having consulted the Monitoring Officer and/or the Head of Finance as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

### **4. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- a) The Cabinet or Chief Executive may take a decision which is contrary to the Council's policy framework or contrary to or not in accordance with the budget approved by Full Council if the decision is a matter of urgency. However, the decision may only be taken:
  - i) if it is not practical to convene a quorate meeting of the Full Council; and
  - ii) if the chair of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of Full Council and the chair of the Overview and Scrutiny Committee consents to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chair of the Overview and Scrutiny Committee the consent of the chair of the Council and in the absence of both, the vice-chair of the Council will be sufficient.

- b) Following the decision, the decision-maker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency. (see 4E 'The Access to Information Procedure Rules' – Rule 17).

## **5. VIREMENT**

Steps taken by the Cabinet or officers discharging Cabinet functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire across budget heads where each individual virement does not exceed that specified in the Council's Financial Regulations set out in the Financial Procedure Rules. Beyond that limit, approval to any virement across budget heads shall require the approval of the Full Council.

## **6. IN-YEAR CHANGES TO POLICY FRAMEWORK**

The responsibility for agreeing the budget and policy framework lies with the Council, and decision by the Cabinet, or officers, statutory area committees or joint arrangements discharging Cabinet functions 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:

- a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- b) necessary to ensure compliance with the law, ministerial direction or government guidance's.

## **7. CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- a) Where the Overview and Scrutiny Committee is of the opinion that a Cabinet decision is, or if made would be, contrary to the policy framework, or contrary to or not in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or the Head of Finance and shall follow the procedure set out in the Overview and Scrutiny Procedure Rules.
- b) 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 Head of Finance 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 and 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 the Council has met and considered the matter. The Council will meet within twenty-one days of the request by the Overview and Scrutiny Committee. At the meeting, it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Head of Finance. The Council may
  - i) endorse a decision or proposal of the Cabinet 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; or
  - ii) amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer or the Head of Finance.

**\* Please note Overview and Scrutiny Procedure Rules, Rule 9 & 10.**

## 7. OVERVIEW AND SCRUTINY PROCEDURE RULES

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## **Introduction**

The Council will have an Overview and Scrutiny Committee, the functions of which are set out in the Terms of Reference part of this Constitution (Part 3).

The Overview and Scrutiny Committee may, after consulting appropriate interested parties, appoint Task and Finish Groups.

The Council will establish and maintain a "Scrutiny Guide" which will contain details of additional procedures to be followed in carrying out the functions of the committee.

### **1. Who may sit on the Overview and Scrutiny Committee or Task and Finish Groups?**

In order to ensure openness, transparency and accountability of decision making, the Council will exclude the Leader and Deputy Leader of the Council and members of the Cabinet from membership of the Overview and Scrutiny Committee. However, such a member may attend the Overview and Scrutiny Committee to give evidence, if so requested by the Overview and Scrutiny Committee.

A member of the Overview and Scrutiny Committee may not take part in the discussion or voting on the scrutiny of a decision in which he or she has been involved (as a committee member or as a substitute).

Task and Finish Groups may also be used to support the work of the Overview and Scrutiny Committee.

### **2. Co-optees**

The Overview and Scrutiny Committee shall be entitled to appoint persons who are not members of the Authority in a non-voting capacity.

### **3. Work Programme**

The Overview and Scrutiny Committee will be responsible for setting its own work programme.

### **4. Agenda Items**

- a) Any member of the Overview and Scrutiny Committee shall be entitled to give notice to the Proper Officer that he or she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.
- b) Any members of the Council who are not members of the Overview and Scrutiny Committee may give written notice to the Proper Officer that they wish an item to be included on the agenda of the Overview and Scrutiny Committee. If the Proper Officer receives such a notification, then he or she will include the item on the first available agenda of the Overview and Scrutiny Committee for consideration by that Committee.

### **5. Policy Development and Overview**

- a) The Overview and Scrutiny Committee may make proposals to the Council or Cabinet for developments in so far as they relate to matters within their Terms of Reference.
- b) The Overview and Scrutiny Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to

assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration.

## **6. Reports from the Overview and Scrutiny Committee**

- a) Once the Overview and Scrutiny Committee has completed its deliberations on any matter, it will prepare a formal recommendation or report and submit it to the Council, the Cabinet, regulatory committee or other body as appropriate.
- b) The Council, the Cabinet, the committee or regulatory committee shall consider the report of the Overview and Scrutiny Committee within one committee cycle of receiving it. Within two months of their first consideration of a report from the Overview and Scrutiny Committee, the Council, Cabinet, the committee or regulatory committee will report back to the Overview and Scrutiny Committee with their findings. The report will provide a reasoned argument for their findings, particularly where those differ from the recommendations of the Overview and Scrutiny Committee. Their report will also include, where appropriate, an action plan and timetable to facilitate future scrutiny.
- c) For task and finish group reports, the draft report and recommendations will be sent to the relevant manager, and the Council's statutory officers for their comments prior to finalising the recommendations (a copy will also be sent to Cabinet members for information). Once the report/recommendations have been finalised it will be sent to a meeting of Cabinet for a formal response. The final report with the Portfolio Holder/Cabinet response will go to the next Overview and Scrutiny Committee. Cabinet's response will be required within 2 months in line with the requirements Local Government and Public Involvement in Health Act 2007.

## **7. Members and Officers giving account**

- a) The Overview and Scrutiny Committee may scrutinise and review decisions (other than quasi judicial decisions) made or actions taken in connection with the discharge of any of the Council's functions. As well as reviewing documentation, in fulfilling the scrutiny role, they may require any member of the Cabinet or regulatory committees, the Head of Paid Service and/or any senior officer to attend before them to explain in relation to matters within their remit:
  - i) any particular decisions or series of decisions;
  - ii) the extent to which the actions taken implement Council policy;

And it is the duty of those persons to attend if so required. (Note: Save in exceptional circumstances and in agreement with the Head of Paid Service no officer below Directors and heads of services or other senior officer shall be required to appear before the Overview or Scrutiny Committee).

- b) Where any councillor or officer is required to attend the Overview and Scrutiny Committee under this provision, the chair of that Committee will inform the Proper Officer. The Proper Officer shall inform the councillor or officer in writing giving at least five working days' notice of the meeting at which he or she is required to attend. The notice will state the nature of the item on which he or she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the councillor or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- c) Where, in exceptional circumstances, the councillor or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall, in consultation with them ,

arrange an alternative date for attendance to take place within a maximum of ten working days from the date of the original request.

## **8. Attendance by others**

The Overview and Scrutiny Committee may invite people other than those councillors and officers referred to above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and councillors and officers in other parts of the public sector and shall invite such people to attend.

## **9. Call-in**

1. All decisions made by committee and any other key decisions should be sent to councillors within four working days of the committee having met.
2. Such notices will bear the date on which they are published and will specify that the decision will come into force, and may then be implemented, on the expiry of 3 working days after the publication of the decision.
3. The rules relating to the timetable for operating the Call-In Procedure shall be adhered to, whatever method of delivery of the minutes to councillors is used.
4. If a decision is called in
  - i) the Monitoring Officer shall decide on the validity or otherwise of the Call-In
  - ii) the Monitoring Officer shall then notify councillors of the decision making committee.
  - iii) the Monitoring Officer shall then notify the chair of the Overview and Scrutiny Committee.
  - iv) the Monitoring Officer shall then carry out an assessment of the councillors who are ineligible to sit on the Overview and Scrutiny Committee by virtue of conflict of interest if already been part of decision making process
  - v) the Monitoring Officer shall then call a meeting of the Overview and Scrutiny Committee on such date as he or she may determine, where possible after consultation with the chair of the committee, and in any case within 20 working days of the decision to call in.
5. If a decision is called in, the implementation of that decision is suspended until the Overview and Scrutiny Committee has met.
6. If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making Committee for reconsideration, setting out in writing the nature of its concerns or refer the matter to Full Council. If referred back to the decision making Committee, a meeting will be convened to reconsider the decision within a further ten working days.
7. If following an objection to the decision:
  - i) the Overview and Scrutiny Committee does not meet in the period set out above or the expiry of ten working day period; or
  - ii) the Overview and Scrutiny Committee does meet but does not refer the matter back to the decision making Committee, the decision shall take effect on the date of the meeting.
8. If the matter is referred to Full Council, and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any

decision to which it objects back to the decision making committee, together with the Council's views on the decision. A meeting of the decision making committee will be convened to reconsider within ten working days of the Council's request.

9. Any three councillors may request in writing for a decision to be called in. In writing shall mean hand written (not email), and the request for Call-in shall be signed by three councillors and all Call-ins shall be delivered to the Monitoring Officer.
10. The following matters are exempt from call-in.
  - i) Where decisions involve expenditure or reductions in service only those over a value of £25,000 per annum may be called-in.
  - ii) The procedure will not apply to decisions on individual planning or licensing applications.
  - iii) Call-ins should only apply to decisions which are considered to be contrary to policy or not in accordance with the budget.
  - iv) Decisions which are deemed to be urgent by a Cabinet and a resolution passed to that effect.
  - v) Decisions determined by the various Appeals Panels which deal with personnel matters (e.g. grievances, disciplinary matters, re-gradings and other matters relating to employment terms and conditions).
  - vi) Any deferred decisions.

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

- i) The Call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if the Cabinet resolve that any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interest. The minute of any decision taken as a matter of urgency must indicate the reasons for urgency.
- ii) The operation of the provisions relating to call-in and emergency shall be monitored annually by the Head of Paid Service or his or her nominee, and a report submitted to council with proposals for review if necessary.

#### **11. Councillor Call for Action**

- i) An Overview and Scrutiny Sub Committee will receive and consider Councillor Calls for Action ("CCFA") where they meet the criteria set out in the Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008.
- ii) In determining whether to accept a matter under the CCFA the Sub Committee will have regard to the criteria set out in the Guidance set out in the Protocol in Appendix A below.

# **Councillor Call for Action**

## **Guidance for Councillors in Rossendale**

### **INTRODUCTION**

With the implementation of new legislation, a ward councillor may now formally request a scrutiny committee to consider an issue – formally known as a ‘Local Government matter’ – in their ward for further investigation through a ‘Councillor Call for Action’.

We already have in place mechanisms for councillors to raise an issue with scrutiny within their own authority by way of completing a scrutiny form.

However, the legislation now extends the rights of councillors to refer a local government matter not just to the committees of their own authority, but in the case of two-tier areas such as Rossendale, to the County Council’s scrutiny committee.

This guidance is to help councillors decide whether they have a valid Call for Action, and provides details of how to lodge a Call for Action at Rossendale.

A referral to the Overview and Scrutiny Committee is seen as being an end of the Councillor Call for Action process and not the first stop. We believe that our local community will be better served if issues can be resolved without the need to take them to Overview and Scrutiny.

By monitoring the Calls for Action, our Overview and Scrutiny Committee can identify common issues which it would aim to take forward as part of its scrutiny of the Local Area Agreement.

### **Prior to making a CCfA referral?**

Prior to referring a matter as a Councillor Call for Action to the Overview and Scrutiny Committee, a councillor must have tried to resolve the issue/problem themselves using the mechanisms and resources available to them at ward/neighbourhood level. The councillor should:

- Raise the issue through the Member Enquiry Service
- Ensure that the service area or partner agency has been informed of the issue and given enough time to resolve it
- Ensure that this is not an issue that is currently being or should be pursued via the Council’s complaints process

### **What is a valid Councillor Call for Action?**

In very simple terms, you must be able to answer yes, yes and no to the following questions to determine whether it is a valid Councillor Call for action:

#### **Question 1**

Does it relate to a local authority function?

#### **Answer**

Yes

#### **Question 2**

Does it affect all or part of your ward, or any person who lives or works in it?

## **Answer**

Yes

## **Question 3**

Might it be subject to exclusion (listed below)?

## **Answer**

No

Any matter that already has a statutory appeals process – this would include

- Planning and Licensing applications
- Council tax complaints and queries
- Housing benefit complaints and queries
- Issues currently under dispute in a court of law

There are exclusions in statutory guidance for the Councillor Call for Action. The exclusions include:

- Vexatious or persistent requests
- Requests which could be dealt with by formal complaints or appeals' processes (unless systematic failure can be demonstrated)

The intention behind the legislation is that the Councillor Call for Action should be used as a last resort, where all other avenues have failed.

## **How do I submit my Call for Action?**

Please complete a 'Councillor Call for Action Form' which is available on the Council's internet or by contacting Committee and Member Services on 01706 252424.

The form should outline what the issue is and what steps have been taken towards resolving the issue. It should then be submitted to Committee and Member Services and it will be acknowledged within five working days.

If it is agreed that it is a valid local government matter, you will then be informed of the date and time of the scrutiny committee which will consider your Call for Action, and whether the committee wishes to hear any further representation.

## **What will happen to my Councillor Call for Action?**

The Overview and Scrutiny Committee will consider your Call for Action as it does any new item suggested for its work plan. In deciding whether to review or scrutinise decisions or actions, it will consider whether the issue affects a large number of people or a significant number of people within a smaller specialist interest group. It will consider what you have already done to resolve the matter and what representations you make as to why the committee should take the matter up.

If the committee decides to not to take the 'matter' further, it must explain the reasons.

If the committee decides to accept the referral it must decide how it intends to take the matter further. This could include:

- Asking the service/partner to respond to the Call for Action
- Asking for further evidence and/or witnesses to be brought to a future meeting then making recommendations to the Cabinet/partner agency

- Setting up a task and finish group to undertake an in-depth review

If it does take the matter up, it must make sure that the councillor receives a copy of any reports or recommendations that it makes.

### **COUNCILLOR CALL FOR ACTION (CCfA) Request**

Please note that this form must be:

- Signed personally by an Elected Member who wishes to make the Call for Action
- Posted or handed in to Committee and Member Services room 213 at The Business Centre, Futures Park, Bacup, OL13 0BB

<p><b>What is the subject of your CCfA?</b> (please give a brief outline of the issue)</p>       
<p><b>What do you want to be the outcome of your CCfA?</b></p>       

**Some areas are statutorily excluded from the CCfA process. Please answer the following questions to help ascertain whether or not your request falls within the excluded area.**

Does the issue relate to a problem in your electoral ward or any person who lives or works in it?	<b>Yes/No</b>
Does it relate to a local authority function/local Government matter?	<b>Yes/No</b>
Does it relate to a planning/licensing appeal process?	<b>Yes/No</b>

Guidance suggests that a CCfA should be made only when all other avenues have been exhausted. Please answer the following questions to show the action previously take to resolve the issue:

1. Has the issue been discussed with/through any of the following?

Overview and Scrutiny	Yes/No	Date:
Community Partnership	Yes/No	Date:
Member Enquiry Service	Yes/No	Date:
Other (please comment)		

2. Have you discussed the issue with any of the following:-

		Date	Contact Name/Tel No
Cabinet Member	Yes/No		
Head of Service	Yes/No		
Council Officer	Yes/No		
Lancashire County Council	Yes/No		
Local County Councillor	Yes/No		
Other Person	Yes/No		
<b>Partner Organisations</b> Please give details of Partner organisations (NHS, Police, Fire and Rescue) with whom you have discussed the matter			
<b>Other</b> (please comment)			

3. Please give brief details of the outcome of the discussions you have had?

Details	

<b>Name:</b>	<b>Signature:</b>
<b>Date:</b>	

### For Office Use Only

**Date and time of receipt of form .....**

**Receiving Officer.....**

## 12. Crime & Disorder

The Overview and Scrutiny Committee will receive an update from Lancashire Police at least once per annum.

## **8. ACCESS TO INFORMATION PROCEDURE RULES**

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## **1. SCOPE**

These rules apply to all meetings of the Council, its Cabinet, regulatory committees, the Overview and Scrutiny Committee, Standards, Joint Committees and any sub-committees (together called meetings).

## **2. ADDITIONAL RIGHTS TO INFORMATION**

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

## **3. RIGHTS TO ATTEND MEETINGS**

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

## **4. NOTICES OF MEETING**

The Council will give at least five clear days' notice of any meeting by posting details of the meeting.

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

The Council will make copies of the agenda, reports and documents for consideration open to the public and available for inspection at least five clear days before the meeting (unless special circumstances or exemptions apply). If an item is added to the agenda later, the revised 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) will be open to inspection from the time the item was added to the agenda. If urgent business is allowed copies of any reports will be made available to the public (unless exemptions apply).

## **6. SUPPLY OF COPIES**

The Council will supply copies of:

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

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

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

- a) the minutes of the meeting.
- b) the agenda for the meeting; and
- c) reports relating to items when the meeting was open to the public.

## **8. BACKGROUND PAPERS**

### **8.1 List of Background Papers**

The Proper Officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- a) disclose any facts or matters on which the report or an important part of the report is based; and
- b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information.

## **8.2 Public Inspection of Background Papers**

The Council will make available for public inspection one copy of each of the documents on the list of background papers.

## **9. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **9.1 Confidential Information - Requirement to Exclude Public**

The 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.

### **9.2 Exempt Information – Discretion to Exclude Public**

The public may 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.

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.

### **9.3 Exempt Information – Public Interest Test**

Information which falls within any of the paragraphs 1-7 at 9.4 below, and is not prevented from being exempt by virtue of any of the conditions listed below, 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.

### **9.4 Meaning of Confidential Information**

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 Court Order.

### **9.5 Meaning of Exempt Information (Schedule 12A of the Local Government Act 1972 – as amended)**

Exempt information means information falling within the following categories (subject to any condition listed below):

	Category	Interpretation
1	Information relating to any individual	
2	Information which is likely to reveal the identity of an individual	
3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)	<p>“Financial or business affairs” includes contemplated, as well as past or current, activities.</p> <p>“Person” includes both incorporated and unincorporated associations of persons and, as such, an unincorporated charity falls within the definition of person as well as a company.</p>
4	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or officer-holders under, the authority	<p>“Employee” means a person employed under a contract of service.</p> <p>“Labour relations matter” means –</p> <ul style="list-style-type: none"> <li>a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of the at Act); or</li> <li>b) any dispute about a matter falling within paragraph (a) above;</li> </ul> <p>and, for the purposes of this definition, the enactments mentioned at (a) above, with the necessary modifications, shall apply to officeholders under the authority as they apply to employees of the authority.</p> <p>“Officeholder”, in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who hold any such office or is an employee of the authority.</p>
5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	
6	<p>Information which, if disclosed to the public, would reveal that the authority proposes-</p> <ul style="list-style-type: none"> <li>a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</li> <li>b) to make an order or direction under any enactment</li> </ul>	<p>“Person” includes both incorporated and unincorporated associations of persons and, as such, an unincorporated charity falls within the definition of person as well as a company.</p>
7	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	

and in respect of a meeting of the Standards Panel convened to consider a matter under the provisions of the Localism Act 2011.

	Category	Interpretation
7A	Information which is subject to any obligation of confidentiality	
7B	Information which relates in any way to matters concerning national security	
7C	The deliberations of a Standards Panel in reaching any finding on a matter referred under the provisions of the Localism Act 2011.	

## Conditions

- a) Information falling within any paragraph above is not exempt information by virtue of that paragraph if that information is required to have been made available to the public by virtue of any other law.
- b) Information falling within paragraph 3 is not exempt information by virtue of this paragraph if it is required to be registered under:-
  - a) the Companies Act 1985
  - b) the Friendly Societies Acts 1974 and 1982
  - c) the Industrial and Provident Societies Act 1965 to 1978
  - d) the Building Societies Act 1986 or
  - e) the Charities Act 1993

“Registered” in relation to information required to be registered under the Building Societies Act 1986 means recorded in the public file of any building society (within the meaning of that Act).

- c) Information falling within any of paragraphs 1-7 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

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

If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items which the meeting may decide should 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. If, at the meeting it is resolved that the matter should be dealt with in public, the relevant reports should be made available to the public.

## 11. URGENT BUSINESS

In accordance with Section 100B(4)(6) of the Local Government Act 1972 the Mayor or

committee chair may allow urgent items of business to be considered on the grounds of urgency. If an item is allowed the Chair must give reasons for the special circumstances which require an urgent decision.

## **12. APPLICATION OF RULES TO THE CABINET**

Rules 13 – 21 apply only to the Cabinet and its committees. If the Cabinet or its committees meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 14.3 of this Constitution.

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

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken by Cabinet unless:

- a) a notice (called here a Forward Plan) has been published in connection with the matter in question;
- b) at least 28 days have elapsed since the publication of the Forward Plan; and
- c) where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 4 (notices of meetings).

## **14. THE FORWARD PLAN**

### **14.1 Period of Forward Plan**

Forward plans will be prepared by the Leader and will identify key decisions to be taken at Cabinet meetings. The Forward Plan will be published 28 days prior to each Cabinet meeting.

### **14.2 Contents of Forward Plan**

The Forward Plan will contain matters which the Cabinet has reason to believe will be subject of a Key Decision to be taken by the Cabinet, officers, or under joint arrangements in the course of the discharge of a Cabinet function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- a) the matter in respect of which a decision is to be made;
- b) where the decision-maker is an individual, his or her name and title, if any and where the decision taker is a body, its name and details of membership;
- c) the date on which, or the period within which, the decision will be taken;
- d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- e) the means by which any such consultation is proposed to be undertaken;
- f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The Forward Plan must be published at least 28 days prior to each Cabinet meeting.

The Chief Executive will publish once a year a notice, stating:

- a) that key decisions are to be taken on behalf of the Council;
- b) that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared 28 days prior to each Cabinet meeting;
- c) that the plan will contain details of the key decisions to be made following its publication;

- d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;
- f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;
- g) that other documents may be submitted to decision takers;
- h) the procedure for requesting details of documents (if any) as they become available; and
- i) the dates within each year on which each Forward Plan will be published and available to the public at the Council's offices.

Exempt information will be identified on the Forward Plan to show any reports that will be confidential.

## **15. GENERAL EXCEPTION**

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:

- a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan; and
- b) the Chief Executive has informed the chair of the Overview and 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; and
- c) the Chief Executive has made copies of that notice available to the public at the offices of the Council; and
- d) at least three clear days have elapsed since the Chief Executive complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public.

## **16. SPECIAL URGENCY**

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 the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no chair of the Overview and Scrutiny Committee, or if the chair is unable to act, then the agreement of the chair of the Council, or in his/her absence the vice-chair of the Council will suffice.

## **17. REPORT TO COUNCIL**

### **17.1 When the Overview and Scrutiny Committee can require a report**

If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- a) included in the Forward Plan; or
- b) the subject of the general exception procedure; or
- c) the subject of an agreement with the Overview and Scrutiny Committee chair, or the chair/vice-chair of the Council under Rule 16;

the committee may require the Cabinet to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the Chief Executive, who shall require such a report on behalf of the committee when so requested by (the chair or any seven members). Alternatively, the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

## **17.2 Cabinet's Report to Council**

Following receipt of a requisition under Rule 17.1, the Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the written notice, or the resolution of the 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 or that opinion.

## **17.3 Quarterly Reports on Special Urgency Decisions**

In any event the Leader will submit reports to each ordinary meeting of the Council on the Cabinet decisions taken in the circumstances set out in Rule 16 (special urgency) since the last occasion when a report was made. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **18. RECORD OF DECISIONS**

After any meeting of the Cabinet or any of its committees, whether held in public or private, the Chief Executive or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

### **18.1 Cabinet Decisions taken by an individual member or officer\***

The Council will produce a record of decisions taken by an individual councillor or officer relating to Cabinet decisions. The record of decisions will include the following:

- Details of the decision and the date it was made.
- Reasons for the decision.
- Any other options considered and why those options were rejected.
- Details of any conflict of interest declared by any Cabinet member relating to the decision or by any Cabinet member consulted on the decision.
- A note of any dispensation granted by the Head of Paid Service in respect of any declared interest.
- Any other background documents.

### **18.2 Council decisions taken by an officer\***

The Council will produce a record of decisions taken by an individual officer relating to Council decisions. The record of decisions will include the following:

- Details of the decision and the date it was taken.
- Reasons for the decision.
- Alternative options considered/rejected.
- Name of anyone who has declared a conflict of interest (where the decision is taken under specific authorisation)
- Any other background documents.

\* In relation to 18.1 and 18.2 above there is no requirement to record administrative and operational decisions which are part of an officer's day to day work within the Council rules, with the exception of decisions taken under general authorisation which the effect of the decision is to either:

- Grant a permission or licence.

- Affect the rights of an individual.
- Award a contract or incur expenditure which materially affects the Council's financial position.

(see The Openness of Local Government Bodies Regulations 2014 for further guidance).

## **19. CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

The Cabinet will hold meetings relating to matters which are not key decisions in public except where the public is excluded by Rule 10.

## **20. OVERVIEW AND SCRUTINY COMMITTEE ACCESS TO DOCUMENTS**

### **20.1 Rights to copies**

Subject to Rule 21 below, the Overview and Scrutiny Committee or an individual member of the Overview and Scrutiny Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relevant to its area of work relating to any business which will be or was transacted at a meeting of the Cabinet or its committees, or delegated to an officer. The relevant document must be provided within 10 days of receiving the request. Where the whole or part of the document cannot be released, a written explanation must be provided.

### **21 Limit on Rights**

Overview and Scrutiny Committee will not be entitled to:

- any document that is in draft form;
- the advice of a political adviser.

## **22. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **22.1 Material relating to previous business**

All councillors will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a meeting unless it contains the advice of a political adviser.

### **22.2 Material relating to Key Decisions**

All councillors will be entitled for their work as a councillor to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which relates to any key decision unless it contains the advice of a political adviser.

### **22.3 Access to Meeting Documents**

All members can inspect any document that contains material to be discussed at a meeting at least 5 clear days before a public meeting is held. For private meetings or where a decision has been made by a Cabinet member or officer, documents can be inspected within 24 hours of the conclusion of the meeting or the decision being made.

### **22.4 Nature of rights**

These rights of a councillor are additional to any other right he or she may have.

## 9. STANDARDS PANEL PROCEDURE RULES

### ARRANGEMENTS FOR DEALING WITH COMPLAINTS ABOUT THE CONDUCT OF MEMBERS

#### Introduction

1. This procedure applies when a complaint is received that a councillor, Co-opted Member or parish councillor has or may have failed to comply with the relevant Code of Conduct for Members.
2. The person making the complaint will be referred to as “the Complainant” and the person against whom the complaint is made will be referred to as the “Subject Member.”
3. No councillor or officer will participate in any stage of the arrangements if he or she has, or may have, any personal conflict of interest in the matter.

#### 4. Making a complaint

A complaint must be made in writing by post or email to: –

The Monitoring Officer  
Rossendale Council  
The Business Centre  
Futures Park  
Bacup  
Lancashire  
OL13 0BB

OR

[clarebirtwistle@rossendalebc.gov.uk](mailto:clarebirtwistle@rossendalebc.gov.uk)

The Monitoring Officer will acknowledge receipt of the complaint within 5 working days of receiving it and, at the same time, write to the Subject Member with details of the allegations (subject to any representations from the Complainant on confidentiality, which are accepted as valid by the Monitoring Officer). The Subject Member may, within 5 working days of receipt, make written representations to the Monitoring Officer which he must take into account when deciding how the complaint will be dealt with. Representations received after this time may be taken into account, at the discretion of the Monitoring Officer, but will in any event not be considered after the Monitoring Officer has issued his Initial Complaint Assessment.

#### 5. Complaint Initial Assessment

The Monitoring Officer will review the complaint and, after consultation with the Independent Person, take a decision (a Complaint Initial Assessment) as to whether it merits formal investigation, or another course of action. This decision will normally be taken within 21 days of receipt of a complaint.

If the complaint fails one or more of the following tests, it will be rejected:

- The complaint must be against one or more named councillor or Co-opted Member or a parish councilor within its district;

- The Subject Member must have been in office at the time of the alleged conduct and the Code of Conduct was in force at the time;
- The complaint, if proven, would be a breach of the Code of Conduct under which the Subject Member was operating at the time of the alleged misconduct.

If appropriate, the Monitoring Officer will then go on to apply the following criteria in deciding whether a complaint should be accepted for investigation, dealt with informally, or rejected:

- Whether a substantially similar allegation has previously been made by the Complainant, or the complaint has been the subject of an investigation by another regulatory authority;
- Whether the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now;
- Whether the allegation is anonymous;
- Whether the allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and:-
  - (i) the resources needed to investigate and determine the complaint are wholly disproportionate to the allegations;
  - (ii) whether, in all the circumstances, there is no overriding public benefit in carrying out an investigation;
- Whether the complaint appears to be malicious, vexatious, politically motivated or tit-for-tat;
- Whether the complaint although in itself minor in nature suggests that there is a wider problem throughout the authority;
- Whether it is apparent that the subject of the allegation is relatively inexperienced as a Member, or has admitted making an error and the matter would not warrant a more serious sanction;
- Whether training or conciliation would be the appropriate response;

## **6. Additional Information**

The Monitoring Officer may obtain additional factual information to come to a decision and may request information from the Subject Member. Where the complaint relates to a parish councillor, the Monitoring Officer may also inform the parish council of the complaint and seek the views of the parish council before deciding whether the complaint merits formal investigation or other action. In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for an investigation. Such informal resolution may involve the Subject Member accepting that his/her conduct was unacceptable and offering an apology, or taking other steps. Where the Subject Member or the authority (in appropriate cases) make a reasonable offer of Local Resolution, but it is rejected by the Complainant, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If the complaint identifies criminal conduct or breach of other regulations by any person, the Monitoring Officer is authorised to report this to the Police or other prosecuting or regulatory authorities.

## **7. Confidentiality**

If a Complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer at the Complaint Initial Assessment stage.

As a matter of fairness and natural justice, the Subject Member should usually be told who has complained about them and receive details of the complaint. However, in exceptional circumstances, the Monitoring Officer may withhold the Complainant's identity if on request from the Complainant, or otherwise, they are satisfied that the Complainant has reasonable grounds for believing that they or any witness relevant to the complainant may be at risk of physical harm, or his or her employment may be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the Complainant's identity being disclosed.

If the Monitoring Officer decides to refuse a request by a Complainant for confidentiality, they will offer the Complainant the option to withdraw the complaint, rather than proceed with his or her identity being disclosed. The Monitoring Officer will balance whether the public interest in taking action on a complaint will outweigh the Complainant's wish to have his or her identity withheld from the Subject Member

## **8. Investigation**

If the Monitoring Officer decides that a complaint merits formal investigation, they will appoint an Investigating Officer, who may be an officer, an officer of another Council, or an external investigator.

The Investigating Officer will follow guidance issued by the Monitoring Officer on the investigation of complaints. The guidance will follow the principles of proportionality and the cost-effective use of council resources and shall be interpreted in line with these principles.

The Investigating Officer will ensure that the Subject Member receives a copy of the complaint – subject to a Monitoring Officer decision on confidentiality.

At the end of their investigation, the Investigating Officer will produce a draft report and will send copies of that draft report to the Complainant and to the Subject Member, for comments. The Investigating Officer will take such comments into account, before issuing their final report to the Monitoring Officer.

## **9. Investigating Officer finding of insufficient evidence of failure to comply with the Code of Conduct**

The Monitoring Officer will review the Investigating Officer's report and, if they are satisfied that the Investigating Officer's report is satisfactory, will make a Confirmation Decision to confirm the finding of no failure to comply with the Code of Conduct.

The Monitoring Officer will write to the Complainant and the Subject Member (and to the parish council, where the complaint relates to a parish councillor), with a copy of the Confirmation Decision and the Investigating Officer's final report.

If the Monitoring Officer is not satisfied that the investigation has been conducted satisfactorily, he may ask the Investigating Officer to reconsider their report and conclusion.

## **10. Investigating Officer finding of sufficient evidence of failure to comply with the Code of Conduct**

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek Local Resolution.

## **11. Local Resolution**

If the Monitoring Officer considers that the matter can reasonably be resolved without the need for a hearing, they will consult with the Independent Person and the Complainant and seek to agree a fair resolution. Such resolution may include the Subject Member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action. If the Subject Member accepts the suggested resolution, the Monitoring Officer will report the outcome to the Standards Panel and the parish council (if appropriate) for information, but will take no further action. If the Complainant or the Subject Member refuses Local Resolution in principle or to engage with the agreed outcome, the Monitoring Officer will refer the matter for a Local Hearing without further reference to the Complainant or the Subject Member.

## **12. Local Hearing**

Where, in the opinion of the Monitoring Officer, Local Resolution is not appropriate or the Complainant and/or Subject Member refuse to co-operate, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a Local Hearing before deciding whether the Subject Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Subject Member.

The Council has agreed a procedure for local hearings, which is attached as Appendix A to these arrangements.

## **13. Constitution of the Hearings Panel**

The Hearings Panel is a sub-committee of the Council's Standards Panel. The Council has decided that a Hearings Panel will be comprised of two elected members and an Independent Person. There is no requirement for political proportionality and councillors who sit on a Hearings Panel have a duty to the Council's Code of Conduct and will be expected to consider matters accordingly.

## **14. Who is the Independent Person?**

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the Members of Council.

<sup>1</sup> A person cannot be "independent" if he/she –

- 14.1 Is, or has been within the past 5 years, a councillor, co-opted Member or officer of the authority;
- 14.2 Is or has been within the past 5 years, a councillor, co-opted Member or officer of a parish council within the authority's area, or

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<sup>1</sup> See additional guidance - The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012

- 14.3 Is a relative, or close friend, of a person within paragraph 14.1 or 14.2 above. For this purpose, “relative” means –
- 14.3.1 Spouse or civil partner;
- 14.3.2 Living with the other person as husband and wife or as if they were civil partners;
- 14.3.3 Grandparent of the other person;
- 14.3.4 A lineal descendent of a grandparent of the other person;
- 14.3.5 A parent, sibling or child of a person within paragraphs 14.3.1 or 14.3.2;
- 14.3.6 A spouse or civil partner of a person within paragraphs 14.3.3, 14.3.4 or 11.3.5; or
- 14.3.7 Living with a person within paragraphs 14.3.3, 14.3.4 or 14.3.5 as husband and wife or as if they were civil partners.

**15. Action the Hearings Panel may take where a Subject Member has failed to comply with the Code of Conduct**

Where a Hearings Panel find that a Subject Member has failed to comply with the Code of Conduct, the Council has delegated to the Hearings Panel such of its powers to take action in respect of individual councillors as may be necessary to promote and maintain high standards of conduct. The Hearings Panel should (unless special reasons exist) report its findings to Council (or to the parish council) for information; The Hearings Panel may also\* –

- 15.1 Publish its findings in respect of the Subject Member’s conduct in a local newspaper or on its own website;
- 15.2 Recommend to the Subject Member’s Group Leader (or in the case of un-grouped Subject Members, recommend to Council or to committees) that he/she be removed from any or all committees or sub-committees of the Council;
- 15.3 Recommend to the Leader of the Council that the Subject Member be removed from the Executive, or removed from their Portfolio responsibilities;
- 15.4 Instruct the Monitoring Officer to (or recommend that the parish council) arrange training for the Subject Member;
- 15.5 Remove (or recommend to the parish council that the Subject Member be removed) from all outside body appointments to which they have been appointed or nominated by the Council (or by the parish council);
- 15.6 Withdraw (or recommend to the parish council that it withdraws) facilities provided to the Subject Member by the Council, such as a computer, website and/or email and Internet access; or
- 15.7 Exclude (or recommend that the parish council exclude) the Subject Member from the Council’s offices or other premises, with the exception of meeting rooms as necessary for attending Council, committee and sub-committee meetings.

\* (This is not an exhaustive list)

## **16. Revision of these arrangements**

The Council may by resolution or delegation to the Monitoring Officer agree to amend these arrangements and has delegated to the chair of the Hearings Panel the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## **17. Appeals**

Subject to Judicial Review, or a decision of the Local Government Ombudsman, there is no further right of appeal against a decision of the Monitoring Officer or of the Hearings Panel.

### **PROCEDURE FOR A STANDARDS HEARING**

#### **REPRESENTATION**

The Subject Member and the Complainant may be legally represented, or with the permission of the Hearing Panel by another person. It is the responsibility of the Subject Member/Complainant to arrange for their own representation at their cost.

#### **LEGAL ADVICE**

The Hearing Panel may take legal or procedural advice from its Legal Adviser (who will be the Monitoring Officer or someone appointed by them) at any time during the hearing or during the Hearing Panel's deliberations. The substance of any advice given to the Hearing Panel will be shared with those present at the hearing.

#### **INTRODUCTIONS AND SETTING THE SCENE**

The Hearing Panel shall comprise of three members of the Standards Panel (quorum for the Hearing Panel is a minimum of 2 members). An Independent Person will also be available in an advisory capacity. An elected member will be appointed to chair the meeting.

#### **HEARING PROCEDURE**

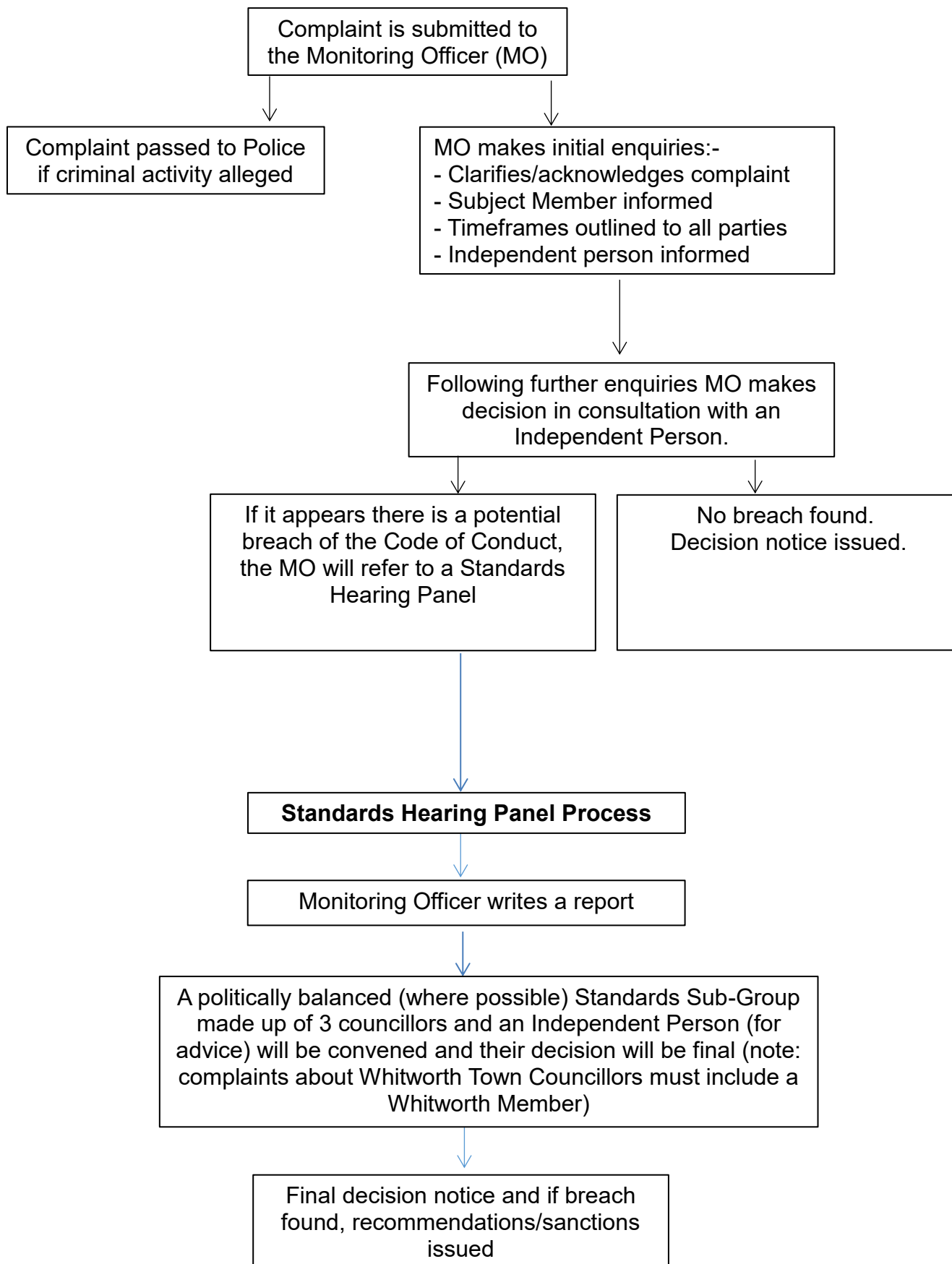
1. The chair opens the meeting.
2. The chair introduces members, the independent person and council officers present.
3. The chair explains that the hearing will take the form of a discussion and that cross examinations by the parties will not be permitted without the permission of the Hearing Panel.
4. The chair will ask each party to introduce themselves and their representative (if they have one, for which advance notice is required).
5. New evidence from the parties will not be permitted at this stage.
6. The Investigating Officer will present the report and detail the findings.
7. The Hearing Panel will have the opportunity to ask questions for clarification of the Investigating Officer.
8. The Complainant will have the opportunity to present their case (10 minutes will be allocated, an extension will be at the discretion of the chair).
9. The Hearing Panel will have the opportunity to ask questions for clarification of the Complainant.

10. The Subject Member will have the opportunity to present their case (10 minutes will be allocated, an extension will be at the discretion of the chair).
11. The Hearing Panel will have the opportunity to ask questions for clarification of the Subject Member.
12. Before the Investigating Officer, Complainant and Subject Member are asked to leave the room whilst the Hearing Panel deliberate, the Hearing Panel have the opportunity to ask any additional questions for clarification.
13. All parties will be asked to leave the room whilst the Hearing Panel deliberate and consult with the Independent Person and Legal Advisor, if required.
14. All parties will be asked to return whilst the chair informs all parties of the Hearing Panel's decision. This Hearing panel's decision will be final.

The following sanctions for failing to comply with the Code can include (but are not restricted to):

- a) Censure or reprimanding the member;
- b) Reporting its findings to Council (or parish council) for information;
- c) Recommending to the Subject Member's Group Leader (or in the case of ungrouped Subject Members, recommend Council or to committees) that he/she be removed from any committees or sub-committees of the Council;
- d) Recommending to Council that the member be replaced as Executive Leader of the authority;
- e) Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular portfolio responsibilities;
- f) Instructing the Monitoring Officer to (or recommend that the parish council) arrange training for the Subject Member;
- g) Removing (or recommend to the parish council that the member be removed) from all outside appointments to which he/she has been appointed or nominated by the authority (or by the parish council);
- h) Withdrawing (or recommend to the parish council that it withdraws) facilities provided to the Subject Member by the Council, such as email/internet access or equipment etc.;
- i) Excluding (or recommend that the parish council exclude) the Subject Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, committees and sub-committee meetings.

## Investigation Procedure for Complaints Against Councillors



## **10. Employment Procedure Rules**

### **1. RECRUITMENT AND APPOINTMENT**

#### **1.1 Declarations**

- i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are related to the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or an Officer of the Council; or of the partner of such persons.
- ii) No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Directors and heads of services (or nominated officer).

#### **1.2 Seeking support for appointment.**

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

### **2. Recruitment of Head of Paid Service and Chief Officers**

Where the Council proposes to appoint a Head of Paid Service or a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a job description and person specification specifying:
  - (i) the duties of the officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for the job description and person specification to be sent to any person on request.

### **3. Appointment and dismissal in respect of the Head of Paid Service, Monitoring Officer and Chief Finance Officer (S151)**

- (a) The full Council will approve the appointment or the dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer (S151), following the recommendation of such an appointment or dismissal by a committee or sub-committee of the Council. That committee or sub-committee must include at least one member of the Cabinet, and for dismissals must include one of the Council's designated Independent Persons.
- (b) The full Council may only approve the appointment or dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer (S151), where no material or well-founded objection has been made by the Leader on behalf of him/herself or another member of the Cabinet.

(Note: The Council will follow the guidance as detailed in the Local Authorities (Standing Orders) (England) Regulations 2001 (SI 2001/3384) and Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (SI2015/881)).

#### **4. Appointment, dismissal and disciplinary action in respect of Chief Officers**

- (a) A committee or sub-committee of the Council will appoint, dismiss and take disciplinary action in respect of chief officers. That committee or sub-committee must include at least one member of the Cabinet.
- (b) The committee may only approve the appointment or dismissal of a chief officer where no material or well-founded objection has been made by the Leader on behalf of him/herself or another member of the Cabinet.

(Note: The Council will follow the guidance as detailed in the Local Authorities (Standing Orders) (England) Regulations 2001 (SI 2001/3384) and Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (SI2015/881)).

#### **5. The Cabinet's powers in respect of appointments and dismissals**

- (a) Before an offer of appointment is made or notice of dismissal is given in respect of:
  - (i) the Head of Paid Service or
  - (ii) a chief officer
- (b) the Proper Officer must notify every member of the Cabinet of the name of the person who it is proposed should be appointed or dismissed. Each member of the Cabinet must also be notified of any other details relevant to the appointment or dismissal, which the committee has notified to the Proper Officer and of the date and time by which the Leader must make any objection on behalf of the Cabinet.
- (c) Before the date and time for making an objection has passed the Leader must either:
  - (i) notify the Proper Officer that neither he/she nor any member of the Cabinet has an objection to the making of the offer of appointment or giving notice of dismissal; or
  - (ii) notify the Proper Officer that there is such an objection and supply details of it.
- (d) An offer of appointment or notice of dismissal may only be given where Council (in the case of the Head of Paid Service, Monitoring Officer or Chief Finance Officer) or the committee (in other cases) is satisfied that no material or well-founded objection has been made by the Leader on behalf of himself/herself or another member of the Cabinet.

The "Proper Officer" for the purposes of paragraph 5 will be the Head of People and Policy. The "committee" for the purposes of paragraphs 3, 4 and 5 will be the Appointments and Appeals Panel.

#### **6. Other appointments, dismissals and disciplinary action**

##### **(a) Other officers**

Appointment, dismissals and disciplinary action in respect of all other officers is the responsibility of the Head of Paid Service or his/her nominee. Councillors may not make such decisions..

## **7. Additional provisions in respect of disciplinary action affecting the Head of Paid Service and Chief Officers (Chief Finance Officer (S151), and Monitoring Officer)**

### **(a) Suspension.**

The Head of Paid Service, Monitoring Officer and Chief Finance Officer (S151) may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months. Suspension is a neutral act.

### **(b) Independent person.**

No other action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person (as required by the Local Authorities (Standing Orders) (England) Regulations 2001).

## **8. Procedures**

The Council will maintain procedures in respect of staff appointments and dismissals and in respect of grievances.

## **9. Appeal Hearing Procedure**

1.0 An officer may appeal against dismissal or any other sanction imposed against him/her within the following procedures.

- Redundancy Appeal
- Disciplinary Dismissal Appeal
- Sickness Absence Dismissal Appeal
- Capability Dismissal Appeal

1.1 An appeal shall be made in writing, stating the full grounds of the appeal to the People and Policy Team within 10 working days of the receipt of the letter advising of the dismissal or sanction.

1.2 An appeal against a sanction other than a dismissal, will be heard by a senior manager who has not been involved in the decision to impose the sanction.

1.3 For the purpose of hearing and determining any dismissal appeals for the Head of Paid Service or chief officers, the Council shall establish a member appeal panel. The panel shall consist of three councillors (politically balanced). For any other staff, the matter will be heard by an appeal panel convened and appointed by the Chief Executive.

1.4 At the appeal a representative from the People and Policy Team, the Legal Team or an external legal advisor may be present throughout to act as an advisor to the appeal panel.

1.5 The chair of the original hearing should be the presenting manager (unless another manager is nominated in exceptional circumstances) and the presenting officer at the original hearing may be called as a witness for either party. In a Redundancy Appeal it will be the manager who made the decision for redundancy, who will be the presenting manager (unless another manager is nominated in exceptional circumstances).

1.6 Where practical, the appeals panel shall hear the appeal no later than 20 working days after the receipt of the notice of appeal from the officer, although a later date for the hearing may be mutually agreed.

- 1.7 The employee shall be given at least 7 working days' notice of the hearing, in writing, stating the date, time and location of the hearing.
- 1.8 Where either party intends to produce documentary evidence or call witnesses at the appeal hearing, details should be given to the other party at least 5 working days in advance of the hearing. Any new matters raised may delay an appeal meeting if further investigation is required.
- 1.9 It will be at the chair of the appeal panel's discretion whether or not to consider any late evidence or other notification of witnesses.
- 1.10 Witness(es) can only give evidence relating to the grounds of the appeal and not be used for character representations. Each witness will make themselves available throughout the duration of the hearing and will be expected to leave the proceedings after questioning.
- 1.11 The officer shall be in attendance at the hearing when the appeal is being heard and he/she may be represented by a work colleague, Trade Union representative, or an official employed by a Trade Union. The officer shall confirm to the People and Policy Team who the representative will be (if any) at least 5 working days in advance of the meeting. This will enable the representative to receive a copy of the agenda/reports in advance of the meeting. Please note that it is the officer's responsibility to make arrangements in this respect.
- 1.12 If the officer fails to attend, the appeals panel may, dependent on the circumstances, dismiss the appeal, consider it in their absence, or defer the hearing to an alternative date. The officer may alternatively choose a representative as detailed at 1.10 to attend in their absence, however the representative can only present the case and ask questions on behalf of officer, but cannot answer questions on the officer's behalf.
- 1.13 The chair will explain the purpose of the hearing and the procedure to be followed. The appeal will be a review of the original decision. The procedure to be followed at the appeal hearing is documented in the Appeal Hearing Agenda.
- 1.14 When the appeals panel has reached a decision the parties will return to the hearing and the chair will convey the decision, which will be confirmed in writing within 10 working days.

#### **Additional notes in relation to Redundancy Appeals**

- 2.0 The grounds for a redundancy appeal will concern the application of procedures, consultation and the fairness of selection. The decision of the Council to declare redundancies will not be grounds for appeal.
- 2.1 A member of the appeals panel shall not sit on any appeal that is to consider a decision on which he/she has had prior involvement.
- 2.2 Prior involvement means having a direct involvement in the selection of the officers to be made redundant including the agreement of the selection criteria, the application of that criteria and the resulting decision on which officer/s the redundancy will fall.
- 2.3 Prior involvement does not mean having an involvement in identifying savings targets and decisions on which services will be reduced or no longer supported.
- 2.4 Similarly, any other officer with prior involvement in the redundancy selection process shall have no role in advising the Appeals Panel.

- 2.5 For appeals involving the Chief Executive or chief officers a Designated Independent Person will advise the Appeals Panel.
- 2.6 In delivering its decision the chair shall address each of the selection criteria used and advise whether the panel are satisfied that each has been applied fairly and consistently.
- 2.7 The appeals panel shall have the right to allow the appeal or to confirm or alter the decision against which the appeal is made.
- 2.8 In circumstances where the appeals panel:
  - a) upholds the officer's appeal, for example on the grounds of the incorrect application of procedures, a lack of consultation or flaws or apparent unfairness in the application of selection criteria, the matter will be referred back to the service unit who will make arrangements for a nominated senior officer, who has not been involved in the process so far, to undertake a review. If the review results in the original officer no longer being at risk of redundancy, the redundancy notice will be withdrawn, or
  - b) rejects the officer's appeal, then the original redundancy notice will continue to apply and there will be no further right of appeal with the Council.

### **Additional notes in relation to Dismissal Appeals**

- 3.1 The appeal panel has the power to overturn or reduce a decision.
- 3.2 Following an appeal, the original decision may be confirmed, revoked or replaced with a different decision. There will be no further right of appeal with the Council.
- 3.3 In the event that the Appeal Panel upholds the employee's appeal, the Appeal Panel shall allow the appeal and will remove all records of any related sanctions from the officer's record.
- 3.4 Where an appeal against dismissal is not upheld by the Appeal Panel, and the Dismissing Officer's decision was to dismiss the officer summarily without notice, the Council will be under no obligation to pay the officer for any period between the date of the original Dismissal Hearing and the date of the Appeal Hearing. The original date of termination will stand and the decision of the Appeal Panel is final, with no further right of appeal with the Council.

### **Appeal Hearing Agenda**

1.	Introductions	Chair
	<ul style="list-style-type: none"><li>▪ All parties present are introduced, and their role in the hearing explained to all parties.</li><li>▪ Employee asked to confirm that they are aware of their right to representation by a work colleague, Trade Union representative, or an official employed by a Trade Union</li><li>▪ Confirm the role of the representative, that is, can present case/ask questions on behalf of employee, but shall not answer questions on behalf of employee.</li><li>▪ Check if there are any other housekeeping matters before proceeding.</li></ul>	

2.	<b>Purpose of Meeting</b> <ul style="list-style-type: none"> <li>Explanation given to all parties of the purpose of the meeting and confirm everyone is in agreement with the format.</li> <li>Provide an outline of the agenda to all parties.</li> <li>Confirm all parties have the relevant documents.</li> <li>Confirm that a short adjournment may be requested at any time if required.</li> <li>Any questions at this time? If no proceed.</li> </ul>	Chair
3.	<b>Employee to state their reasons for appeal</b> <ul style="list-style-type: none"> <li>If appropriate selection matrix scores to be discussed.</li> </ul>	Employee/ Representative
4.	<b>Questions</b> <ul style="list-style-type: none"> <li>Questions from Management to Employee.</li> <li>Questions from Chair/HR to Employee.</li> </ul>	Manager and Chair/HR
5.	<b>Witness(es)</b> <ul style="list-style-type: none"> <li>On behalf of the employee will add any supporting information to employee's case.</li> </ul>	Witness(es)
6.	<b>Questions to Witness(es)</b> <ul style="list-style-type: none"> <li>Questions from Management to Witness(es).</li> <li>Questions from Chair/HR to Witness(es).</li> </ul>	Manager and Employee/ Representative
7.	<b>Manager will present the management case</b> <ul style="list-style-type: none"> <li>Will confirm reasons for original decision.</li> </ul>	Manager
8.	<b>Questions</b> <ul style="list-style-type: none"> <li>Questions from Employee to Management.</li> <li>Questions from Chair/HR to Management.</li> </ul>	Employee and Chair/HR
9.	<b>Witness(es) (if applicable)</b> <ul style="list-style-type: none"> <li>Will add any supporting information on behalf of the management case.</li> </ul>	Witness(es)
10.	<b>Questions to Witness(es)</b> <ul style="list-style-type: none"> <li>Questions from Employee to Witness(es).</li> <li>Questions from Chair/HR to Witness(es).</li> </ul>	Employee and Chair/HR
11.	<b>Summing up and any further matters – introducing no new evidence</b> <ul style="list-style-type: none"> <li>Employee case summary.</li> <li>Management case summary.</li> </ul>	Manager and Employee/ Representative
12.	<b>Adjournment – both parties will leave whilst the panel deliberates</b> <ul style="list-style-type: none"> <li>Chair to consider all facts presented.</li> <li>Chair can consider whether or not any further information needs to be clarified before making their decision.</li> <li>Chair to confirm how long the adjournment will last and when all parties should return to hear the decision.</li> </ul>	Chair
13.	<b>Decision</b> <ul style="list-style-type: none"> <li>Chair to convey the decision verbally to all parties.</li> <li>In circumstances, the chair may convey the decision in writing.</li> <li>Confirm to the employee that the decision will be confirmed in writing within 10 workings days.</li> </ul>	Chair
14.	<b>Close</b> <ul style="list-style-type: none"> <li>Thank all parties for attending today.</li> </ul>	Chair

## 11. PLANNING CALL IN PROCEDURE

### PLANNING CALL-IN PROCEDURE FOR DELEGATED APPLICATIONS

This procedure must be followed if a member is requesting a referral to the Development Control Committee using the Planning Call-in Procedure.

1. All members will receive a weekly list of all planning applications.
2. Any member considering calling in an application must ensure the reason for call-in is based on material planning considerations.
3. A member may only call-in an application if it is within their ward area and if the call-in is agreed by the Chair and Vice-chair of the Development Control Committee in consultation with the relevant Director and Planning Manager.
4. The call-in period is 14 working days from the receipt of the weekly list of planning applications.
5. Where an application is amended and subject to re-notification of neighbours, the ward member shall be re-notified in writing and a 10-day call-in period shall recommence (unless the call-in is withdrawn by the member as a result of the change).
6. The attached Call-In Form or the call-in email wording must be used for call-in. The wording below can be typed into an email to and sent to the relevant Director and Planning Manager. Call-ins will not be valid unless submitted on the Call-In Form or using the call-in email information below (all sections must be fully completed however no signature is required for call-ins sent via email):  
Councillor calling in the decision: Councillor  
Planning Application number:  
Date weekly list received (call-in to be received by the Planning Manager within 14 working day of receipt of the weekly list):  
Material planning reasons for call-in:
7. The Planning Team will record the date of receipt of any request for call-in.
8. Material Planning reasons for call-in are required, e.g. not simply because Development Control Committee considered the matter previously.
9. When a call-in is received outside the call-in period, the member will be notified that the call-in is invalid. If there has been no call-in within the call-in period the application will be decided under normal officer delegations.
10. Members may withdraw a call-in once made.

#### **NB**

Call-Ins should be kept to a minimum, as they increase costs and processing times. They have also affected National Indicator performance targets, as it can delay the determination date owing to the necessity of consideration at Development Control Committee and the need to provide extensive reports for members to consider.

# Call in form for planning applications

Planning Application number ..... /.....

Material Planning reasons for call-in:

Date the weekly list was received:

(NB call-in to be received by the Planning Manager within 14 working days of receipt of the weekly list)

Councillor calling in the decision:

Signed:

(if the call-in is sent by email no signature will be required)

Dated:

Signature of Planning Manager:

Date received in Planning:

## **12. LICENSING ACT 2003 HEARINGS PROCEDURE**

1. Chair Opens the Meeting.
2. Chair introduces Members and Council Officers present.
3. Chair explains that Hearing will take the form of a discussion and that cross examinations by the parties will not be permitted without the permission of the Panel.
4. Chair to ask each party to introduce themselves and their representatives.
5. Chair to ask each party if they have brought any other person to the hearing and how that person will be able to assist (advance notice of such persons should have been given).
6. Chair to ask what documentary evidence they have submitted in advance of the hearing in support of their application or representation.
7. Chair to ask if they wish to submit any documentary evidence at the hearing (all parties to consent to this).
8. Chair to enquire of the Licensing Manager(or if not present the Legal Officer) whether there are any parties who are not present at the hearing and who have made representations (Officer will give details of any such representation).
9. Chair to ask the Panel to decide if the hearing can go ahead in the event of any party not attending the meeting.
10. Chair to ask the Licensing Manager (or legal officer in their absence) to outline the application referring to the legislation, guidance and licensing policy.
11. Panel Members may then ask questions of the Officer for clarification.
12. Chair to invite any other party to ask questions of the officer for clarification.
13. Chair to invite the applicants to present their case in support or clarification of their application. Equal time to be allowed to each party but a maximum period of 15 minutes to be allowed.
14. Members are then invited to ask questions of the applicant.
15. If any other party wishes to ask a question, the Committee must give their consent.
16. The Chair will then invite any responsible authority that has made representation to speak in support or clarification of their case. Again, a maximum period of 15 minutes to be allowed.
17. Panel members are then invited to ask questions of the responsible authority.
18. If any other party wishes to ask a question the Committee must give their consent.
19. The Chair will then invite any interested party who has made representations to speak in support or clarification of their case. A maximum period of 15 minutes will be allowed to each party. (Chair should ensure that only matters raised previously in their representation are discussed).

20. Panel members are then invited to ask questions of the interested party.
21. If any other party wishes to ask a question, the Committee must give their consent.
22. If felt necessary, the Chair will invite the responsible authority to sum up their case. (Maximum 5 minutes)
23. If felt necessary the Chair will invite the interested party to sum up their case (Maximum 5 minutes).
24. If felt necessary the Chair will invite the applicant to sum of their case (Maximum 5 minutes).
25. The Committee will then leave to make its decision. The licensing manager does not retire with the Committee.
26. The Committee will normally give its decision at the hearing giving reasons for their decision (see Schedule 1).

**LICENSING ACT 2003**  
**LICENSING HEARINGS PROCEDURE**

1. Chair of the Licensing Committee opens the meeting, introduces the members of the Committee and the officers, explains the nature of the decision to be taken and the procedure to be followed. The Chair will explain that the hearing will take the form of a discussion and cross examination will not be allowed without the Committee's consent.
2. The Chair will ask each party appearing to identify themselves and their representatives (if any). Parties will be asked to confirm whether they have brought any other person with them to appear at the hearing and how that person can assist at the hearing. (Note – advance notice of such person appearing should have been given prior to the hearing).
3. The Chair will ask each of the parties in turn to confirm:
  - a. What documentary evidence they have submitted for consideration by the Committee before the hearing.
  - b. What documentary evidence they wish to submit at the hearing.
4. The Chair will confirm with the Licensing Manager (or if not present the Legal Officer) whether there are any parties who have not attended and who have made representations. The Officer will provide details of the representations made. The Chair will ask for a decision from the Committee whether the hearing can proceed in that party's absence.
5. The Chair will call on the Licensing Manager (or if not present the Legal Officer) to outline the application to refer to the appropriate legislation, government guidance and the Council's Licensing Policy. Members and other parties may ask any clarification questions of the Officer.
6. The Chair will then call on each of the parties to the hearing to provide information in turn to support or clarify their representations. The order will be the applicant first, followed by the responsible authorities and finally, the interested parties. The Committee members will then have the opportunity to ask any questions. At the conclusion of a party's representation, if another party wishes to ask a question, the consent of the Committee should be sought. An equal maximum amount of time will be allowed for each party to make its representations – each party will be allowed 15 minutes unless the Committee agree otherwise.
7. The Committee will disregard any information given by a party which is not relevant to:
  - a. The application, representations or notice and
  - b. The promotion of the licensing objectives or, in relation to a hearing to consider a notice given by the Chief Officer of Police, the time prevention objective.
8. The Committee may require any person attending the hearing who, in their opinion is behaving in a disruptive manner to leave the hearing and may:
  - a. Refuse to permit that person to return
  - b. Permit that person to return only on such conditions as the Committee may specify.

But such person may, before the end of the hearing, submit to the Committee in writing any information which they would have been able to give orally had they not been required to leave.

9. If necessary, the Chair will invite the applicant and any parties making representations to summarise their points – each party will have a maximum of 5 minutes unless the Committee agree otherwise. The order will be the responsible authorities followed by interested parties and finally the applicant.
10. The Committee will satisfy itself that it has heard all the relevant information and will then decide whether it wishes to consider its decision in private. The Committee will leave the room if it goes into private session and will be accompanied by its legal advisor and the hearings administrator.
11. The Committee will make its determination at the conclusion of the hearing but in certain circumstances it may make a determination within a period of 5 working days of the last of the hearing (See Schedule 1 for details).
12. The Legal Officer will issue a notice of determination within the time period stipulated in point 11 above. The notice will include the reasons for determination and the right of appeal.
13. The Hearings Administrator will provide a record in the form of minutes of the hearing to be kept in a permanent and intelligible form and kept for 6 years from the date of determination.

## **SCHEDULE 1**

All determinations will be made within 5 working days of the conclusion of the hearing except for the following types of hearings when determinations will be made at the end of the hearing:

1. Section 35 or 39 which is in respect of an application made at the same time as an application for conversion of an existing licence under paragraph 2 of Schedule 8 (determination of application under Section 34 or 37),
2. Section 85 which is in respect of an application made at the same time as an application for conversion of an existing club certificate under paragraph 14 of Schedule 8 (determination of application under Section 85),
3. Section 105(2)(a) (counter notice following police objection to temporary event notice),
4. Section 167(5)(a) (review of premises licence following closure order),
5. Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence),
6. Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate, or,
7. Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence).

# Part 5

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## **CODES AND PROTOCOLS**

### **CONTENT**

Code of Conduct for Members

Code of Conduct for Employees

Members' Planning Code of Good Practice

Protocol on Member/Officer Relations

# **The Code of Conduct for Members and Co-Opted Members together with the Rules for Registration of Interests and Conflicts of Interest**

## **Part 1**

### **The Code of Conduct for Members of Rossendale Borough Council**

- I. Purpose of the Code
- II. Scope of the Code
- III. Public Duties of Members
- IV. General Principles of Conduct
- V. Expectations of Conduct
- VI. Rules of Conduct
- VII. Registration and Declaration of Interests
- VIII. Duties in respect of the Authority's Standards Panel and the Monitoring Officer

## **Part 2**

### **Registration, Disclosure and Duties on Interests held by Members**

- I. Registration of Interests
- II. Duties in Respect of Interests

## **The Code of Conduct for Members of Rossendale Borough Council**

*Members are required to discharge their obligations to the Authority in accordance with Chapter 7 of the Localism Act 2011*

### **I. Purpose of the Code**

1. The purpose of this Code of Conduct is to assist Members (including co-opted Members) in the discharge of their obligations to the Authority, their local communities and the public at large by:
  - a) setting out the standards of conduct that are expected of Members and co-opted Members of the Authority when they are acting in that capacity, and in so doing
  - b) providing the openness and accountability necessary to reinforce public confidence in the way in which Members perform those activities.

### **II. Scope of the Code**

2. The Code applies to Members in all aspects of their activities as a Member, including when acting on Authority business, ward/division business or when otherwise purporting to act as a Member. It does not seek to regulate what Members do in their purely private and personal lives.
3. The obligations set out in this Code are complementary to those which apply to all Members by virtue of the procedural and other rules of the Authority and the rulings of the Chair
4. The obligations set out in this Code are also complementary to, and include, those obligations which apply to Members falling within the scope of related Codes and Protocols of the Authority, specifically
  - the Protocol on Member and Officer Relations;
  - the Protocol on use of IT and equipment;
  - the Members' Planning Code; and
  - the Guidance for Members' on Licensing.

### **III. Public Duties of Members**

5. Members have a duty to uphold the law, including the general law against discrimination and the requirements of the Localism Act, and to act on all occasions in accordance with the public trust placed in them.
6. Members have an overriding duty to act in the interests of the Borough Authority's area as a whole, but also have a special duty to represent the views of the residents and communities of their ward/division.

### **IV. General Principles of Conduct**

7. As a member or co-opted member of Rossendale Borough Council you will be expected to observe the following rules and general principles of conduct. These principles will be taken into consideration when any allegation is received in relation to breaches of the Code.

#### *Selflessness*

You must take decisions solely in terms of the public interest. You must not do so in order to gain financial or other material benefits for yourself, your family, or your friends.

### *Integrity*

You must not place yourself under any financial or other obligation to outside individuals or organisations that might influence you in the performance of your official duties.

### *Objectivity*

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, you must make choices on merit.

### *Accountability*

You are accountable for your decisions and actions to the public and must be available for scrutiny as appropriate to your office.

### *Openness*

You must be as open as possible about all the decisions and actions that you take. You should give reasons for your decisions and restrict information only when the wider public interest clearly demands.

### *Honesty*

You have a duty to declare any disclosable pecuniary or non-pecuniary interests relating to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest.

### *Leadership*

You must promote and support these principles by leadership and example.

### *Respect*

Respect for others – you must promote equality by not discriminating unlawfully against any person, or organisation, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. You must respect the impartiality and integrity of the authority's statutory officers and its other employees.

## **V. Other Duties**

8. Members must base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.
9. Members must at all times ensure that their use of expenses, allowances, facilities and services provided from the public purse is strictly in accordance with the rules laid down on these matters, and that they observe any limits placed by the Authority on the use of such expenses, allowances, facilities and services.
10. Members must at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Authority and never undertake any action which would bring the Authority, or its Members or officers generally, into disrepute.
11. Members must behave in accordance with the Council's legal obligations, including all policies, strategies, protocols and procedures.

## **VI. Rules of Conduct**

12. Members shall in particular observe the following rules when acting as a Member or co-opted Member of the Authority and Members are informed that:

(1) **You must not –**

- (a) do anything which may cause your authority to breach any of its the equality duties (in particular as set out in the Equality Act 2010);
- (b) bully any person;
- (c) intimidate or attempt to intimidate any person who is or is likely to be –
  - (i) a complainant,
  - (ii) a witness, or
  - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

(2) **You must not** use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

**Do** be aware of the requirements of the Bribery Act 2010 and that offences under the Act include the situation where a Member requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, any function of a public nature, any activity connected with the Authority or any activity to be performed by or on behalf of the Authority or others should be performed improperly.

- (3) **You must not** disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where -
- (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is -
    - (a) reasonable and in the public interest; and
    - (b) made in good faith and in compliance with the reasonable requirements of the authority
- (4) **You must not** prevent another person from gaining access to information to which that person is entitled by law.
- (5) **You must not** conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

13. Members shall observe the following rules when using the resources of the Authority, or authorising the use of those resources by others, and Members are informed that:

- (1) **You must** act in accordance with the authority's reasonable requirements including the requirements of the authority's ICT Policy and the policies listed – Internet and Email Acceptable Usage Policy; RBC ICT Security Policy and other related policies which you are deemed to have read:

- Civic Protocol relating to general Standards issues
- Anti Fraud and Corruption Strategy
- Whistleblowing Policy
- Anti Bribery Policy and Procedure
- Equalities Policy
- Child Protection Policy
- Harassment and Bullying incorporating Dignity at Work
- Protocol on Member/Officer Relations
- Members' Planning Code of Good Practice

- (2) **You must** make sure that such resources are not used improperly for political purposes (including party political purposes); and
- (3) **You must** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- (4) **You must not** improperly use knowledge gained solely as a result of your role as a member for the advancement of your own interests.

14. Members shall observe the following rules when making decisions on behalf of or as part of the Authority, and Members are informed that:

- (1) **You must** have regard to any relevant advice provided to you by the Council's chief financial officer and Monitoring Officer where such advice is offered pursuant to his or her statutory duties.
- (2) **You must** give reasons for the decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.

## **VII. Registration and Declaration of Interests**

15. Members must fulfil conscientiously the requirements of the Authority in respect of the registration of interests in the Register(s) of Members' Interests and, where it is required or appropriate to do so, shall always draw attention to any relevant interest in any proceeding of the Authority or its Committees, or in any communications with the Authority, its Members or officers as required in Part 2.

## **VIII. Duties in respect of the Authority's Standards Panel and the Monitoring Officer**

16. The application and guidance on the application of this Code shall be a matter for the Authority and for the Authority's Standards Panel and, as appropriate, the Monitoring Officer, acting in accordance with their terms of reference.
17. Members shall co-operate, at all stages, with any investigation into their conduct by or under the authority of those persons and shall not seek to intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness or involved in the administration of any investigation or proceedings in relation to an allegation that a member has failed to comply with his or her authority's code of conduct.
18. No Member shall lobby a member of the Authority's Standards Panel in a manner calculated or intended to influence their consideration of a complaint of a breach of this Code otherwise than in accordance with the arrangements laid down by the Authority.

## Registration, Disclosure and Duties on Interests Held by Members and Co-opted Members of Rossendale Borough Council

### I. Registration of Interests

- **Do** fulfil the requirements of the law and the Council/Authority in registering your interests in the Register of Members' Interests. These are explained on the following pages.
- **Do** draw attention to any relevant interest, where it is required or appropriate to do so, in any proceeding of the Council/Authority or its Committees with which you are involved or in any communications with any colleague, officer or outside body in your role as a member.
- **Do** approach the Authority's Monitoring Officer if you feel that your interest should be treated as sensitive because it could lead to you, or a person connected with you, being subject to violence or intimidation.
- Any interests notified to the Monitoring Officer will be included in the register of interests. The register will be available for public inspection and will be published on the Council's website.
- Where the Monitoring Officer agrees that disclosure of an interest could lead to you, or a person connected with you, being subject to violence or intimidation, the interest will be classed as sensitive and the register will state you have an interest, the details of which are withheld (both the website information and the public copy which is available for inspection).

#### **Explanation of the terms used in this section:**

**the Act** means the Localism Act 2011;

**body in which the relevant person has a beneficial interest** means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

**director** includes a member of the committee of management of an industrial and provident society;

**land** excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

**M** means a member of a relevant authority;

**meeting** means any meeting of the Council, the Cabinet, any of the Council's or Cabinet's committees, sub-committees, joint committees, joint sub-committees, or area committees;

**member** includes a co-opted member;

**relevant authority** means the authority of which M is a member;

**relevant period** means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

**relevant person** means M or any other person referred to in section 30(3)(b) of the Act;

securities means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

- 1.1 You must, within 28 days of your election or appointment to office as a member or co-opted member, notify the Council's Monitoring Officer in writing of any disclosable interests you have. Disclosable interests may be pecuniary or non-pecuniary.
- 1.2 You must notify the Council's Monitoring Officer in writing within 28 days of becoming aware of any changes to a disclosable interest previously notified or of any new disclosable interest not previously notified.
- 1.3 If a disclosable interest, has not been entered onto the Council's register, then the member or co-opted member must disclose the interest to any meeting of the Council at which they are present, where they have a disclosable interest and where the matter is not a 'sensitive interest'.
- 1.4 Following disclosure of a disclosable interest not on the Council's register or the subject of pending notification, you must notify the Monitoring Officer in writing of the interest within 28 days beginning with the date of disclosure.
- 1.5 You must disclose any disclosable interest at the beginning of any meeting or decision making session at which a matter relevant to your interest is considered.
- 1.6 Unless dispensation has been granted by the Conduct Committee, you may not participate in any discussion of, vote on, or discharge any executive or nonexecutive function related to any matter in which you have a disclosable pecuniary interest.
- 1.7 It is a criminal offence to:
  - Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election or appointment;
  - Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
  - Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting;
  - Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest;
  - As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
  - Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

## Part A: Disclosable Pecuniary Interests

As required by the Regulations of the Localism Act 2011.

Disclosable pecuniary interest means an interest of a description specified below which is your interest, your spouse's or civil partner's or the interest of somebody who you are living with as a husband or wife, or as if you were civil partners and you are aware that that other person has the interest.

<b>Interest</b>	<b>Description</b>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <ul style="list-style-type: none"><li>a) under which goods or services are to be provided or works are to be executed; and</li><li>b) which has not been fully discharged.</li></ul>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate Tenancies	<p>Any tenancy where (to M's knowledge):</p> <ul style="list-style-type: none"><li>a) the landlord is the relevant authority; and</li><li>b) the tenant is a body in which the relevant person has a beneficial interest.</li></ul>
Securities	<p>Any beneficial interest in securities of a body where:</p> <ul style="list-style-type: none"><li>a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</li><li>b) either:<ul style="list-style-type: none"><li>i. the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</li></ul></li></ul>

- ii. if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

## Part B: Other Pecuniary Interests

Other financial interests (if any) that would qualify as grounds for bias in an application to quash a decision of the Authority as required by the Regulations of the Localism Act 2011.

## Part C: Other Non-Pecuniary Interests

Disclosable non-pecuniary interest means an interest of a description specified below which is your interest, your spouse's or civil partner's or the interest of somebody who you are living with as a husband or wife, or as if you were civil partners and you are aware that that other person has the interest.

Interest	Description
Outside Bodies	Any position of general control or management, or membership of any body, including where you have been nominated to that body by the Council
Gifts and Hospitality	Any person or body from whom you have received a gift or hospitality with an estimated value above £25 (see Part D)

## Part D: Register of Gifts and Hospitality

- You must register any gifts or hospitality worth £25 or over.
- You must also register the donor (for example, the person, company or body) of the gift or hospitality.
- You only have to register gifts that you receive in connection with your official duties as a member. You do not have to register other gifts and hospitality, such as birthday gifts from family.
- Ask yourself "Have I been given this because I am a member?" If the answer is "yes" then you must register the item.
- You should register an accumulation of small gifts you receive from the same donor over a short period that add up to £25 or more.
- You must register the gift or hospitality and its donor within 28 days of receiving it, and if an accumulation, when it gets to £25
- You will have a **personal interest** in a matter if it relates to, or is likely to affect, the donor of the gift or hospitality that is registered.
- You must declare the existence and nature of the gift or hospitality, the donor and how the business under consideration relates to that donor. You must then decide whether that interest is also a prejudicial interest.
- If more than three years have passed since you registered the gift or hospitality, you will no longer have to declare a personal interest in a matter that relates to or is likely to affect the donor.
- If you do not know the value of a gift it is good practice to register it anyway
- You may also wish to register gifts or hospitality you do not accept, as a matter of good practice.
- Hospitality can be defined as any food, drink, accommodation or entertainment provided free of charge or heavily discounted.

- You do not have to register the interests of the donor of the gift or hospitality but should register any gift or hospitality worth £25 or over, received in connection with your official duties, and the donor of that gift or hospitality.
- You have to register gifts or hospitality from Council-owned companies as wholly-owned companies are separate bodies from the authority.
- There are no special rules for those who serve as mayor or chair of an authority.
- Gifts that are clearly made to the authority do not need to be registered.
- Gifts made directly to a mayor or chair's charity appeal also do not need to be registered.
- There is no requirement under the Code to register hospitality, if that hospitality has been extended to the office holder for the time being rather than the individual.

A failure to notify the Monitoring Officer of any gifts and/or hospitality over the value of £25 is a breach of the Council's Code of Conduct.

However, where you consider that disclosure of the details of any gift or hospitality could lead to you, or a person connected with you, being subject to violence or intimidation the Monitoring Officer may agree to exclude from the Council's register such details as considered appropriate and that information will not be included on the Council's register.

## **II. Disclosure and Duties in Respect of Interests Held by Members**

### **1. Declaration of interests not included in the Register**

- 1.1 **Do** ensure, if you have an interest that is not entered in the authority's register, that
- where you are present at a meeting of the authority or of any committee, subcommittee, joint committee or joint sub-committee of the authority, you disclose the interest to the meeting (unless the authority's monitoring officer considers that it is a sensitive interest); and
  - you notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date of the disclosure (unless it is subject of a pending notification)

- 1.2 **Do** then act accordingly.

### **2. Disclosable Pecuniary Interests**

- 2.1 **Do** ensure, where you

- are present at a meeting of the authority or of any committee, sub-committee, joint committee or joint sub-committee of the authority; and
- are or become aware that you have a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting, that you
  - **do not** participate, or participate further, in any discussion of the matter at the meeting; and
  - **do not** participate in any vote, or further vote, taken on the matter at the meeting, and
  - leave the room whilst any discussion or voting takes place

- 2.2 **Do** ensure, where you

- are to discharge a function of the authority acting alone, and
- are or become aware that you have a disclosable pecuniary interest in any matter to be dealt with, or being dealt with, in the course of discharging that function

that you

- **do not** take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the member).

2.3 **Do** make a written request made to the proper officer of the authority if you consider it appropriate that the Authority grant a dispensation relieving you from either or all of the restrictions in paragraph 2.1

2.4 **Do** be aware that, in respect of disclosable pecuniary interests, failing to act as required by the Localism Act (as outlined here) is a criminal offence.

### 3 **General**

- 3.1 **Do** act in accordance with the Authority's standing orders (Procedure Rules) where you
- (i) are present at a meeting of the authority or of any committee, sub-committee, joint committee or joint sub-committee of the authority; and
  - (ii) are or become aware that you have a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting,
- 3.2 **Do** base your conduct when acting as a Member on a consideration of the public interest, avoiding conflict between your personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.
- 3.3 Subject to you disclosing and interest at a meeting, you may attend a meeting and vote on a matter where you have a pecuniary interest that relates to the functions of the Council in respect of:
- housing, where you are a tenant of a local authority provided that those functions do not relate particularly to your tenancy or lease;
  - an allowance, payment or indemnity given to members;
  - any ceremonial honour given to members, and
  - setting council tax or a precept under the Local Government Finance Act 1992.
- 3.4 Where, as an executive (Cabinet) member, you may discharge a function alone, and you become aware of a pecuniary interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer in writing of the interest and must not take any steps in the matter, or seek improperly to influence a decision about the matter.

# **CODE OF CONDUCT FOR EMPLOYEES**

## **1. INTRODUCTION**

This Code applies to all Council employees, particularly those involved in applications for services or resources, giving licences or statutory consents, buying in goods and services or dealing with contractors.

It takes into account the provisions of the law and national conditions of service.

It will be made readily available to all employees for reference.

Investigations of alleged breaches of the Code will be dealt with under the Council's Disciplinary Procedure.

## **2. STANDARDS**

The public has the right to expect the highest standards of service from Council employees and their conduct must never be influenced by improper motives. Advice to Members and other employees should be given with due impartiality. Any deficiency in the provision of services, impropriety or breach of procedure should be reported to the Head of Service or the Chief Executive.

## **3. DISCLOSURE OF INFORMATION**

By law certain types of information must be made available to members, auditors, Government departments, service users and the public.

Under the Local Government Act 1972 (as amended) certain information – generally, Committee Agendas, Reports and Background Documents must be made available to the public.

Employees must not use information obtained in the course of their employment for personal gain or benefit and must not pass information to others who might use it in this way.

If any employee considers that the non-disclosure of certain information is against the public interest he or she should advise his or her Head of Service or the Chief Executive of the information concerned.

## **4. POLITICAL NEUTRALITY**

Employees serve the Council as a whole. They must ensure that the individual rights of all Members are respected regardless of their Political Group.

The Council is required to maintain a list of posts which are subject to restriction on political activity. They are prevented by law from taking part in certain political activities outside their work.

### **Restricted political activities mainly involve:**

- a) standing as a candidate in any election above Parish Council level,
- b) holding office in a political party,
- c) canvassing at an election,
- d) speaking in public or publishing written or artistic work which appears to affect public support for a political party.

Breaking statutory rules on political activity would be a breach of contract liable for investigation under the Council's Disciplinary Procedure.

Any employee in doubt about political activities should consult his or her Head of Service or the Chief Executive

Employees, whether or not politically restricted, must follow every lawful policy of the Council and must not allow their own personal or political opinions to interfere with their work.

## **5. RELATIONSHIPS**

### **Members**

Mutual respect between Members and employees is essential to good local government, but relationships should be clearly professional and advice should be efficient and impartial. Employees must always remember their responsibilities to all groups and individuals within the community they serve. Close personal familiarity between employees and individual Members can damage the relationship and prove embarrassing to other employees and Members and, therefore, should be avoided.

### **The Local Community and Service Users**

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all political groups and individuals within that community as defined by the policies of the Council.

### **Contractors**

Any relationships of a business or private nature with contractors or potential contractors must be made known to the Head of Service or the Chief Executive. Orders and contracts must be awarded on merit by fair competition with no favouritism and no section of the community should be discriminated against.

Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had, or currently have, a relationship in a private or domestic capacity with a contractor, should declare that relationship to the appropriate manager.

## **6. APPOINTMENTS**

All appointments must be made on the basis of merit. The Council's Equal Opportunities Policy must be carried out. It would be unlawful for any employee to make an appointment based on anything other than the ability of the candidate to undertake the work.

To avoid any accusations of bias, employees must not be involved in any appointment where they are related to an applicant or have a close personal relationship outside work with him or her.

Similarly, employees must not be involved in decisions about discipline, promotion or pay adjustments involving another employee who is a relative, partner etc.

## **7. OUTSIDE COMMITMENTS**

Off duty activities are the employee's personal concern but they should not subordinate public duty to private interests or put themselves in a position where public duty and private interests conflict.

Employees would not be restricted unreasonably from undertaking additional work but this must not:

- a) conflict with or detrimentally affect the Council's interests,

- b) weaken public confidence in the conduct of the Council's business,
- c) affect the employee's ability to undertake his or her Council duties.

Officers above Scale 6 are expected to devote their service to the work of the Council and must not engage in other business or take an additional paid appointment without the agreement in advance of their Head of Service.

No outside work should take place in the workplace and any use of Council facilities for this purpose (for example, telephones, photocopying etc) is not allowed.

## **8. INTELLECTUAL PROPERTY**

This is a generic term that includes inventions, creative writings and drawings. If these are created by the employee during the course of his or her employment then, as a general rule, they belong to the employer. Inventions are the property of the employer if:

- they have been made in the course of the employee's normal duties, or
- they have been made in the course of duties specifically assigned to the employee and where invention might be reasonably expected, or
- they have been made in the course of the employee's duties and at the time the employee had a special obligation to further the interests of the employer (because of the nature of his or her duties and particular responsibilities arising from them).

## **9. PERSONAL INTERESTS**

Employees must declare to the Head of Service or the Chief Executive and update the Register of Officers Interests, maintained by the Monitoring Officer if they have:

- non-financial interests, membership of organisations or public bodies which may bring them into conflict with the Council's interests. Trade Union membership is exempt from this requirement.
- any financial, contractual or business interests [whether remunerated or not] including those of family, which have or could have any connection and may conflict with work of, or provision of services by the council, or by any of its direct suppliers, contractors or partners. This will include being a school governor.
- membership of any organisation not open to the public without formal membership or commitment of allegiance and which has secrecy about its rules or membership or conduct (for example, the Freemasons).
- an interest in land or other property affected by any business, operational procedure, contract, planning application or any other matter being or expected to be considered by the council.
- any family or personal interest in or connection with any business of the council which, if disclosed, could give reasonable cause to question whether the officer's judgment or interests of the council could be prejudiced.

Employees with any non-financial or financial interest must not involve themselves in the allocation of Council services or resources from which they, their family or friends might benefit. Any concern should be reported immediately to the Head of Service or the Chief Executive.

Forms for recording personal interests are available from the Monitoring Officer.

## **10. EQUALITY ISSUES**

All members of the local community, customers and other employees have the right to be treated with fairness and equity. Employees must ensure that Council policies on equality, equal opportunities and the requirements of the law in these areas are fully complied with.

## **11. SEPARATION OF ROLES DURING TENDERING**

Employees must be clear on the separation of client and contractor roles within the Council. Employees with a dual role must be aware of the need for openness and accountability.

Employees must exercise fairness and impartiality when dealing with all customers, suppliers, contractors and sub-contractors.

Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.

Employees must ensure that no special favour is shown to current or former employees or their partners, relatives or associates in awarding contracts to a business run by them or employing them.

Employees must fully comply with the Council's Contract Procedure Rules and Financial Regulations relating to the award of contracts.

## **12. CORRUPTION**

Corruption may include receiving any payment, gift (other than a gift of a nominal value – see paragraph 14), hospitality, or any other benefit from any person or organisation with whom a member of staff deals in his or her work, irrespective of what it is in respect of, including tips, and payment for additional 'private work'. It is also irrelevant whether any benefits are directly to an employee or to the employee's family or friends.

Any case of suspected corruption will be fully investigated and any cases will be treated as gross misconduct and criminal prosecutions undertaken.

## **13. USE OF FINANCIAL RESOURCES**

Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

## **14. GIFTS**

Gifts other than nominal items such as calendars, diaries, etc must be declined by employees.

Gifts offered by members of the public can be accepted where the value is nominal, and refusal might otherwise give offence.

## **15. HOSPITALITY**

Employees should treat with caution all offers of hospitality whenever any suggestion can arise of improper influence. Employees should accept offers of hospitality only if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or when

the Council should be seen to be represented. They should be authorised by the Head of Service or the Chief Executive and registered in the Register of Gifts and Hospitality.

Particular care is required where hospitality is offered by a person or body having or seeking business with, or a decision from, the Council, particularly where the offer is to an individual employee.

Hospitality should only be accepted where it is on a scale appropriate to the circumstances, reasonably incidental to the occasion and where it is apparent no issue could reasonably arise for adverse criticism about accepting it.

Acceptance of hospitality at conferences, courses and at meetings between Councils may be accepted where it is clear this is corporate rather than personal.

Where visits of inspection (for example, to view equipment) are needed these should be at the Council's expense to avoid jeopardising the integrity of subsequent purchasing decisions.

## **16. REGISTER OF GIFTS AND HOSPITALITY**

Employees must record all gifts and hospitality accepted (apart from at conferences, courses and meetings between Councils) in the Register of Gifts and Hospitality kept by the Monitoring Officer.

## **17. SPONSORSHIP**

The basic rules on gifts and hospitality will also apply where any outside organisation wishes to sponsor local government activities whether by invitation, tender, negotiation or voluntarily.

Particular care must be taken if these organisations are contractors or suppliers or potential contractors or suppliers.

Where the Council wishes to sponsor an event or service, no employee, relative or friend must benefit without full disclosure to the Head of Service or the Chief Executive of any such interest. Similarly, where the Council through sponsorship, grant aid, financial or other means gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

## **18. PUBLIC MEETINGS**

Invitations to attend public meetings in an official capacity should only be accepted where attendance by a Council employee is considered appropriate by a Head of Service or the Chief Executive. However, attendance should be restricted to meetings which are:

- a) clearly not part of any party political activity, and
- b) manifestly open to all.

## **MEMBERS' PLANNING CODE OF GOOD PRACTICE**

### **Background**

### **Introduction**

1. Relationship to the Members' Code of Conduct
2. Development Proposals and Interests under the Members' Code of Conduct
3. Membership of Development Control Committee
4. Fettering Discretion in the Planning Process
5. Contact with Applicants, Developers and Objectors
6. Lobbying of Councillors
7. Lobbying by Councillors
8. Site Visits
9. Public Speaking at Meetings
10. Officers
11. Decision Making
12. Application of the Code to the Development Plan Process and other Planning Functions
13. Training
14. Complaints

## Background

This Code of Good Practice was originally prepared in response to the Local Government Association's Guidance Note on the preparation of Local Codes of Good Practice on Planning Matters in the light of the introduction of the new ethical framework and is based on a Model Code produced by the Association of Council Secretaries and Solicitors in consultation with the District Audit Service, Local Government Ombudsman and the Standards Board for England. The Code has since been updated with the introduction of the Chapter 7 of the Localism Act 2011.

## Introduction

**The aim of this code of good practice:** to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

**The key purpose of Planning:** to control development in the public interest.

**Your role as a member of the Planning Authority:** to make planning decisions openly, impartially, with sound judgement and for justifiable planning reasons.

**When the Code of Good Practice applies:** this code applies to members at all times when involving themselves in the planning process.

It also applies to any involvement you might have in respect of applications which are delegated to officers to determine. The Planning Manager has delegated power to determine all applications in accordance with the Councils Scheme of Delegation:

**If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer, Clare Birtwistle telephone 01706 252438 or e-mail [clarebirtwistle@rossendalebc.gov.uk](mailto:clarebirtwistle@rossendalebc.gov.uk) or one of her staff, and preferably well before any meeting takes place.**

## Relationship to the Members' Code of Conduct

- Do apply the rules in the Members' Code of Conduct first, which must be always be complied with.
- Do then apply the rules in this Planning Code of Good Practice, which seek to explain and supplement the Code of Conduct for Members' for the purposes of planning control. If you do not abide by this Code of Good Practice, you may put:
  - the Council at risk of proceedings on the legality or maladministration of the related decision; and
  - yourself at risk if the failure is also likely to be a breach of the Code of Conduct (and a complaint could be made to the Monitoring Officer).

## 2. Development Proposals and Interests under the Members' Code

- **Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter.
- **Do** then act accordingly. **Where your interest is a disclosable pecuniary interest:**
  - **Don't** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.
  - **Don't** try to represent ward/local views, get another Ward/Local Member to do so instead.
  - **Don't** get involved in the processing of the application.

- **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable pecuniary interest in a proposal, using your position to discuss that proposal with officers or members when other members of the public would not have the same opportunity to do so.
- **Do** be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a disclosable pecuniary interest to an appropriate officer, in person or in writing, the Code places greater limitations on you in representing that proposal than would apply to a normal member of the public. (For example, where you have a disclosable pecuniary interest in a proposal to be put before a meeting, you will have to withdraw from the room or chamber whilst the meeting considers it, whereas an ordinary member of the public would be able to make use of the public speaking scheme to address the meeting on the proposal and observe the meeting's consideration of it from the public gallery.)
- **Do** notify the Monitoring Officer of any planning application that you submit and note that:
  - notification to the Monitoring Officer should be made no later than submission of the application;
  - the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers; and
  - it is advisable that you employ an agent to act on your behalf on the proposal in dealing with officers and any public speaking at Committee;
- Disclosable Pecuniary Interests are explained in Part 5 of the Council's Constitution in the Code of Conduct for Members and Co-opted Members. Members should not allow the impression to be created that they are, or may be, using their position to promote a disclosable pecuniary interest rather than forwarding the general public interest. Disclosable pecuniary interests include those in your interest, your spouse's or civil partner's or the interest of somebody who you are living with as a husband or wife, or as if you were civil partners and you are aware that the other person has the interest. This includes their employment, sponsorship, contracts, land, licences, corporate tenancies, and securities;
- An other or non-pecuniary interest will also need to be declared if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the members' judgment of the public interest.

### **3. Membership of Development Control Committee**

- It is important that members of the public have confidence in the members who are making decisions on planning applications and in connection with other planning matters. Regarding the conduct of members, not only should impropriety be avoided but also any appearance or grounds for suspicion, of improper conduct. Also, members of the public need to be confident that Members have reasonable capability, in terms of background knowledge, for making these decisions, and are making them in line with agreed and adopted policies, national guidance and legislation.
- Members who have businesses or other interests which may bring them into contact with the Council's planning system on a regular basis should not generally be considered for membership of the Development Control Committee.

### **4. Fettering Discretion in the Planning Process**

Members of the Development Control Committee.

- **Don't** fetter your discretion and therefore your ability to participate in planning decision making at this Council by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning authority and of your hearing the officer's presentation and evidence and arguments on both sides.

**Fettering your discretion** in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

- **Do** be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- **Do** also be aware that, whilst the Code of Conduct for Members' provides for a presumption that you may regard yourself as not having a disclosable pecuniary interest in matters which relate to the organisations mentioned below, you must exercise your discretion in deciding whether or not to participate in each case and where:
  - you have been significantly involved in the preparation, submission or advocacy of a planning proposal on behalf of:
    - another local or public authority of which you are a member; or
    - a body to which you have been appointed or nominated by the Council as its representative; or
  - you are a trustee or company director of the body submitting the proposal and were appointed by the Council (these are classed as non-pecuniary interests unless there is potential for financial gain)

you should always disclose a disclosable pecuniary interest and withdraw.

### **Members of Consultee Bodies.**

- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example, or both a borough and county councillor), provided:
  - the proposal does not substantially effect the well being or financial standing of the consultee body;
  - you make it clear to the consultee body that:
    - your views are expressed on the limited information before you only;
    - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
    - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
  - you disclose the non-pecuniary interest regarding your membership or role when the Committee comes to consider the proposal.
- **Don't** speak and vote on a proposal where you have fettered your discretion. You do not also have to withdraw, but you may prefer to do so for the sake of appearances.

- **Do** explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.

### **Ward Members**

- **Do** take the opportunity to exercise your separate speaking rights as a Ward/Local Member where you have represented your views or those of local electors and fettered your discretion, but do not have a disclosable pecuniary interest. Where you do:
  - advise the proper officer or Chairman that you wish to speak in this capacity before commencement of the item;
  - remove yourself from the member seating area for the duration of that item; and
  - ensure that your actions are recorded.

## **5. Contact with Applicants, Developers and Objectors**

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should request the Planning Manager to organise it. The officer will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the committee.
- **Do** otherwise:
  - follow the rules on lobbying;
  - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
  - report to the Planning Manager any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

### **In addition in respect of presentations by applicants/developers:**

- **Don't** attend a planning presentation unless an officer is present and/or it has been organised by officers.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application; this will be carried out by the appropriate Council Committee.
- **Do** be aware that a presentation is a form of lobbying and you must not express any strong view or state how you or other members might vote.

## **6. Lobbying of Councillors**

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the committee's decision making to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.
- **Do** remember that your overriding duty is to the whole community not just to the people in your ward/local area and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.

- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum; its acceptance is declared as soon as possible and remember to register the gift or hospitality in accordance with the Council's Code of Conduct Part D: Register of Gifts and Hospitality.
- **Do** copy or pass on any lobbying correspondence you receive to the Planning Manager at the earliest opportunity.
- **Do** promptly refer to the Planning Manager any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- **Do** note that, unless you have a disclosable pecuniary interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:
  - listening or receiving viewpoints from residents or other interested parties;
  - making comments to residents, interested parties, other members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
  - seeking information through appropriate channels; or
  - being a vehicle for the expression of opinion or speaking at the meeting as a Ward/Local Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

## 7. Lobbying by Councillors

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will have fettered your discretion and are likely to have a disclosable interest and have to withdraw.
- **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but disclose a non-pecuniary interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the committee that you have reserved judgement and the independence to make up your own mind on each separate proposal.
- **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- **Don't** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other member to do so. Political group meetings should never dictate how members should vote on a planning issue.

## 8. Site Visits

- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:
  - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
  - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- **Do** ensure that any information which you gained from the site visit is reported back to the committee, so that all members have the same information.

- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party with the exception of the ward/local member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the Authority and direct them to or inform the officer present.
- **Don't** express opinions or views to anyone.
- **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
  - you feel it is essential for you to visit the site other than through attending the official site visit,
  - you have first spoken to the Planning Manager about your intention to do so and why (which will be recorded on the file) and
  - you can ensure you will comply with these good practice rules on site visits.

## 9. Public speaking at meetings

- **Don't** allow members of the public to communicate with you during the committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

## 10. Officers

- All members and officers must ensure that contact between them in connection with planning matters accords with the established convention of mutual respect, despite possible personal and professional differences of opinion on particular issues. Any contact between them should not undermine working relationships which are crucial to the success of the Council and good local government.
- Officers have a duty to give impartial advice to members and the Council on planning applications and other planning matters and to make recommendations to committee in the light of the Council's adopted planning policies, national planning policies, and any other material consideration using their professional judgement. Members should not attempt to use their position to pressurise officers into making a particular recommendation.
- **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Planning Manager, which may be incorporated into any committee report).
- **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a member level.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Employers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the committee or its members.

## 11. Decision Making

- **Do** ensure that, if you request a proposal to go before the committee rather than be determined through officer delegation, that your planning reasons are recorded and repeated in the report to the committee.
- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** comply with section 54A of the Town and Country Planning Act 1990 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- **Do** consider other relevant legislation such as the Human Rights Act 1998, Race Relations Act 1976 as amended, Crime and Disorder Act 1988.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- **Do** have recorded the reasons for committee's decision to defer any proposal.
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge. In certain instances it may be preferable to defer the application to the next Development Control Committee so that members can have a further report on the application in light of their proposed decision to determine the application contrary to the officer's recommendation.

## 12. Application of the Code to the Development Plan process and other Planning Functions

- In the Local Development Framework (LDF) process, decisions are made by the Council regarding allocations and policies which relate to specific sites, or general policies which are not site specific but can have a bearing on how and what land can be developed. All these affect private interests.
- During the LDF process the Council will be dealing with people putting forward proposals for inclusion in the Plan, whilst others will be objecting to the proposals in the Plan.
- The Council makes decisions in relation to the LDF which comprise Development Plan Documents (DPDs), such as the Core Strategy and the Allocations DPD, as well as Supplementary Planning Documents, which provide greater detail on the policies in the DPDs.
- Interested parties will primarily be landowners or developers and interest groups, together with statutory bodies and authorities, and local residents. All play a part in the process and interact with members and officers.
- In addition to planning applications, other development control functions include enforcement action, tree preservation orders and dealing with listed buildings and conservation areas. All these areas of work involve important decisions being made which affect people's interests, and this Code applies to these decisions as well.
- It is essential, therefore, that members have regard to the guidance in this Code of Conduct in relation to these other areas of work besides planning applications.

## 13. Training

- **Don't** participate in decision making at meetings dealing with planning matters if you have not attended planning training provided by the Council.

- **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- **Do** participate in the annual review of a sample of planning decisions to ensure that members' judgements have been based on proper planning considerations.

## **Complaints**

- Whatever procedures and practices are put in place it is possible that complaints will be made. However, the adoption of the advice in this Code should reduce the occasions on which complaints are justified. It should, hopefully, also provide less reason for people to complain in the first place.
- Complaints about the planning process will be dealt with through the Council's complaints system. (Objections to planning applications are not treated as complaints and complaints by applicants/agents about the decision made (not the process) will not be entertained as a complaint as they are able to make use of the external statutory appeals process to the Secretary of State).

## Declaring Interests Flowchart – Questions to ask yourself

What matters are being discussed at the meeting?

Is it a Non-pecuniary interest?

Does it relate to one of your interests, your spouse's or civil partner's or the interest of somebody who you are living with as a husband or wife (or as if you were civil partners and you are aware that the other person has the interest), relating to an outside body where there is general control or management or membership (including as a Council representative), or is the interest in relation to any person or body from whom a gift or hospitality has been received?



**What action should I take?**

- **Disclose the existence and nature of your interest**
- **You can participate in the meeting and vote where non-pecuniary interests exist after considering the following:**
  - Is there any financial gain to me personally or someone I am living with as a married or civil partner?
  - Have I been significantly involved in the application process?
  - Is there evidence of pre-determination or bias?

**(If there is anything additional to consider listed above or if you need advice, always consult the Monitoring Officer in advance of the meeting)**

Is it a Disclosable pecuniary interest?

Does it relate to one of your interests, your spouse's or civil partner's or the interest of somebody who you are living with as a husband or wife (or as if you were civil partners and you are aware that the other person has the interest), relating to employment, office, trade, profession, vocation, sponsorship, contracts, land, licences, corporate tenancies, securities, or a financial interest?



**What action should I take?**

- **Disclose the existence and nature of your interest**
- **Consider in advance whether it would be best to organise a substitute for the meeting**
- **Withdraw from the meeting and do not vote on the item**

# **PROTOCOL ON MEMBER/OFFICER RELATIONS**

## **1. INTRODUCTION**

The purpose of this protocol is to guide members and officers of the Council in their relations with one another.

Given the variety and complexity of such relations this protocol does not seek to be exhaustive. It seeks simply to offer guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other issues.

## **2. PRINCIPLES UNDERLYING MEMBER/OFFICER RELATIONS**

The principles which underline this protocol are:

### **Selflessness**

Members and officers should serve only the public interest and should never improperly confer an advantage or disadvantage on each other or any person.

### **Honesty and Integrity**

Members and officers should not place themselves in official situations where their honesty and integrity may be questioned. They should not behave improperly and should on all occasions avoid the appearance of such behaviour.

### **Objectivity**

Members and officers should make decisions on merit including making appointments, awarding contracts or recommending individuals for rewards or benefits.

### **Accountability**

Members and officers should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

### **Openness**

Members and officers should be as open as possible about their actions and those of their authority and should be prepared to give reasons for those actions.

### **Respect for Others**

Members and officers should promote equality by not discriminating unlawfully against any person and by treating people with respect regardless of their race, age, religion, gender, sexual orientation or disability. Members should also respect the impartiality and integrity of the Council's statutory officers and its other employees.

## **Duty to Uphold the Law**

Members and officers should uphold the law and on all occasions act in accordance with the trust that the public is entitled to place in them.

## **Stewardship**

Members and officers should do whatever they are able to do to ensure that their Council has used its resources prudently and in accordance with the law.

## **Leadership**

Members and officers should promote and support these principles by leadership and by example and should always act in a way that secures or preserves public confidence.

## **3. ROLES OF MEMBERS AND OFFICERS**

All members and officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Members are responsible for the strategic direction and control of the Council through their work at meetings of the Council, its committees and sub-committees.

Officers are responsible to the Council. Their job is to give advice to members and the Council and to carry out the Council's work under the direction and control of the Council, its committees and sub-committees. Officers are responsible for the day to day management of services.

Mutual respect between members and officers is essential to good local government. Close familiarity between individual member and officers can damage this relationship and prove embarrassing to other members and officers.

If a relationship exists between members and officers who could give the appearance of an improper relationship, advice should be sought from the Chief Executive or the Monitoring Officer.

If the guidelines in this protocol are followed there should be no dispute or conflict between members and officers nor any harassment of staff. However, if in the event that a member wishes to pursue a complaint against an officer or vice versa, then this must be done formally in writing to the Chief Executive (complaints against officers), the Monitoring Officer (complaints against Mmmbers).

## **4. RELATIONSHIP BETWEEN THE MAYOR AND OFFICERS**

The Mayor is the first citizen of the borough and the person who presides at meetings of the full Council. When dealing with civic or ceremonial matters the Mayor will be assisted by the Mayor's Secretary. When presiding in meetings of the full Council, the Mayor may call upon the Head of the Paid Service and other chief officers to give advice and information as appropriate.

## **5. RELATIONSHIPS BETWEEN THE LEADER AND CHAIRS OF THE COMMITTEES AND OFFICERS**

To enable the Council to function effectively the Leader and chairs of committees will need briefings and other forms of regular liaison.

When the Leader and chairs of committees are formulating policy they must consider the advice of the appropriate chief officer and, when necessary, the Monitoring Officer and the Chief Financial Officer. When officer advice is given it must not extend to party or political business.

When the Leader and chairs of committees require information, briefings or officer attendance at a meeting etc, the request should be made to the appropriate chief officer who will determine how the support will be given. Chief officers will not be able to refuse any reasonable request and in the event of a dispute the matter will be resolved by the Head of the Paid Service.

When the Leader or chairs of committees are being held to account by Overview and Scrutiny, it is they, not officers, who must be scrutinised. However chief officers are expected to support members who are being scrutinised.

## **6. RELATIONSHIPS BETWEEN CHAIR AND MEMBERS OF OVERVIEW AND SCRUTINY COMMITTEE AND OFFICERS**

To enable Overview and Scrutiny to function effectively the chair and members of Overview and Scrutiny will need briefings and other forms of regular liaison. The Council will be asked to adopt a Scrutiny Pack to assist members and officers involved in the scrutiny function. Set out below is further information on the relationship between the chair and members of Overview and Scrutiny and officers.

When the Overview and Scrutiny Committee scrutinises a decision of a committee there should be no direct scrutiny of officers. The committee must hold the members to account. However chief officers are expected to support committee members who are being scrutinised.

When the committee is conducting a Review an Independent Lead Officer may be appointed to assist the committee. The Independent Lead Officer together with an Administration Officer will help draft an initial report for the committee. In any event the chair and the members of the committee must consider the advice of the Independent Lead Officer and the Administration Officer and, when necessary, the advice of the Monitoring Officer and the Chief Financial Officer.

The chair and members of the committee should consider holding regular briefing and liaison meetings with their Independent Lead Officer and other officers as necessary to ensure that Overview and Scrutiny can operate effectively.

## **7. RELATIONSHIP BETWEEN CHAIRS AND MEMBERS OF REGULATORY COMMITTEES AND OFFICERS**

To enable regulatory committees to function effectively chairs and members of regulatory committees will need briefings and other forms of liaison.

In general, it is the role of members to make decisions and for officers to ensure that members have all the relevant information including any appropriate guidance or policies.

In addition, members of the Development Control Committee will need to be familiar and have regard to the guidance in the Council's Code of Conduct. Members of the Licensing Committee will need to have regard to the Policy Guidelines for the Grant of Hackney Carriage and Private Hire Drivers Licences.

Chairs and members of regulatory committees should consider holding regular briefing or liaison meetings with the appropriate chief officer as necessary to ensure that regulatory committees can operate effectively.

## **8. OFFICER RELATIONSHIPS WITH PARTY GROUPS**

There is recognition of party groups and it is common practice for such groups to give preliminary consideration to matters of council business in advance of such matters being considered by the relevant council decision making body. Officers may properly be called upon to support and contribute to such deliberations by all party groups.

The support provided by officers can take members of the ruling group many forms, ranging from a briefing meeting with chairs, or opposition members prior to a meeting, to a presentation to a full party group meeting. Whilst in practice such officer support is likely to be in most demand from whichever group is for the time being in control of the Council, such support is available to all party groups.

Certain points must, however, be clearly understood by all those participating in this type of process, members and officers alike. In particular:

- a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of council business. Officers must not be involved in advising on matters of party or political business. The observance of this distinction will be assisted if officers are not expected to be present at meetings, or parts of meetings, when matters of party or political business are to be discussed.
- b) Party group meetings, whilst they form part of the preliminaries to council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as council decisions and it is essential that they are not interpreted or acted upon as such.
- c) Similarly, where officers provide information and advice to a party group meeting in relation to a matter of council business, this cannot act as a substitute for providing all necessary information and advice to the relevant committee or sub-committee when the matter in question is considered.
- d) Relationships with a particular party group should not be such as to create any suspicion that an officer favours that group above others.

Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting which includes persons who are not members of the Council. Such persons will not be bound by the 'Council's Code of Conduct' (in particular the provisions concerning the declaration of interests and confidentiality) and for this and other reasons officers may not be able to provide the same level of information and advice as they would to a member only meeting.

The Chief Executive and Monitoring Officer need to be informed of any request for attendance at a party group meeting and authority to attend should be sought from the Chief Executive.

Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.

Any particular cases of difficulty or uncertainty in this area of officer advice to party groups should be raised with the Chief Executive and the Monitoring Officer who will discuss them with the relevant group leader(s).

## **9. MEMBERS IN THEIR WARD ROLE AND OFFICERS**

Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the ward or wards affected should, as a matter of course, be invited to attend the meeting.

Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the ward members must be notified at the outset of the exercise.

Whenever possible councillors are encouraged to go directly to the appropriate officer when dealing with constituent's enquiry. However, members must not become over involved and abuse their positions when dealing with less senior members of staff. In the event of any difficulties the provisions of Section 3 of this protocol will apply.

## **10. COUNCIL ACCESS TO DOCUMENTS AND INFORMATION**

Members are free to approach the Council for 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 department's activities, to a request for specific information on behalf of a constituent. Such approaches should be requested via Member Enquiries serviced by the Committee and Member Services Team. Such requests will be acknowledged and answered as soon as is practically possible in line with the agreed procedures. Officers shall duly keep members informed until such enquiry has been officially closed.

As regards the legal rights of members to inspect council documents, these are covered partly by statute and partly by common law. The statutory framework includes the Local Government Act 1972 and the Data Protection legislation and regulation. There are specific statutory prohibitions on the release of certain information contained in legislation. If in doubt, consult with the Monitoring Officer or Chief Financial Officer.

Members have a statutory right to inspect any council document which contains material relating to any business which is to be transacted at a Council, committee or sub-committee meeting. This right does not, however, apply to documents relating to certain items which may appear as items on agenda for meetings. The items in question are those which contain exempt information relating to employees, occupiers of council property, applicants for grants and other services, the care of children, contract and industrial relations negotiations, advice from counsel and criminal investigations in accordance with Schedule 12A to the Local Government Act 1972.

The common law right of members is much broader and is based on the principle that any member has a prima facie right to inspect council documents so far as his/her access to the documents is reasonably necessary to enable the member properly to perform his/her duties as a member of the Council. This principle is commonly referred to as the 'need to know' principle.

The exercise of this common law right depends therefore upon the member's ability to demonstrate that he/she has the necessary 'need to know'. In this respect a member has no right to 'a roving commission' to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the 'need to know'. The question must initially be determined by the Chief Executive, Director or Head of Service which holds the document in question with advice from the Monitoring Officer. In the event of dispute, the question falls to be determined by committee - i.e. the committee in connection with whose functions the document is held or ultimately by the Courts.

In some circumstances (e.g. a committee member seeking to inspect documents relating to the functions of that committee), a member's 'need to know' will normally be presumed. In other circumstances (e.g. a member seeking to inspect documents which contain personal information about third parties), a member will normally be expected to justify the request in specific terms.

Whilst the term 'council document' is very broad and includes, for example, any document produced with council resources, it is accepted by convention that a member of one party group will not have a 'need to know', and therefore a right to inspect, a document which forms part of the internal workings of another party group.

Further and more detailed advice regarding members' rights to inspect council documents may be obtained from the Monitoring Officer.

Finally, any council information provided to a member must only be used by the member for the purpose for which it is provided, that is in connection with the proper performance of the member's duties as a member of the Council.

## **11. OTHER INDIVIDUALS WHO ARE MEMBERS OF COUNCIL BODIES**

Independent Persons and Co-opted Members perform an important role in contributing and supporting the work of committees etc. To enable them to be effective they will also need briefings and other forms of liaison.

In general, it is the role of other individuals who are members of council bodies to share with councillors their expertise and knowledge to help improve the effectiveness of the Council's decision making process. They will be able to contact the appropriate chief officers to seek from them information on matters relating to the work of the body to which they have been nominated. They should also normally be invited to attend any briefing or other liaison meetings which are convened for all members of the body. They will not normally be invited to attend Chairs or Party Group Briefings.

## **12. PRESS RELEASES**

Press Releases will be issued on behalf of the Council by the nominated Communications Team.

If any press releases are to be made, the appropriate chief officer will contact the Communications Team

and where necessary the appropriate members will be consulted on any comments which are to be attributed to them in the release.

## **13. CORRESPONDENCE**

Correspondence either written or electronic between an officer and a member shall be personal to that member and shall only be made available to another member or officer in the following circumstances:

- a) Should the member concerned so request?
- b) As a matter of course to the appropriate chair with responsibility for the subject area, with the exception of minor operational matters.
- c) to the Leader of the Council, the Chief Executive, the Monitoring Officer, the S151 Officer, the Chair of Overview and Scrutiny - at their request.

- d) To the officers' Director and/or Head of Service responsible for the subject area - at their request.
- e) To another officer dealing with the matter in the absence of the officer named on the face of the correspondence should the need arise.
- f) To another officer or member who is named within the correspondence as assisting in dealing with the matter.

It will not normally be necessary for correspondence arising from day to day activity, to be in the name of a member. Representation to external organisation such as Joint Authorities, Local Government Association, Government Departments etc should be in the name of the appropriate chief officer and clearly state that they are representing the views of the Council.

If a chief officer is responding to an enquiry on behalf of a member the letter must state that it is on behalf of the member and a copy sent to them for their information. Members, if they wish, can request the chief officers to prepare responses to constituency matters in their name for their signature from time to time. Members may write to external bodies and when doing so must be careful to clarify in what capacity they are writing. It could be as a chair or member of a council body or as an individual member or as a member of political party. Unless prior consent has been obtained, members must take care that their individual comments cannot be interpreted to reflect on the members of the Council or a political group.

## **MONITORING OFFICER PROTOCOL**

### **General Introduction to Statutory Responsibilities**

The Monitoring Officer is a statutory appointment under Section 5 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged at Rossendale Borough Council.

The current responsibilities of the Monitoring Officer role rest with the Head of Legal who undertakes to discharge his/her statutory responsibilities in a manner that enhances the overall reputation of the Council. In doing so he/she will also safeguard, so far as is possible, members and officers whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.

The main functions of the Monitoring Officer at the Council are:

1. To report to the Council and to the Cabinet in any case where he/she is of the opinion that any proposal or decision of the authority has given rise to or is likely to or would give rise to any illegality, maladministration or breach of statutory code under Sections 5 and 5A of the Local Government and Housing Act 1989; (LGHA 89)
2. To investigate any matter, which he/she has reason to believe may constitute, or where s/he has received an allegation that a matter may constitute, a reportable incident under Sections 5 and 5A of the LGHA 89;
3. To act as the principal adviser to the Council's Standards Panel;
4. To act as the principal adviser to the Council's Standards Hearing Panels;
5. To maintain the register of members' interests;
6. To act as the Proper Officer for the preparation, publication and retention of records of decisions taken by or on behalf of the Council and the Executive;
7. To have responsibility for responding to complaints to the Local Government Ombudsman
8. To undertake, with others, investigations in accordance with the Council's Whistleblowing procedures
9. To act as Proper Officer for the Data Protection Act 2018 and the Freedom of Information Act 2000

In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:

1. complying with the law (including any relevant Codes of Conduct);
2. complying with any General Guidance issued, from time to time, by the Standards Panel and the Monitoring Officer;
3. making lawful and proportionate decisions; and
4. complying with the Council's Constitution and Procedure Rules
5. generally, not taking action that would bring the Council, their offices or professions into disrepute
6. communicating effectively with the Monitoring Officer and seeking advice on any issues relating to constitutional or ethical matters

The main statutory references for the Monitoring Officer's functions are set out in Appendix 1.

### **Working Arrangements**

It is important that members and officers work together to promote the corporate health of the Council. The Monitoring Officer plays a key role in this and it is vital, therefore, that members and officers work with the Monitoring Officer (and his/her staff) to enable him/her to discharge his/her statutory responsibilities and other duties.

The following arrangements and understandings between the Monitoring Officer, members and senior managers are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:

1. be alerted by members and officers to any issue(s) that may become of concern to the Council, including, in particular issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
2. have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Council at which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet or committee meetings;
3. have the right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, committee meetings;
4. in carrying out any investigation(s) have unqualified access to any information held by the Council and to any member or officer who can assist in the discharge of his/her functions;
5. ensure the other statutory officers (Head of Paid Service and the Chief Finance Officer, otherwise known as the Section 151 Officer and/or The Head of Finance) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
6. meet regularly with the Head of Paid Service and the Chief Finance Officer to consider and recommend action in connection with corporate governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
7. report to the Council, from time to time, on the Constitution and any necessary or desirable changes following consultation, in particular, with the Leader, the Head of Paid Service and Chief Finance Officer;
8. in accordance with statutory requirements, make a report to the Council, as necessary on the staff, accommodation and resources s/he requires to discharge his/her statutory functions;
9. have an appropriate relationship with the Leader, Deputy Leader and the chairs of committees with a view to ensuring the effective and efficient discharge of council business;
10. develop effective working liaison and relationship with the District Auditor and the Local Government Ombudsman (including having the authority, on behalf of the Council, to complain to them, refer any breaches to them or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary) and settle any compensation payments for alleged or actual maladministration found against the Council in consultation with the Head of Paid Service and the appropriate Head of Service;
11. maintain and keep up-to-date relevant statutory registers for the declaration of members' interests, gifts and hospitality;
12. give informal advice and undertake relevant enquiries into allegations of misconduct and, if appropriate, make a written report to the Standards Panel (in consultation with an

Independent Person) or to refer the matter to the Police if, in the opinion of the Monitoring Officer, there is a serious breach of the Council's Code of Conduct for Members;

13. in consultation, as necessary, with the Leader, Cabinet, and Standards, defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved;
14. undertake all statutory Monitoring Officer functions in respect of Whitworth Town Council and make arrangements to ensure effective communication between his/her office and the Clerk to Whitworth Town Council on Monitoring Officer and Standards issues;
15. subject to the approval of the GovernanceWorking Group, be responsible for preparing any training programme for members on ethical standards and Code of Conduct issues;
16. oversee the implementation and monitor the operation of the Code of Corporate Governance and report annually to the Cabinet on compliance with the Code;
17. advise on all applications from Council employees (or prospective employees) for exemption from political restriction in respect of their posts and where appropriate sign the certificate of opinion required by the independent adjudicator;
18. appoint a deputy and keep him/her briefed on any relevant issues that he/she may be required to deal with in the absence of the Monitoring Officer. The deputy will only act in the absence of the Monitoring Officer if urgent action is required which cannot await the return of the Monitoring Officer.

To ensure the effective and efficient discharge of the arrangements set out in paragraph 5 above, members and officers will report any breaches of statutory duty or Council policies or procedures and other vires or constitutional concerns to the Monitoring Officer, as soon as practicable.

The Monitoring Officer will seek to resolve potential reportable incidents by avoiding the illegality etc., or by identifying alternative and legitimate means of achieving the objective of the proposal.

Where the Monitoring Officer receives a complaint of a potential reportable incident, he/she shall in appropriate cases seek to resolve the matter amicably, by securing that any illegality, failure of process or breach of code is rectified, that the complainant is informed of the rectification, with or without a compensation payment and/or apology. However, it is recognised that the Monitoring Officer may determine that the matter is of such importance that a statutory report is the only appropriate response.

In appropriate cases, the Monitoring Officer may rely upon existing processes within the Council (such as internal appeals procedures or insurance arrangements) to resolve any potential reportable incident, but may intervene in such processes to identify that the particular matter is a potential reportable incident and to ensure the satisfactory resolution of the issue.

In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer shall be entitled to add his/her written advice to the report of any other officer of the Council.

Notwithstanding the above, the Monitoring Officer retains the right in all cases to make a statutory report where, after consultation with the Chief Executive and the Chief Finance Officer, he/she is of the opinion that this is necessary in order to respond properly to a reportable incident. In addition, in appropriate cases, the Monitoring Officer may refer matters to the Police for investigation.

The Monitoring Officer is available for members and officers to consult on any issues of the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (for example, Procedure Rules policy framework, terms of reference, scheme of delegations etc).

To ensure the effective and efficient discharge of this Protocol, the Chief Finance Officer will ensure adequate insurance and indemnity arrangements are in place to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role.

### **Sanctions for Breach of the Council's Code of Conduct for Members and this Protocol**

Complaints about any breach of the Code of Conduct by a member may be referred to the Standards Panel (where necessary) and to the relevant Leader of the political party group. Complaints about any breach of the Code of Conduct by an officer may be referred to the relevant Head of Service and/or the Chief Executive.

**Appendix 1**  
**Monitoring Officer Protocol**  
**Summary of Main Monitoring Officer Functions**

<b>Description</b>	<b>Source</b>
1 Report on contraventions or likely contraventions of any enactment or rule of law	Section 5 Local Government and Housing Act 1989
2 Report on any maladministration or injustice where Ombudsman has carried out an investigation	Section 5 Local Government and Housing Act 1989
3 Appointment of Deputy	Section 5 Local Government and Housing Act 1989
4 Report on resources	Section 5 Local Government and Housing Act 1989
5 Receive copies of whistleblowing and allegations of misconduct	Code of Conduct for Members and Co-opted Members of Rossendale Council
6 Investigate misconduct in compliance with regulations.	Localism Act 2011
7 Establish and maintain registers of members interests and gifts and hospitality	Localism Act 2011
8 Advice to members on interpretation of the Code of Conduct for Members.	Code of Conduct for Members and Co-opted Members and regulations when made
9 New ethical framework functions in relation to Town Councils	Section 83(12) LGA 2000
10 Compensation for maladministration	Section 92 LGA 2000
11 Advice on vices issues, maladministration, financial impropriety, probity and policy framework and budget issues to all members	Section 5 Local Government and Housing Act 1989 / Localism Act 2011

**ROSSENDALEBOROUGH COUNCIL – CHIEF FINANCE OFFICER  
(SECTION 151 OFFICER) PROTOCOL**

**A. General Introduction to Statutory Responsibilities**

1. The Chief Finance Officer is a statutory appointment pursuant to Section 151 of the Local Government Act 1972. This Protocol provides some general information on how those statutory requirements will be discharged at Rossendale Borough Council.
2. The current responsibilities of the Chief Finance Officer role rest with the Head of Finance, who undertakes to discharge these statutory responsibilities in a positive way and in a manner that enhances the overall reputation of the Council. In doing so, the Chief Finance Officer will also safeguard, so far as is possible, members and officers, whilst acting in their official capacities, from financial difficulties.
3. A summary list of the statutory responsibilities appears in the table annexed to this document. In general terms, the Chief Finance Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on members and officers:-
  - a) complying with the Council's financial procedures;
  - b) making lawful payments; and
  - c) not taking action that would result in unlawful payments or unlawful action.

**B. Working Arrangements**

4. According to the Chartered Institute of Public Finance and Accountancy (CIPFA), there are five key roles that are critical to the achievement of a Chief Finance Officer's statutory responsibilities:-
  - maintaining strong financial management underpinned by effective financial controls;
  - contributing to corporate management and leadership;
  - supporting and advising democratically elected representatives;
  - supporting and advising officers in their operational roles; and
  - leading and managing an effective and responsive financial service.
5. Having excellent working relations with members and officers will assist in the discharge of the statutory responsibilities of the Chief Finance Officer. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and officers should, therefore, work with the Chief Finance Officer to discharge the Council's statutory and discretionary responsibilities.
6. The following arrangements and understandings between the Chief Finance Officer, members and senior managers are designed to ensure the effective discharge of the Council's business and functions. The Chief Finance Officer will:

- a) be alerted by members and officers to any issue(s) that may become of concern to the Council, including in particular, issues around financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss or deficit;
- b) have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Council at which a decision may be made (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, committee meetings and sub-committee meetings (or equivalent arrangements);
- c) have the right to attend any meeting of the Council (including the right to be heard and report to the Cabinet) before any decision is taken (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, committee meetings and sub-committee meetings (or equivalent arrangements);
- d) in carrying out any investigation(s) and exercising any fiduciary duties have unqualified access to any information held by the Council and to any officer who can assist in the discharge of his functions;
- e) ensure the other statutory officers (Head of Paid Service and the Monitoring Officer) are kept up-to-date with relevant information regarding any financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss or deficit;
- f) meet regularly with the Head of Paid Service and the Monitoring Officer to consider and recommend action in connection with corporate governance issues and other matters of concern regarding any financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss or deficit;
- g) report to the Council, from time to time, on the Financial Regulations and any necessary or desirable changes following consultation, in particular with the Head of Paid Service and Monitoring Officer;
- h) as per the statutory requirements, make a report to the Council, as necessary, on the staff, accommodation and resources required to discharge his or her statutory functions;
- i) develop effective working liaison and relationship with the External Auditor (including having the authority, on behalf of the Council, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary);
- j) in consultation, as necessary, with the Chair of the Council, the Cabinet and the External Auditor, defer the making of a formal report under Section 114, 115 and 116 of the Local Government and Finance Act 1988 where another investigative body is involved;
- k) have sufficient resources to address any matters concerning his or her Chief Finance Officer functions; and
- l) nominate a suitably qualified deputy and keep the deputy briefed on any relevant issues that the deputy may be required to deal with in the absence of the Chief Finance Officer. Appoint an appropriate external adviser in cases where the Chief Finance Officer is precluded from offering advice and the deputy is unable to advise.

7. To ensure the effective and efficient discharge of the arrangement set out in paragraph 5 above, members and officers will report any breaches of statutory duty or council policies or procedures and other legal or constitutional concerns to the Chief Finance Officer, as soon as practicable.
8. The Chief Finance Officer is also available for members and officers to consult on any issues of the Council's financial powers, possible unlawful payments, or general advice on the financial arrangements.
9. To ensure the effective and efficient discharge of this Protocol, the Chief Finance Officer will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council and the proper discharge of the Chief Finance Officer role.
10. The Chief Finance Officer or deputy will record details of any advice given.

## **ANNEX 1**

### **SUMMARY OF CHIEF FINANCE OFFICER FUNCTIONS**

	<b>Description</b>	<b>Source</b>
1.	Report on decisions incurring unlawful expenditure, unlawful loss or deficiency or unlawful item of account.	Section 114, 114a, 115, 116 Local Government and Finance Act 1988.
2.	Appointment of Deputy.	Section 114 Local Government and Finance Act 1988.
3.	Report on resources.	Section 114 Local Government and Finance Act 1988.
4.	Responsibility for the administration of financial affairs.	Section 151 Local Government Act 1972.
5.	Borrowing, investment accounts and financial administration.	Local Government Act 2003 Sections 1-92.
6.	Responsibility to determine the form of the Council's accounts and records, provide internal audit and statement of accounts.	The Accounts and Audit Regulations 2003. Local Authorities (Capital Finance and Accounting) (England) Regulations 2003.

# CONFIDENTIAL INFORMATION PROTOCOL

## Introduction

1.1 This Protocol supports Paragraph 4 (iv) of the Members' Code of Conduct which allows for the disclosure of confidential information by a member where the disclosure is reasonable, in the public interest, made in good faith and complies with the reasonable requirements of the Council.

**1.2 This Protocol sets out the reasonable requirements of the Council:**

- 1) That careful consideration is given to the question of whether to make the disclosure and if the disclosure is made, the member retains a note of the main considerations in reaching that decision.
- 2) That the content of committee reports, minutes, appendices or other documents that are marked as confidential or exempt items will not be disclosed without the prior written agreement of the Monitoring Officer who will re-consider the need to retain confidentiality under the provisions relating to exempt information under Schedule 12A of the Local Government Act 1972 and the Freedom of Information Act 2000.
- 3) That the detail of legal or other professional advice is not disclosed without the prior written agreement of the Monitoring Officer.
- 4) That the Council's Whistleblowing Policy and Anti-Fraud and Corruption Policy are considered.
- 5) That the current Member/Officer Protocol (found in Part V, of the Constitution) is considered.
- 6) That the Members' Code of Conduct and associated guidance is considered.
- 7) That the advice of the Monitoring Officer is sought prior to disclosure of the information unless agreement has already been secured under (2) or (3) above.

1.3 Agreement to the disclosure of confidential information may be with or without conditions.

1.4 In instances involving particularly sensitive or highly confidential information, a member may be asked to sign a confidentiality notice before information is released to them. In such cases, it would be the Council's expectation that the information is not disclosed.

## Protocol for Independent Persons of the Standards Panel

1. This Protocol applies to you as an independent person of the Standards Panel. In addition, the Protocols for members of the Standards Panel and sub-committee (where relevant) also apply to you.
2. You are expected to demonstrate a high degree of personal integrity and to have an appreciation of the ethical standards required of people holding public office.
3. You should not engage in any behaviour which a member of the public with knowledge of the relevant facts would reasonably regard as compromising your position. For example, you should discuss invitations to events with the Monitoring Officer.
4. Whilst membership of a political party (including a branch of such a party) is not prohibited (but see paragraph 5 below), you may not:
  - a. be an officer of the party or participate in the general management thereof;
  - b. be a member of any committee or sub-committee of the party;
  - c. stand for election to public office, either on behalf of a political party or as an independent;
  - d. nominate, second or assent to the nomination of any candidate for election to public office;
  - e. canvass on behalf of a political party or on behalf of a person who is, or who proposes to be, a candidate for election to public office; or
  - f. be a member or an officer of the Council or of any other relevant authority (see paragraph 7 below).

For the avoidance of doubt, you will need to cease such activities or involvement when appointed to the Standards Panel.

5. In accordance with its Council's Equality Policy, the Council has a duty as a public authority under the Race Relations Amendment Act 2000 to:
  - eliminate unlawful discrimination;
  - promote equality of opportunity; and
  - promote good relations between persons of different groups

and this precludes you from being a member of any political party whose constitution, aims, objectives or pronouncements are inconsistent with this duty.

6. Membership on the Council's Standards Panel does not preclude you from being an independent member of another relevant authority's standards committee.
7. A 'relevant authority' as defined in the Localism Act 2011. It includes all local authorities and other public bodies e.g. fire authorities and police authorities.

Breach of this Protocol could result in a standards complaint for investigation.

If in doubt seek advice from Clare Birtwistle, Monitoring Officer  
Tel: 01706 252438 Email: [clarebirtwistle@rossendalebc.gov.uk](mailto:clarebirtwistle@rossendalebc.gov.uk)

## **Protocol – Standards Panel Chair**

### **Role Purpose**

Under the direction of the Council and the Standards Panel:-

- To act as the spokesperson of the Standards Panel to the Council and the Town Council.
- To contribute fully as a member of the Standards Panel.

### **Key Responsibilities**

- Ensure he/she is sufficiently and effectively briefed on the issues within the Panel's terms of reference.
- Ensure that members of the Panel adhere to the relevant Rules of Procedure and Codes of Conduct contained in the Council's Constitution.
- Ensure the effective and orderly operation of the Panel.
- Ensure that the Panel has proper regard to the advice of the Monitoring Officer and his/her deputy.
- Ensure meetings of the Panel are regulated in accordance with the Rules of Procedure and are conducted in an orderly structured manner enabling effective debate.
- Ensure that the Panel follows approved procedures, codes and protocols.
- Meet with the Monitoring Officer or his/her nominee to ensure the receipt of appropriate advice to inform effective functioning of the Panel.

Breach of this Protocol could result in a standards complaint for investigation.

If in doubt seek advice from Clare Birtwistle, Monitoring Officer  
Tel: 01706 252438 Email: [clarebirtwistle@rossendalebc.gov.uk](mailto:clarebirtwistle@rossendalebc.gov.uk)

## **Protocol – Standards Hearing Panel Member**

### **Main Role**

- The promotion and maintenance of high standards of conduct.
- As a member of the Standards Panel/Hearing Panel, to have the respect of the whole authority, regardless of the governing political party by ensuring that you make judgments impartially.

### **Duties and Main Responsibilities**

- To carry out the functions relating to standards of conduct of members under any relevant provision of or regulations made under the Localism Act 2011.
- As a member of the Standards Panel, to consider and determine appropriate action on either breaches or alleged breaches by members of the relevant Codes of Conduct and protocols, in accordance with the relevant adopted procedures.
- To undertake appropriate training in order to fulfil the role of a member of the Standards Panel.
- To maintain a working knowledge of any relevant provisions of or regulations made under the Local Government Acts in relation to Code of Conduct issues and any advice and guidance received.
- To develop and maintain a working knowledge of the Council's policies, services and activities.
- As a member of the Standards Panel/Hearing Panel to not become embroiled in alleged breaches of the Code of Conduct or the Council's protocols unless as part of the Standards hearing procedures
- To retain confidentiality when involved in investigations.
- To exercise the above in relation to Whitworth Town Council members.

Breach of this Protocol could result in a standards complaint for investigation.

If in doubt seek advice from Clare Birtwistle, Monitoring Officer

Tel: 01706 252438 Email: [clarebirtwistle@rossendalebc.gov.uk](mailto:clarebirtwistle@rossendalebc.gov.uk)

### **Protocol for Town Councillors serving on the Standards Panel**

1. This Protocol applies to you as a Town Councillor serving on the Standards Panel. In addition, the Protocol for Members of the Standards Panel also applies to you.
2. As a member of the Standards Panel, to have the respect of the Town Council by ensuring that you make judgments impartially.

Breach of this Protocol could result in a standards complaint for investigation.

If in doubt seek advice from Clare Birtwistle, Monitoring Officer

Tel: 01706 252438 Email: [clarebirtwistle@rossendalebc.gov.uk](mailto:clarebirtwistle@rossendalebc.gov.uk)

# Part 6

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## **MEMBERS' ALLOWANCES SCHEME**

Rossendale Borough Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003, hereby makes the following scheme:

1. This scheme shall have effect for the year commencing on 1<sup>st</sup> April 2021 for the next 12 months.
2. In this scheme "councillor" means a member of Rossendale Borough Council who is a councillor;

### 3. **Basic Allowance**

Subject to paragraph 6 below, for each year a basic allowance of £3,342 shall be paid to each councillor.

### 4. **Special Responsibility Allowance**

- a. For each year a special responsibility allowance shall be paid to those councillors who hold the special responsibilities in relation to the authority that are specified in Schedule 1 below.
- b. Subject to paragraph 6, the amount of each such allowance shall be the amount specified against that special responsibility in that schedule.
- c. No councillor shall be entitled to receive more than one Special Responsibility Allowance

### 5. **Renunciation**

A councillor may by notice in writing given to the Chief Executive elect to forego any part of any entitlement to an allowance under this scheme.

### 6. **Part-year Entitlements**

- 1) The provisions of this paragraph shall have effect to regulate the entitlements of a councillor to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that councillor becomes, or ceases to be, a councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.
- 2) If an amendment to this scheme changes the amount to which a councillor is entitled by way of a basic allowance or a special responsibility allowance, then payment shall be made from the date of the change to the scheme.
- 3) Where the term of office of a councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that councillor to a basic allowance, and if applicable a special allowance, shall be based on the number of days in office expressed as a proportion of the total number of days in a year.
- 4) Where this scheme is amended as mentioned in sub-paragraph (2) and the term of office of a councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of the councillor to a basic allowance, and if applicable a special responsibility allowance, shall be based on the number of days in office expressed as a proportion of the total number of days in a year which will be calculated in two parts. Firstly, on the scheme before change and secondly on the scheme after the change.
- 5) Where a councillor relinquishes or accepts a special responsibility for which an allowance is payable, the entitlement shall be calculated in accordance with sub section (3) above.

## **7. Payments**

- 1) Payments shall be made in respect of basic and special responsibility allowances, subject to sub-paragraph (2), in instalments of one-twelfth of the amount specified in this scheme on the twenty second day of each month or thereabouts (or as otherwise requested in exceptional circumstances);
- 2) Where a payment of one-twelfth of the amount specified in this scheme in respect of a basic allowance or a special responsibility allowance would result in the councillor receiving more than the amount to which, by virtue of paragraph 6, the councillor is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which the councillor is entitled.

## **8. Travel and Subsistence**

Travelling and subsistence expenses will be paid at the appropriate rates as set out in Schedule 2 when councillors undertake approved duties **outside of the borough**. A list of approved duties is set out in Schedule 3. The mileage rates and amounts for subsistence allowance in Schedule 2 may be varied in accordance with the National Joint Council for Local Government Services rates applicable to staff. Mileage and/or public transport costs will be paid according to which is cheaper. All claims should be approved by the political group leader (if applicable) prior to submission to Committee and Member Services.

## **9. Child Care and Dependant Carers Allowance**

This allowance may be claimed in respect of children aged 14 years or under or in respect of other dependents where there is medical or social evidence that care is required.

Payments will not be payable to a member of the councillor's household. Payments will be based on receipted expenditure incurred.

The total amount of allowance which a councillor may claim in any one year will be limited to £750. In exceptional circumstances it will be at the discretion of the Chief Executive to agree payment above this limit.

## **10. Co-opted members Expenses**

This scheme does not provide for an allowance for co-opted members. However, the Council will pay the reasonable travel expense claims of co-opted members.

## **11. Suspension of Payments**

If any councillor is suspended from their duties, the Monitoring Officer is empowered under this scheme to stop payment of allowances to that councillor.

## **12. Policy Statement on Members Maternity / Paternity**

In line with its Equality Policy, Rossendale Borough Council supports its officers and councillors in relation to pregnancy, maternity and paternity. We will ensure that we are compliant with relevant legislative requirements and will support via reasonable adjustments as far as is possible. The detail of officer support is explained via the processes set out in the Employee Maternity, Paternity and Fostering Policy.

Councillors are not entitled to statutory maternity pay as they are not employees of the Council, but political representatives elected by the local electorate for a 4 year period. As councillors, they are entitled to an allowance to recompense them for any duties they undertake as a councillor. This allowance is reviewed on a regular basis by the Independent Remuneration Panel.

Election Law R.3 2010, and the Local Government Act 1972 s85 states that *“if a member of a local authority fails throughout a period of six consecutive months from the date of his last attendance to attend any meeting of the authority, he shall, unless the failure was due to some reason approved by the authority before the expiry of that period, cease to be a member of the authority.”*

Rossendale Borough Council’s Constitution states that for non-attendance at a meeting within a six-month period, the matter will be reported to full Council by the Chief Executive along with any reasons for their absence. An early warning system is in place to identify non-attendance before the 6-month period ends.

It is recognised by the Council that all decisions will be taken giving due regard of the Equality Act 2010.

### **13. Claims**

Any claims made under this scheme must be done so within two months of the expenditure being incurred.

### **14. Calculation of Allowances**

The allowances in this scheme are based on a set basic allowance of £3342.

The allowance for each financial year will rise in line with inflation (consumer price index), but this will be at the discretion of Council and will be decided as part of the budget setting process. For 2021/2022 members agreed at the Council meeting on 26<sup>th</sup> February 2020 that there would be no increase in line with inflation going forward until further notice, and would be revisited as part of the next review in 2022.

Allowances will be reviewed at least once every four years, the next date for review being no later than 2022.

### **15. Amendment of the Scheme**

Amendments to this Scheme can only be made following a report by the Independent Remuneration Panel.

## **SPECIAL RESPONSIBILITY ALLOWANCES**

The following are specified as special responsibilities in respect of which special responsibility allowances are payable in the amounts stated.

<b>LEADERS/DEPUTY LEADERS</b>	<b>£</b>
Leader of the Majority or Largest Group	13,368
Deputy Leader of the Majority or Largest Group	10,026
Leader of the Minority or Second Largest Group	6,684

## **CABINET MEMBERS**

Cabinet Member	6,684
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## **COMMITTEE CHAIRS**

Overview and Scrutiny Committee	3,342
Audit and Accounts Committee	3,342
Development Control	3,342
Licensing	3,342

## **COMMITTEE VICE-CHAIRS**

Development Control (\*a one off payment will be made for\*150 each meeting where the Vice-chair is required to chair the full meeting).

\*150

Licensing (\*a one off payment will be made for each Licensing Committee meeting where the Vice-chair is required to chair the full meeting).

## TRAVEL AND SUBSISTENCE ALLOWANCES

### 1. Travel and Subsistence Claims

- 1.1 Councillors incurring expenses in the course of approved duties in respect of travel, meals and overnight accommodation will be reimbursed approved expenses, subject to appropriate evidence of expenditure being produced, in accordance with the following arrangements.
- 1.2 Please refer to section 8 with regard to expenses incurred in relation to individual training course expenses.
- 1.3 All claims for car mileage, public transport, taxis, car parking, meals and overnight accommodation must be made on the council's Claim Form for Travel and Subsistence and paid through payroll, to ensure compliance with Inland Revenue Regulations. The form is available on request from Committee and Member Services.
- 1.4 Appropriate receipts in respect of public transport, taxis, car parking, meals and overnight accommodation must be attached to the claim form.
- 1.5 Claim forms should be completed and signed, signed off by the Group Leader (where required), and submitted monthly to the Committee and Member Services Manager, who is authorised to approve the claim. The claim will be forwarded to Payroll in order that they are received by the 30<sup>th</sup> of the month at the latest. Any forms with insufficient detail will be returned to the claimant.
- 1.6 Claims must be made no more than two months in arrears.

### 2 Car Mileage Allowances

#### 2.1 Entitlement and Rates

- 2.1.1 A car mileage allowance is payable for members required to use a car in the execution of their duties outside the borough. The rate of payment for mileage undertaken for an approved duty outside the borough is the same as that for officers with approved car user status.
- 2.1.2 The following rates apply:-

Per mile first 4,000	46.9p
Over 4,000 miles	13.7p

(Figures last revised 12<sup>th</sup> April 2013)

- 2.1.3 For the current rates refer to the Travel at Work Policy and Subsistence Guidance (TAWP) 2013 or refer to The National Joint Council for Local Government Services or the Council's People and Policy Team.

#### 2.2 Car Mileage Claims

- 2.2.1 The records of journeys on claim forms should contain enough detail for the journey to be verified and therefore should give:
  - the specific time of the journey

- the start and finishing mileage
- the places travelled to and from and the route
- the reasons for the journey
- details of any passengers carried

- 2.2.2 Return journeys should be clearly indicated including brief details of the route taken if there are alternatives.
- 2.2.3 The use of recording by means of “Trip Meters” is forbidden for any journey. All meter readings are to be taken from the odometer on the car.
- 2.2.4 All journeys must follow the most economic, practical and timely route and avoid unnecessary duplication of car use if more people are attending the same event.
- 2.2.5 Mileage will normally be claimable from the member’s home.
- 2.2.6 Where a member is using a mixture of methods of transport to attend an approved duty outside the borough then the full circumstances should be recorded on the claim form, e.g. car journey to Place “X”, Train Journey to Place “Y” and return.
- 2.2.7 Where a journey exceeds 50 miles each way it should be noted that second class rail fare is claimable or car allowance, whichever is the cheapest.
- 2.2.8 Where more than one member is attending the same meeting, site visit etc., then arrangements should be made to share transport, wherever practicable.
- 2.2.9 In general, choose the option that is cheapest for the council and demonstrate this by noting and recording information on the claim form.

### **2.3 Vehicle Insurance and other Requirements for Business Use**

- 2.3.1 Councillors using their vehicles for council business must be insured for business purposes. This must be stated on their insurance certificate, and it is entirely the member’s responsibility for ensuring that the adequate level of insurance cover is in place.
- 2.3.2 Councillors not insured for business use must not use their car for council duties, including ward working, even if they do not intend to claim the mileage.
- 2.3.3 Councillors should be mindful that if they are stopped by the police whilst on council business and have inadequate insurance cover for business use they may be prosecuted.
- 2.3.4 Councillors submitting mileage travel claims must provide evidence (to the Committee and Member Services Manager) of their insurance showing they are covered for business purposes. This must be done each time insurance is renewed or car details changed. The Committee and Member Services Manager will keep a copy as insurance details are periodically subject to audit inspection.
- 2.3.5 Insurance certificates must be available for inspection when required by either the Monitoring Officer or the Audit Department.

## **3 Public Transport**

- 3.1 Bus fares will be reimbursed against the appropriate receipt or used ticket.

- 3.2 Travel by rail should be second class. The Council has an account for booking rail tickets. Councillors should contact the Committee and Member Services Team who will arrange for a ticket to be booked. The Council will then be invoiced direct.

#### **4 Taxis / London Underground**

- 4.1 Taxi expenses are generally payable in instances where local routes are not known and the destination/location is not known, nor convenient if known. Expenses will be reimbursed against the appropriate receipt.
- 4.2 In London, use of the underground is encouraged rather than automatic use of a taxi. Expenses will be reimbursed against the appropriate receipt or used ticket.

#### **5 Car Parking**

- 5.1 The cost of car parking will be reimbursed against the appropriate receipt or used ticket.

#### **6 Overnight Accommodation**

- 6.1 Councillors who are required to make overnight stays in the performance of their duties should make every attempt to keep costs down to the minimum possible. Arrangements for accommodation should normally be made through the Committee and Member Services Team. Wherever possible, the Council should be invoiced direct for accommodation.

#### **7 Subsistence**

- 7.1 Claims for subsistence expenses may be made in relation to duties undertaken outside the Rossendale borough, when supported by receipts and the subsistence is not provided as part of the event. The Council does not pay expenses for meals taken within the borough. Reimbursement will be made for actual expenditure, within reason.
- 7.2 Where meals are taken on trains or in accommodation, which are in excess of the maximum amounts detailed above, reasonable expenses will be paid.
- 7.3 Breakfast allowance may be claimed if you leave home before 7.00 am.
- 7.4 Evening meal allowance may be claimed if you will be arriving home after 7.30 pm. This does not apply to members attending evening Cabinet, Council, committee or sub-committee meetings of the Council, training or when meals are provided by the establishment.

#### **8 Individual Training Course Expenses**

- 8.1 All expenses in relation to training courses must be claimed on the Claim Form for Travelling Expenses for Approved Training, which is available from the Committee and Member Services Team.

## APPROVED DUTIES

1. A meeting of any body to which the Council makes appointments or nominations.
2. A meeting of a committee or sub-committee of any other body to which the Council makes appointments or nominations.
3. A meeting which has both been authorised by the Council, Cabinet, a committee or subcommittee of the Council or a joint committee of the Council and one or more councils, or a sub-committee of a joint committee and to which representatives of more than one political group have been invited (if the Council is divided into several political groups) or to which two or more councillors have been invited (if the Council is not divided into political groups).
4. A meeting of a Local Authority Association of which the Council is a member.
5. Duties undertaken on behalf of the Council in connection with the discharge of any function of the Council conferred by or under any enactment and empowering or requiring the Council to inspect or authorise the inspection of premises.
6. Any individual training event authorised in accordance with the procedure set out in the Member Training and Development Scheme.
7. Any seminar or conference to which the Council, a committee or Cabinet has nominated a delegate.
8. Any other duty approved by the Council for the purposes of, or in connection with, the discharge of the functions of the Cabinet, Council, or any of its committees or sub-committees.

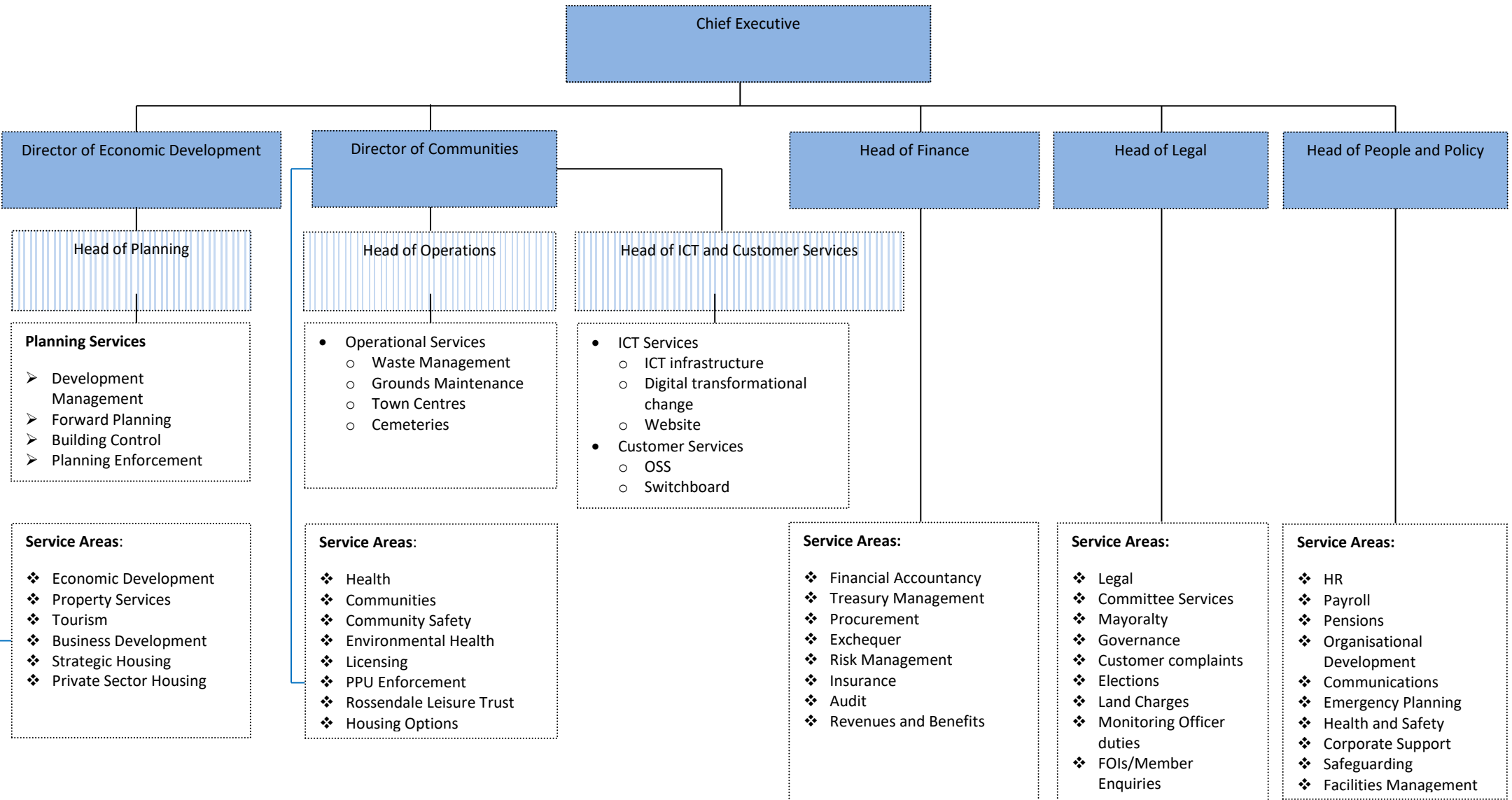
**NOTE:** A councillor may only claim travel and subsistence allowance for attendance at a meeting where he or she is has been formally appointed to serve on that body or is a nominated substitute. Councillors attending a meeting in order to provide evidence or information on behalf of the Council may also claim for travel and subsistence, but this must be specified on the claim form. Councillors attending as observers or in any other capacity will not be entitled to claim.

# Part 7

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## **MANAGEMENT STRUCTURE**

# Rossendale Borough Council Organisational Structure



Glossary of Terms	
Access to Information	There are a number of legislative provisions, which are integral to the Council's decision-making processes. The Council's rules relating to access to meetings and other documentation relating to meetings; including exempt and confidential information, can be found in Part 4 of this Constitution.
Advisory Committee	A committee appointed by the Council to advise the Council on matters relating to the development of policy and discharge of council functions.
Annual Meeting	The ceremonial meeting of the full Council at the beginning of the Civic Year at which the positions of Chair and Leader of the Council are elected. Other business related to the beginning of a new municipal year is also conducted.
Articles in the Constitution	Set out the overall framework of what is to be done and by whom. Standing Orders, Codes of Conduct and the other documents forming part of the Constitution set out how the Articles will be put into effect.
The Authority/Council	Rossendale Borough Council.
Background Paper	Documents relating to the subject matter of a report which in the opinion of the Proper Officer: (a) disclose any facts or matters on which the report or any Important part of the report is based; and (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose <i>Exempt or Confidential Information</i> .
Balanced or Hung Authority	Also often referred to as a Hung Council. Where there is no overall political control by any one Political Group.
Budget	This includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.
Cabinet	The Cabinet and its Members (also referred to collectively as the Executive), operate within the policy framework and budgets set by the Council and this constitution, and are responsible for taking most of the day-to day decisions.
Cabinet Members	Those Councillors appointed to the Executive. Each Cabinet Member will be responsible for a portfolio (area of work) and attend, speak and vote at meetings of the Executive. Any power or responsibility given to a Cabinet Member as a portfolio holder may also be taken or actioned by the Leader.
Call-in	A process whereby non-executive members can suspend an executive decision within five days of it being taken. An Overview and Scrutiny sub-committee will then meet to consider the decision and may refer it back to the decision-maker for reconsideration.
Capital Expenditure	Expenditure to acquire fixed assets that will be used for more than the year in which they are acquired and which adds to the Council's tangible assets rather than simply maintain existing ones.
Chair	The person who presides over a meeting. The Mayor chairs the meetings of the full Council. Full Council appoints chairs of

	committees and chairs of sub-committees are appointed by the sub-committee. The Leader of the Council will usually chair meetings of the Cabinet.
Chief Executive	The Head of the Paid Service as defined in section 4 of the Local Government and Housing Act 1989.
Chief Finance Officer	The Officer appointed in accordance with S151 of the Local Government Act 1972 that has responsibility for the administration of the financial affairs of the authority.
Chief Officers	The Chief Executive and Officers designated by statutory positions. (see article 11 – Officers of the Council).
Clear Day	A working day, not including weekends or bank holidays. Access to Information legislation insists that agenda and reports are published “five clear days” in advance. This excludes both the day of the meeting and the day on which the meeting is called.
Code of Conduct for Members	The document which has been adopted by Council setting out what is expected of members and co-opted members of the Council in terms of their conduct and behaviour, as set out in Part 5 of this Constitution.
Committee	A group of members (including non-voting co-opted members) appointed to discharge a specific function. The Council has various types of committees. There are committees both of the Council and of the Executive. The terms of reference of the Council committees and sub-committees are set out in Article 7 and also Part 3 of this Constitution.
Community Health and Well-being	Means the degree to which persons resident in an area identify with that area and receive an increased quality of life as a result of the nature and the environment of the area.
Confidential Information	As defined in section 100A(3) of the Local Government Act 1972 as information which may not be disclosed to the public, or, information, the disclosure of which, is prohibited by or under any enactment or by the order of a court. The management of confidential information is explained in the Access to Information Procedure Rules set out in Part 4 of this Constitution.
Constitution	A document adopted by the Council which sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that these are efficient, transparent and accountable to local people.
Contractual Standing Orders	Are contained in Part 4 of this constitution and set out the rules and procedure, which govern procurement of all goods, services and works for the Council and entering into contracts within the Council.
Co-opted Member	A member of any committee or sub-committee of the Council (who is not an Independent Member, as defined below) and not a Councillor or Officer of the Council. Co-opted Members do not normally have voting rights on committees.
Cost Centre	A budgeting level which usually reflects a whole service area, or main sub category of a service. It encompasses a number of standard “subjective” coding areas such as those used for staffing related costs, supplies and services, income etc.
Council Functions	Those functions of the Council which cannot be exercised by an Executive.
Council Meeting Procedure Rules	Are the Standing Orders, which set out how meetings of the Council and most committees will be conducted.

Councillor	An individual democratically elected to serve on the Council. There are restrictions as to who can hold office as a Councillor (Article 3 refers). Councillors are also often referred to as 'Members'.
Data Protection	Processes and procedures for securing confidentiality and integrity of both electronic and manually held records whilst also providing disclosure and access of information as registered under the Act. NOTE. Information can only be held for the purposes for which it was collected.
Delegated Power / Authority	Authority, delegated by the Council (or an Officer discharging Statutory duties), to another decision-making body or individual decision-maker to make those decisions or discharge functions.
Deputy Chair	Will deputise for the chair of the body, including chairing the meeting in the chair's absence.
Deputy Leader	Will deputise for the Leader of the Council and be delegated to undertake any action or decision of the Leader in the Leader's absence or an ability to act.
Designated Office	The office designated for the posting and inspection of notices of meetings in Rules 4 and 5 of the Access to Information
Executive Arrangements	Defined in section 10 of the Local Government Act 2000 as arrangements by a Local Authority for and in connection with the creation and operation of an Executive of the authority; and under which certain functions of the Authority are the responsibilities of the Executive.
Executive Committees	Committees set up by the Executive and to which the Executive has allocated Executive functions under section 15 of the Local Government Act 2000. Members of Executive Committees will be Members of the Executive.
Executive Functions	Any functions of the Authority which are not the responsibility of the Cabinet, whether by law or, where the law provides a choice, under the Constitution. The division of functions between the Executive and the Council are set out in Part 3 of this Constitution.
Exempt Information	Information falling within the categories set out in Schedule 12A of the Local Government Act 1972 (as amended). The management of exempt information is explained in the Access to Information Procedure Rules set out in part 4 of this Constitution.
Extraordinary (or Special) Meeting	A meeting of the Council, a committee or the Executive, called in addition to ordinary meetings, to consider a particular issue.
Financial Procedure Rules	Are contained in Part 4 of this Constitution and set out the rules and procedure, which govern financial management and control within the Council.
Five Clear Days	A period of five days, excluding the day of the meeting, the day on which the meeting is called, weekends and bank holidays during which copies of the agenda and reports of a meeting must normally be available for inspection under Rule 5 of the Access to Information Rules.
Forward Plan	A document prepared by the Monitoring Officer on behalf of the Leader which contains details of all the matters likely to be the subject of Key Decisions to be taken by either the Executive or its Committees or Officers and may also include other important decisions to be taken by the Council, its Committees or Officers. The Forward Plan will be published 28 days prior to each Cabinet meeting.

Freedom of Information	Processes and procedures to enable the public to formally access information held by public bodies subject to certain exemptions.
Full Council	A formal meeting which all councillors of the authority are entitled to attend.
Good Governance Statement and Framework	The Council annually reviews a Good Governance Local Framework as recommended by the Audit and Governance Panel and based on the 6 principles outlined in “Delivering Good Governance” a CIPFA / SOLACE Publication. The framework is adopted and then summarised in an Annual Governance Statement.
Head of Internal Audit	The Group Manager, Audit and Assurance undertakes all responsibilities referred to as Head of Internal Audit. The Group Manager, Audit and Assurance is for legislation and regulation purposes the Head of Internal Audit.
Head of Paid Service	The Officer appointed by the Authority in accordance with section 4 of the Local Government and Housing Act 1989 who has overall corporate management and operational responsibility within the Council.
Independent Person (Drawn from the Community)	A representative drawn from the community to sit on a panel or advisory group. Includes a member of the Standards Panel or Independent Remuneration Panel who is not a councillor or officer of the Council. Not to be confused with an elected member (see below).
Independent Member (Political Description)	Generic term for elected member(s) who have not joined an existing, or formed their own political group on the Council for purposes of proportionality.
Joint Committee	A Committee comprising Members of two or more Local Authorities created under Section 102(1) of the Local Government Act 1972.
Key Decision	A decision in relation to a Cabinet function which results in the Local Authority incurring expenditure or making of a saving which is significant having regard to the budget for the service or function to which the decision relates. A decision that is likely to have a significant impact on two or more wards within the Local Authority. A decision in relation to expenditure in excess of £100,000 or significant savings. A decision in relation to any contract valued in excess of £500,000. A decision taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.
Leader of the Council	The Leader of the Council is elected by the Council annually and is the political spokesperson of the Council. The Leader appoints a “Cabinet” of Members some or all of which will be responsible for a specific area of expertise known as a “Portfolio”. The Leader of the Council may take decisions or actions on behalf of Cabinet Members (Portfolio Holders) in their absence or an ability to act.
Licensing Code of Practice	The document, which has been adopted by the Council to regulate the performance of its licensing function. The main objectives of the Code are to guide Members and Officers of the Council in dealing with licensing related matters and to inform potential licensees and the public generally of the standards adopted by the Council in the exercise of its licensing powers.
Local Assessment	A process to receive and assess complaints that Members have failed to follow their Code of Conduct.
Local Strategic Partnership	The Local Strategic Partnership (LSP), which brings together the different parts of the public, private, community and voluntary sectors with the aim of improving the quality of life for everyone in the borough.

Mayor of the Council	The Mayor is the “first citizen” of the city and is elected annually to preside at Full Council Meetings and to promote the Council's constitution, procedures and rules and ensure that they are followed during Council Meetings. The Mayor will undertake a number of Civic events and ceremonies and will represent the Council on formal occasions.
Member	A councillor generally or, in relation to a committee or sub-committee, a member of that committee or sub-committee. The Chair and Leader of the Council will be treated as member of the Council unless the law or context requires otherwise.
Members’ Allowances Scheme	Contained in Part 6 of this Constitution and sets out the scheme under which the Councillors, Independent Members and Co-opted Members are entitled to receive allowances in respect of carrying out their duties and for fulfilling any special responsibilities allocated to them.
Monitoring Officer	The Officer appointed by the Authority in accordance with section 5 of the Local Government and Housing Act 1989 to report to it on any proposal, decision or omission by the Authority, or its committees or sub-committees, or its officers, which has given, or may give rise, to a contravention of law or statutory code of practice or to such maladministration or injustice as is mentioned in Part III of the Local Government Act 1974. The Monitoring Officer is the ‘qualified person’ for the purposes of determining whether disclosure of particular information under the Freedom of Information Act 2000 would be likely to prejudice the effective conduct of public affairs.
Officers	The Council’s staff.
Overview and Scrutiny Committee	A committee established by Council to undertake overview and scrutiny functions as set out in section 21 of the Local Government Act 2000 and subsequent legislation. It consists of councillors who are not members of the Executive and reflects the political balance of the Council. The committee holds the Executive to account through consideration of executive decisions. It is also able to undertake policy reviews of council functions and anything else affecting the economic, social or environmental well-being of the city’s residents.
Overview and Scrutiny “Task and Finish” Group	Undertakes overview and scrutiny functions relating to particular themes or service areas as determined by the Overview and Scrutiny Committee. The panels are politically balanced and report their findings and recommendations to the Overview and Scrutiny Committee for approval. The work of the panels is fully scoped, resourced and timetabled from the start to ensure effective scrutiny and overview.
Parish Member	A member of a Parish Council or a representative nominated to sit on the Standards Committee who is also a member of a parish Council wholly or mainly in the city.
Partnership Arrangement	An arrangement between the Council and one or more other bodies or persons to achieve objectives of the Council and at least one of the other parties but which is not a contract for the provision by one party to another of a supply, service or works in exchange for a fee or other consideration.
Planning Code of Practice	The document, which has been adopted by Council to regulate the performance of its planning function. The major objectives of the Code are to guide members and officers of the Council in dealing with planning related matters and to inform potential developers and the public generally of the standards adopted by the Council in the exercise of its planning powers.

Policy Framework	A set of plans and strategies set down by legislation (for list see Article 4). Approving or adopting the elements of the policy framework is a function reserved to the full Council.
Political Group	Two or more members may form a Political Group on the Council for the purposes of political proportionality of members on committees and certain bodies.
Portfolio	The responsibilities or roles allocated to a Cabinet Member usually the spokesperson.
Proper Officer	Has a statutory definition in section 270(3) of the Local Government Act 1972 and means, in relation to any purpose, the Officer appointed for that purpose by the Authority or for that area, as the case may be. A non-exclusive list of the Proper Officers can be found in the Scheme of Delegation to Officers in Part 3 of this Constitution.
Proportionality (Political)	A mathematical calculation to ensure that political balance is maintained in the membership of the Council's main committees.
Protocol	A document forming part of the Constitution, which sets out a guide to the way, certain individuals and groups interact with each other. They are not rules but they do give guidance and agreements on how things should operate.
Quorum	The number of members of the Council, the Executive, a committee or sub-committee required to be present to allow a meeting to transact business validly. The quorums for each body are set out in the relevant procedure rules in part 4 of this Constitution.
Revenue	Income or expenditure arising from or spent on day to day activities and short lived commodities or consumables.
Scheme of Officer Delegation	A record of which powers are delegated to specific officers and which may be sub-delegated further to individuals.
Scrutiny Rules	This sets out the Overview and Scrutiny Committee function including the structure of the Overview and Scrutiny process.
S151 Officer	The Officer appointed in accordance with S151 of the Local Government Act 1972 and who has responsibility for the administration of the financial affairs of the authority. This position is also known as the Chief Finance Officer.
Service Plan	A plan setting out priorities and service ambitions.
Special Meeting	A meeting of the Executive, any committee or sub-committee of the Council or any scrutiny body, which was not on the calendar of meetings agreed at the Annual Meeting but is called by the Chair to consider a particular item, or items, of business in accordance with Access to Information provisions.
Special Responsibilities	Roles undertaken by members for which an Allowance is payable. These include The Chair and Leader of the Council as well as Chairs of specific Committees.
Standards Committee	A Committee established pursuant to section 53 of the Local Government Act 2000. It consists of councillors and Independent Members drawn from the community and is chaired by one of the Independent Members. The full terms of reference for the Standards Committee are set out in Part 3 of this Constitution.
Standing Orders	Rules, which the Council has adopted to regulate its business and proceedings. There are also separate Standing Orders relating to the appointment and dismissal of staff and the process leading up to and the making of contracts. These are set out in Part 4 –Council Meeting procedure Rules.

Statutory Officers	The Chief Executive as Head of Paid Service, the Head of Finance as S151 Officer and the Head of Legal as Monitoring Officer or their Deputies are collectively known as Statutory Officers for the purpose of this Constitution.
Sub-committee	A group of members (including where appropriate co-opted members) appointed by a committee to take responsibility for one or more aspects of its functions or function.
Sub-delegation	Specific delegation to an individual to undertake specific actions. Must be recorded in the Scheme of Officer Delegation.
Task-finish Scrutiny Group	A body that may be created by the Overview and Scrutiny Committee to undertake a time-limited review of a specific issue as defined within terms of reference set by the committee. The Panel will conclude its work by reporting to the committee and is likely to make recommendations for the committee to consider.
Virement	A transfer of resources between or within approved cost centres for both revenue and capital processes.
Ward	A geographical area of the borough represented by one or more councillors.
Ward Scheme	A scheme setting out the wards and how many councillors will represent each Ward.
Well-being	See Community health and well-being above.