



CONSTITUTION OF THE COUNCIL

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PART 1

SUMMARY AND EXPLANATION

The Council's Constitution

This 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 law, while others are a matter for the Council to choose.

The Constitution is divided into 16 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.

What's in the Constitution?

Article 1 of the Constitution commits the Council to providing clear leadership, to involving people in decision making and to ensuring that decisions are effective and transparent. Articles 2 to 16 explain the rights of citizens and how the key parts of the Council operate.

How the Council operates

The Council is composed of 33 councillors with one-third elected three years in four. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. Training and advice on this is provided.

All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here councillors decide the Council's overall policies and set the budget each year. The Council appoints a Leader and Deputy Leader.

Once appointed, the Leader remains in office until the next Annual Meeting of the Council. The Leader only ceases to be Leader before that time because of death or disqualification or following a vote to remove the Leader in accordance with this Constitution.

The Council appoints an Executive in the form of a Leader and cabinet to take decisions within that policy and budget framework. It appoints an Overview and Scrutiny Committee to monitor those decisions and to produce recommendations on future policy. It also appoints a Licensing Committee, Taxi Licensing Committee, Development Management Committee, Accounts and Audit Committee and Area Committees.

How decisions are made

The Executive is the part of the Council which is responsible for most day-to-day decisions. It is made up of the Leader of the Council and a cabinet of between 2 and 9 councillors. When major decisions are to be discussed or made these are published in the Executive's forward plan in so far as they can be anticipated. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must generally be referred to the Council as a whole to decide.

Overview and Scrutiny

There is an Overview and Scrutiny Committee which supports the work of the Executive and the Council as a whole. They allow citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery.

The Overview and Scrutiny Committee also monitors the decisions of the Executive. There is a 'call-in' procedure under which a decision which has been made by the Executive can be sent back for further review before it is implemented. This enables it to consider whether the decision is appropriate.

It may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

Area Committees

In order to give local citizens a greater say in council affairs, four Area Committees have been created. These cover:

- Barrowford and Western Parishes
- Colne and District
- Nelson, Brierfield and Reedley
- West Craven

The Council's Staff

The Council has people working for it to give advice, implement decisions and manage the day-to-day delivery of its services. Some employees have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between employees and members of the council.

Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau and other advice agencies can advise on individuals' legal rights.

The Council welcomes participation by its citizens in its work. For further information on the rights as a citizen, please contact Democratic Services via email: committee@pendle.gov.uk

PART 2

ARTICLES OF THE CONSTITUTION

ARTICLE 1 – THE CONSTITUTION

1.01 The 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

The Constitution, and all its appendices, is known as the Constitution of the Borough Council of Pendle.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

- Enable the council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- Support the active involvement of citizens in the process of the Council's decision making;
- Help Councillors represent their constituents more effectively;
- Create a powerful and effective means of holding decision makers to public account;
- Ensure that no one will review or scrutinise a decision in which they were directly involved;
- Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for their decisions; and
- 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.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

ARTICLE 2 – MEMBERS OF THE COUNCIL

2.01 Composition and Eligibility

(a) Composition

The Council will comprise 33 Councillors, elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission and approved by the Secretary of State.

(b) Eligibility

Only registered voters of the Pendle district or those living or working there will be eligible to hold the office of Councillor.

2.02 **Election and Terms of Councillors**

The ordinary election of a third (or as near as may be) of all Councillors is held on the first Thursday in May in each year, except that every fourth year there will be no regular election. The terms of office of Councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

2.03 **Roles and Functions of all Councillors**

(a) Key Roles

All Councillors will:

- Represent their communities and bring their views into the Council's decision making process, i.e., become the advocate of and for their communities;
- Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- Balance different interests identified within their ward and represent the ward as a whole;
- Participate in the governance and management of the Council;
- Be available to represent the Council on other bodies; and
- Maintain the highest standards of conduct and ethics.

(b) Rights and Duties

- 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;
- 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;
- For these purposes "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.04 **Conduct**

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer relations set out in Part 5 of this Constitution.

2.05 **Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.

ARTICLE 3 – CITIZENS AND THE COUNCIL

3.01 **Citizens' Rights**

Citizens have the following rights. Their rights to information and to participate are

explained in more detail in the Access to Information Rules in Part 4 of this Constitution.

(a) Voting and Petitions

Citizens on the electoral register for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of governance. Citizens may submit a petition on any matter affecting the Borough or its inhabitants.

(b) Information

Citizens have the right to:

- Attend meetings of the Council, and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- See reports and background papers, and any records of decisions made by the Council and its committees; and
- Inspect the Council's accounts and make their views known to and question the external auditor.

(c) Participation

Citizens have the right to participate in question time at committees and address Councillors at most meetings and contribute to investigations by the Overview and Scrutiny Committee.

(d) Complaints

Citizens have the right to complain to:

- The Council itself under its Complaints Scheme;
- The Ombudsman after using the Council's own Complaints Scheme;
- The Monitoring Officer of the Council about a breach of the Councillor's Code of Conduct.

3.02 Citizens' Responsibilities

Citizens must not be violent, abusive or threatening to Councillors or employees and must not wilfully harm things owned by the Council, Councillors or employees.

ARTICLE 4 – THE COUNCIL

4.01 Meanings

(a) Policy Framework

The policy framework means the strategic plan and other plans and strategies as determined by the Council from time to time.

(b) Budget

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

4.02

Functions of the Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework and the budget;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the Executive is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (d) appointing the Leader of the Executive;
- (e) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.05;
- (h) changing the name of the area and conferring the title of honorary alderman or freedom on the borough;
- (i) confirming the appointment of the Head of Paid Service;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Executive; and
- (l) all other matters which, by law, must be reserved to Council.

ARTICLE 5 – CHAIRING THE COUNCIL

Role and Function of the Mayor

The Mayor will be elected by the Council annually and will have the following responsibilities, roles and functions (which in his/her absence will be carried out by the Deputy Mayor):

1. To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary.
2. To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community.
3. To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Executive are able to examine the work of the Executive.

4. To attend such civic and ceremonial functions as the Council as he/she determines appropriate.

ARTICLE 6 – LEADER OF THE COUNCIL

Leader

The Leader may be removed from office by a vote of the Council at any time. If the Council passes a resolution to remove the Leader, then the Council must elect a new Leader –

- (a) at the meeting at which the Leader is removed from office, or
- (b) at a subsequent meeting.

The Leader remains in office until the date of the next Annual Meeting.

The Leader may not be removed from office except in accordance with the provisions of this Constitution or in accordance with Regulations made by the Secretary of State under Section 91D of the Local Government Act 2000.

Deputy Leader

The Council will elect a Deputy Leader. Once appointed the Deputy Leader remains in office until the date of the next Annual Meeting.

ARTICLE 7 – THE EXECUTIVE

7.01 Role

The Executive will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

7.02 Form and Composition

The Executive will consist of the Executive Leader, together with at least two but no more than nine councillors appointed by the Council.

7.03 Leader

The Leader will be elected by the Council at its annual meeting. The Leader will hold office until:

- (a) He/she resigns from the office; or
- (b) He/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) He/she is no longer a councillor; or
- (d) The date of the next following annual meeting, save that the Council may remove him/her from office at any time.

7.04 Other Executive Members

The Leader will appoint other members of the Executive and they shall hold office until:

- (a) They resign from office; or

- (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) or
- (c) They are no longer councillors; or
- (d) The date of the next following annual meeting, save that the Council may remove them from office at any time.

7.05 Portfolios

The Leader may allocate portfolios to individual members of the Executive. Details of portfolios allocated will be reported to the Council.

7.06 Proceedings of the Executive

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

ARTICLE 8 – OVERVIEW AND SCRUTINY COMMITTEE

8.01 Composition

The Council will appoint at the Annual Meeting an Overview and Scrutiny Committee to discharge the functions conferred by section 9F of the Local Government Act 2000. The Committee may appoint such other task and finish groups as it considers appropriate to carry out its responsibilities. These bodies will be collectively known as “overview and scrutiny committees”.

No Executive member may be appointed to the overview and scrutiny committees. The overview and scrutiny committees have no executive powers and must make recommendations to the Executive or full Council if they wish action to be taken.

The scrutiny process is intended to complement and add value to the work of the Executive and should not be a confrontational or divisive process.

8.02 General Role

Within their terms of reference, the overview and scrutiny committees will:

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council’s functions;
- (b) make reports and recommendations to the full Council and/or the Executive and/or any Committee in connection with the discharge of any functions;
- (c) consider any matter affecting the area of Pendle or its inhabitants and undertake reviews aiming to improve the efficient and effective delivery of services to local people;
- (d) in accordance with the procedures for Call-In, exercise the right to Call-in for reconsideration decisions falling within their remit which have been made but not yet implemented by the Executive, or on behalf of the Executive.

8.03 **Specific functions**

(a) Policy Development and Review

The overview and scrutiny committees may:

- (a) assist the Council and the Executive in the development of the budget and policy framework by analysis of policy issues facing the council;
- (b) conduct research, community and other consultation in the analysis of options;
- (c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (d) question members of the Executive and/or committees and senior officers about their views on issues and proposals affecting the area;
- (e) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

Scrutiny

The overview and scrutiny committees may:

- (a) scrutinise decisions made or actions taken by the Executive and/or Committees and/or council officers in connection with the discharge of any of the Council's functions, including matters referred to it under the Councillor Call for Action procedure;
- (b) scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (c) subject to all applicable codes of conduct on Officer/Member protocols, to question members of the Executive; Chair of Committees; and appropriate officers about their decisions;
- (d) make recommendations to the Executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
- (e) With their consent, and subject to all applicable rules of conduct, scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee about their activities and performance to make recommendations to the Executive and/or the Council on matters which affect the Council's area and its inhabitants;
- (f) Scrutinise the activities of bodies funded by the Council.

Finance

To work within the approved budgets of the Council.

Annual Report

To report annually to the Council on its activities and make recommendations for future work programmes and amended working methods if appropriate.

8.04 Proceedings of overview and scrutiny committees

The Overview and Scrutiny Committee and its task and finish groups will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules as set out in Part 4 of this Constitution.

ARTICLE 9 – REGULATORY COMMITTEES

9.01 Taxi Licensing Committee

The Council will appoint a Taxi Licensing Committee to discharge the regulatory functions relating to taxi licensing whose terms of reference shall be as set out in Part 3 of this Constitution.

9.02 Licensing Committee

The Council will appoint a Licensing Committee to discharge functions under the Licensing Act 2003, the Gambling Act 2005 and the Local Government (Miscellaneous Provisions) Act 1982 whose terms of reference shall be as set out in Part 3 of this Constitution.

9.03 Area Committees

The area committees appointed by the Council will discharge the following regulatory functions

- Development management.

9.04 Development Management Committee

The Council will appoint a Development Management Committee to determine planning applications referred from Area Committees because:

- a) the application straddles Area Committee boundaries; or
- b) the Assistant Director Planning, Building Control and Regulatory Services has advised before the vote is taken that the decision that the Area Committee is minded to take would represent:

- (i) a significant departure from policy; or
- (ii) a significant risk of costs.

and the Head of Legal Services (having also contacted the Chair (or in his or her absence the Vice Chair) of the relevant Committee) has confirmed in writing that

he/she agrees with that view no later than 2 working days after the day of the relevant Committee.

9.05 Accounts and Audit Committee

The Council will appoint an Accounts and Audit Committee whose terms of reference shall be as set out in Part 3 of this Constitution.

ARTICLE 10 – STANDARDS

10.01 Duty to Promote and Maintain High Standards of Conduct

The Council will promote and maintain high standards of conduct by members and co-opted members of the Council, as required under the provisions of the Localism Act 2011.

10.02 Code of Conduct

The Council has adopted a Code of Conduct for members and co-opted members of the Council, a copy of which is included in this Constitution.

10.03 Independent Person

- The Council has appointed an Independent Person under the provisions of the Localism Act 2011.
- The Independent Person must be consulted by the Council before it makes a finding as to whether a Councillor has failed to comply with the Code of Conduct or decides on action to be taken in respect of that Councillor.
- The Independent Person may be consulted by the Council in respect of a complaint of a breach of the Code at any stage and they may be consulted by a Councillor or co-opted member of this Council or of a Parish or Town Council within the Borough against whom a complaint has been made.

10.04 Standards Hearings Committee

- The Council will establish a Standards Hearings Committee to hear any cases of alleged breaches of the Code of Conduct referred to it by the Monitoring Officer.
- It is a politically balanced Committee of the Council. The Independent Person is invited to attend all meetings of the Committee.
- The views of the Independent Person must be sought and taken into consideration before the Committee takes any decision on whether the Councillor's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.
- Where the Committee finds that a Councillor has failed to comply with the Code of Conduct, it will publish its findings and may make recommendations to the Full Council, the Councillor's Group Leader or the Monitoring Officer (as appropriate) regarding the action it considers is necessary to be taken in respect of the Councillor to promote and maintain high standards of conduct.

ARTICLE 11 – AREA COMMITTEES

11.01 Form, composition and function

(a) Table of Area Committees

The Council will appoint the following Area Committees being satisfied that to do so will lead to improved service delivery in the context of best value and more efficient, transparent and accountable decision making. The committees will comprise the councillors representing the wards in the area and such non-voting co-optees as the committee will appoint:-

Barrowford and Western Parishes
Colne and District
Nelson, Brierfield and Reedley
West Craven

(b) Delegations

Details of the functions delegated to Area Committees will be set out in Part 3 of this Constitution, showing which are executive and which are non-executive and any limitations on delegation.

11.02 Area Committees – Access to Information

Area Committees will comply with the Access to Information Rules in Part 4 of the Constitution.

Agendas for Area Committee meeting which deal with both functions of the executive and functions which are not the responsibility of the executive will state clearly which items are which.

11.03 Executive Members on Area Committees

A member of the Executive may serve on an Area Committee if otherwise eligible to do so.

ARTICLE 12 - JOINT ARRANGEMENTS

12.01 Arrangements to promote well-being

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

- Enter into arrangements or agreements with any person or body.
- Co-operate with, or facilitate or co-ordinate the activities of, any person or body.
- Exercise on behalf of that person or body any functions of that person or body.

12.02 **Joint arrangements**

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

12.03 **Access to information**

- The Access to Information Rules in Part 4 of this Constitution apply.
- If the joint committee contains members who are not on the Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 apply.

12.04 **Delegation to and from other local authorities**

- The Council may delegate functions to another local authority or, in certain circumstances, the Executive of another local authority and may accept delegation from another local authority.
- The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

12.05 **Contracting out**

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

ARTICLE 13 – OFFICERS

13.01 **Management Structure**

- **General** The Council may engage such employees as it considers necessary to carry out its functions.
- **Chief Executive, Director of Place and Director of Resources** The Council will appoint a Chief Executive to be responsible for the strategic and corporate leadership of the Council and to ensure that resources are used effectively that deliver good value services to the residents of the Borough and that the Council's Strategic Plan is delivered. The Council will also appoint a Director of Place and a Director of Resources. They will support the Council, the Chief Executive and the Corporate Management Team in delivering the Council's strategic agenda, and take responsibility for the overall management of the Council.

- **Head of Paid Service, Monitoring Officer and Director of Resources** The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Head of Legal Services	Monitoring Officer
Director of Resources	Section 151 Officer

Such posts will have the functions described in Article 13.02 to 13.04 below.

- **Structure** The Head of Paid Service will determine and publicise a description of the overall structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

13.02 **Functions of the Head of Paid Service**

- **Discharge of functions by the Council.** The Head of Paid Service will report to the 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.
- **Restrictions** The Head of Paid Service may not be the Monitoring Officer but may hold the post of S151 Officer if a qualified accountant.

13.03 **Functions of the Monitoring Officer**

- **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 members, staff and the public.
- **Ensuring lawfulness and fairness of decision.** After consulting with the Head of Paid Service and S151 Officer, the Monitoring Officer will report to the full Council or the Executive if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- **Conducting investigations.** The Monitoring Officer may conduct investigations into matters which are alleged to be in breach of the Council's Code of Conduct for Members and which having been the subject of written complaints. He/she may then make reports or recommendations in respect of those matters to the Standards Hearings Committee.
- **Proper Officer for access to information.** The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- **Advising whether Executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and corporate management and policy framework issues to all councillors.
- **Corporate complaints procedure.** The Monitoring Officer will act as the corporate complaints officer and will monitor the operation of the Council's

complaints procedures and produce an Annual Report.

- **Restrictions.** The Monitoring Officer cannot be the S151 Officer or the Head of Paid Service.

13.04 **Functions of the Section 151 (S151) Officer**

- **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the S151 Officer will report 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.
- **Administration of financial affairs.** The S151 Officer will have responsibility for the administration of the financial affairs of the Council.
- **Contributing to corporate management.** The S151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- **Providing advice.** The S151 Officer will provide advice on the scope of powers and authority to take decisions of a financial nature, financial impropriety, and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- **Give financial information.** The S151 Officer will provide financial information to the media, members of the public and the community.

13.05 **Duty to provide sufficient resources to the Monitoring Officer and S151 Officer**

The Council will provide the Monitoring Officer and S151 Officer with such officers, accommodation and other resources as are, in their opinion, sufficient to allow their duties to be performed.

13.06 **Conduct**

Employees will comply with the Employee Code of Conduct and the Protocol on Employee/Member Relationships set out in Part 5 of this Constitution.

13.07 **Employment**

The recruitment, selection and dismissal of employees will comply with the Staff Employment Procedure Rules set out in Part 5 of this Constitution.

ARTICLE 14 – DECISION MAKING

14.01 **Responsibility for decision making**

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

14.02 **Principles of decision making**

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

- (a) having regard to all relevant considerations and ignoring all irrelevant

- considerations;
- (b) proportionality (i.e. the action must be proportionate to the desired outcome);
- (c) due consultation and following the taking of professional advice from officers;
- (d) respect for human rights;
- (e) a presumption in favour of openness;
- (f) clarity of aims and desired outcomes;
- (g) with due explanation as to what options were considered and giving clear reasons for the decision

14.03 **Types of decision**

- (a) **Decisions reserved to full Council.** Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.
- (b) **Key decisions.** Key decisions are Executive decisions likely:
 - (i) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates;
 - (ii) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of Pendle.

The Council has adopted the following working definitions of the above:

Expenditure saving is significant where there is:

- (a) a virement of £100,000 or more; or
- (b) a change in service provision that impacts upon the service revenue budget by £100,000 or more; or
- (c) a contract work £100,000 or more; or
- (d) a new or un-programmed capital scheme of £100,000 or more; or
- (e) increased spending on the original budget for a scheme by £100,000 or more; or

Effects on communities living or working two or more wards are significant where there is a material positive or negative impact in environmental physical, social or economic terms.

A key decision may only be made in accordance with the requirements of the Access to Information Rules set out in Part 4 of this Constitution.

All of the above (a) to (e) inclusive, are as defined in the Financial Procedure Rules.

14.04 **Decision making by the full Council**

The Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

14.05 **Decision making by the Executive**

Subject to Article 7 the Executive will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

14.06 **Consideration by the Overview and Scrutiny Committee**

The Overview and Scrutiny Committee will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

14.07 **Decision making by other committees established by the Council**

The Council's committees will follow the Procedure Rules set out in Part 4 of this Constitution.

14.08 **Decision making by Council bodies acting as tribunals**

The Council, a councillor 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 which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

14.09 **Decision making by officers**

The Council will publicise delegated decisions taken by officers on its website www.pendle.gov.uk. However, this will not apply to decisions which are already recorded in another manner or where those decisions are administrative or operational decisions about how officers go about their day to day work.

It will also not apply to spending, contracting or purchasing decisions below the materiality threshold of £10,000.

ARTICLE 15 – FINANCE, CONTRACTS AND LEGAL MATTERS

15.01 **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 this Constitution.

15.02 **Contracts**

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

15.03 **Legal proceedings**

The Head of Legal Services 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 case where he/she considers that such action is necessary to protect the Council's interests.

15.04 **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 Head of Democratic and Legal Services or other person authorised by him/her, unless any enactment otherwise authorises or requires.

Any contract with a value exceeding £100,000 entered into on behalf of the Council shall be made in writing. Such contracts must either be signed by either the Chief Executive, the S151 Officer or the Head of Legal Services or made under the Common Seal of the Council.

15.05 **Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal Services. A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal Services should be sealed. The affixing of the Common Seal will be attested by the Head of Legal Services and, in the case of a document of a civic or ceremonial nature, by the Mayor and other appropriate persons. In the absence of the Head of Legal Services, the affixing of the Common Seal may also be attested by the Chief Executive.

ARTICLE 16 – REVIEW, REVISION, SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

16.01 **Duty to monitor and review the Constitution**

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

16.02 **Changes to the Constitution**

(a) **Approval** Changes to the Constitution will only be approved by the Full Council after consideration of a report on the proposal from the Monitoring Officer.

(b) **Change from present arrangements to another form of Governance.** Before drawing any proposals in this regard the Council must take reasonable steps to consult with local electors and other interested persons in the area and consider all relevant Government advice and directions.

16.03 **Suspension of the Constitution**

(a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The permissibility of suspending any of the Rules in Part 4 of this Constitution is set out in those Rules.

(b) **Procedure to suspend.** A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of councillors is present.

The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

16.04 **Interpretation** The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

16.05 **Publication**

(a) The Monitoring Officer will ensure that a copy of this Constitution is published on the Council's website and available for inspection at Nelson Town Hall.

(b) The Monitoring Officer will give a printed copy of this Constitution to each member of the authority, if required, upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.

SCHEDULE 1: DESCRIPTION OF EXECUTIVE ARRANGEMENTS

The following parts of this Constitution constitute the executive arrangements:

1. Article 7 (the Executive) and the Executive Procedure Rules.
2. Article 8 (Overview and Scrutiny Committee) and the Overview and Scrutiny Procedure Rules.
3. Article 11 (Area Committees)
4. Article 12 (Joint Arrangements)
5. Article 14 (Decision Making) and the Access to Information procedure Rules
6. Part 3 (Responsibility for Functions)

PART 3

RESPONSIBILITY FOR FUNCTIONS

RESPONSIBILITY FOR FUNCTIONS

The distribution of responsibility for various functions of the Council are summarised below:

The detailed terms of reference of the Area Committees, the Accounts and Audit Committee, the Licensing Committee, the Taxi Licensing Committee, the Officer Scheme of Delegation and Appointments of Proper and Statutory Officers are also set out in this Part of the Constitution.

COUNCIL FUNCTIONS

Only the Council can exercise the following functions:

- To adopt and change the Constitution.
- To approve and amend the policy framework including the Strategic Plan.
- To set the council tax to be levied and determine the general fund revenue requirement and the capital programme.
- To appoint and remove the Leader and Deputy Leader.
- To establish Committees and agree their terms of reference and decide on their composition.
- To appoint the Chair of Committees, except in the case of Area Committees.
- To appoint representatives to outside bodies unless the appointment has been delegated by the Council.
- To adopt or amend the Members' Allowances Scheme.
- To change the name of the Borough and confer the title of honorary alderman or freedom of the Borough.
- To confirm the appointment of the Head of Paid Service.
- To deal with matters to do with elections and community governance.
- To approve the annual Pay Policy.
- To make, amend, revoke, re-enact or adopt bylaws and promote or oppose the making of local legislation or personal Bills.
- To deal with any other matters which, by law must be reserved to Council.

TERMS OF REFERENCE OF COMMITTEES

ACCOUNTS AND AUDIT COMMITTEE

Accounts

- To review and approve the annual Statement of Accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Executive.
- To consider the External Auditor's report to those charged with governance on issues arising from the audit of the accounts.

Audit Activity

- To approve the Strategic Internal Audit Plan (and Annual Internal Audit Plan).
- To consider the Annual Audit Report and opinion and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements.
- To consider summaries of specific internal audit reports, as requested and all Limited Assurance Audits.
- To consider a report from Internal Audit on the implementation of recommendations and to act as a forum to ensure the rapid delivery and implementation of audit recommendations once agreed, ensuring that auditors and officers collaborate effectively.
- To consider the External Auditor's Annual Letter, relevant reports and the report to those charged with governance.
- To consider specific reports as agreed with the External Auditor.
- To comment on the scope and depth of external audit work and to ensure that it gives value for money.
- To consider the appointment of the Council's External Auditor.
- To commission work from Internal and External Audit.

Regulatory Framework

- To maintain an overview of the Council's Contract Procedure Rules, Financial Procedure Rules and make recommendations in this respect to the Executive and/or Council.
- To monitor the procedures for the development and operation of risk management and corporate governance and make recommendations to the Council and the Executive.
- To monitor the implementation of the Council's Anti-Fraud, Theft and Corruption Strategy.
- To comment on the Council's Annual Governance Statement and agree the necessary actions to ensure compliance with best practice.
- To scrutinise the Council's Treasury Management Strategy and treasury performance and make recommendations to the Council as appropriate.

Performance

- To maintain an overview of the Council's Performance Management Framework and make recommendations in this respect to the Executive.

Contracts

- To scrutinise any exemptions to Contract Procedure Rules agreed under the Scheme of Delegation.

OVERVIEW AND SCRUTINY COMMITTEE

- To carry out overview and scrutiny functions on behalf of the Council.
- To appoint as required such task and finish groups as it considers appropriate to assist with fulfilling those overview and scrutiny functions.
- To prepare the annual overview and scrutiny work programme within its area of responsibility, adjust/update as necessary and report details as appropriate to the Council.
- To serve as the Council's designated crime and disorder committee.
- To assist the Executive and the Council with the development of the policy framework.
- To assist the Executive and Council with the development of the corporate plan.
- To assist the Executive with the development of the Council's annual budget and to scrutinise the Council's performance in relation to budgetary management.
- To assist the Executive and the Council in the development of a 3 year budget strategy.
- To assist the Executive in the development of a Council wide property and asset strategy.
- To receive reports from the district auditor, and the Council's internal auditor making suggestions for improvement in practice to the Council and/or the Executive as required as a result of those reports.
- To review and report to the Executive on the local authority's performance against the best value performance plan and any other performance measures.
- To review all matters pertaining to the governance of the Council including review of the Constitution, its Executive arrangements, standing orders and other rules.
- To manage the operation of the procedure for the call-in of Executive decisions.
- To manage the work of the scrutiny panels by defining and allocating specific tasks to them.
- To consider matters raised under the Councillor Call for Action procedures (CCfA) in terms of local government matters (as contained in S119 of the Local Government and Public Involvement in Health Act 2007 and S21A of the Local Government Act 2000).
- To consider matters raised under Councillor Call for Action in terms of local crime and disorder issues (as contained in S19 of the Police and Justice Act 2006).

AREA COMMITTEES

The Council will appoint the following area committees being satisfied that to do so will lead to improved service delivery in the context of best value and more efficient, transparent and accountable decision making. The committees will comprise the councillors representing the wards in the area and such non-voting co-optees as the committee will appoint:-

Barrowford and Western Parishes
Nelson, Brierfield and Reedley
Colne and District
West Craven

A. NON-EXECUTIVE FUNCTIONS

Within the overall policy set, and resources allocated by the Council, and subject to the notes below, to deal with the following non-Executive matters within the area covered by the Area Committee –

Planning

1. To deal with applications for planning permission, advertisement consent, listed building consent etc., under the Town and Country Planning Acts and to approve Section 106 Agreements.
2. To consider all enforcement and other action, including legal proceedings, under the Town and Country Planning Acts.
3. To take action, including the institution of legal proceedings, for non-compliance with the Building Regulations.
4. To take action, including the institution of legal proceedings, to secure compliance with notices served in respect of dangerous buildings under the Building Act 1989.
5. To deal with all matters relating to tree preservation and protection of hedgerows, including the making of orders and the institution of legal proceedings.
6. To make revocation, modification, completion and discontinuance orders in cases where no compensation is payable.
7. To deal with all matters relating to designated conservation areas.

N.B.

On a planning matter where the Assistant Director Planning, Building Control and Regulatory Services has advised before the vote is taken that the decision that the area committee is minded to take would represent:

- (a) a significant departure from policy;
- (b) a significant risk of costs; or
- (c) straddles Area Committee boundaries

and the Head of Legal Services (having also contacted the Chair (or in his or her absence the Vice Chair) of the relevant Committee) has confirmed in writing that he/she agrees with that view no later than 2 working days after the day of the relevant Committee, whether it is a decision relating to enforcement action or the determination of a planning application, then the matter will be determined by the Development Management Committee.

Public Rights of Way

8. To approve the making of orders for the creation, diversion and extinguishment of footpaths and bridleways.
9. To take action to protect public footpaths including the removal and licensing of obstructions and the institution of legal proceedings.

Public Spaces Protection Orders

10. To approve the making of Public Spaces Protection Orders under Section 59 of the Anti-Social behaviour, Crime and Policing Act 2014.

B. EXECUTIVE FUNCTIONS

Within the overall policy set, and resources allocated by the Council and subject to the overall direction of the Executive, to deal with the following Executive matters within the area covered by the Area Committee.

General

1. To assist the Overview and Scrutiny Committee in developing policy and scrutinising and reviewing service performances.
2. To advise the Executive in strategic issues relating to area committee services.
3. To advise the Executive on the management by the Pendle Leisure Trust of its facilities in the area.
4. To liaise and co-operate with local voluntary and other organisations.
5. To make appointments to local outside bodies.
6. To liaise with town and parish councils in the area.
7. To allocate and oversee the management of the area committee's budget.

Car Parking and Highways

8. To advise the Executive on the management of public car parks.
9. To advise on the provision of hackney carriage stands.
10. To advise on the making up and adoption of private street works.
11. To advise on street naming and numbering.
12. To advise on local traffic and highway issues and for them to be referred to Lancashire County Council.

Parks, Cemeteries and Outdoor Recreation

13. To advise the Executive on the management of parks and open spaces, including playing fields, pitches, bowling greens, tennis courts etc.

N.B.

Victoria Park is the responsibility of the Nelson, Brierfield and Reedley Committee but the Barrowford and Western Parishes Committee is to be consulted on issues of significance and, in the event of any conflict between the area committees the matter in dispute will be referred to the Executive for resolution.

14. To advise the Executive on the management of children's playgrounds.
15. To advise the Executive on the management of playing fields and pitches.
16. To advise the Executive on the operation of cemeteries.

Miscellaneous

17. To identify problems associated with litter and take appropriate action.
18. To consider matters relating to town centres, including town centre development and town centre premises improvement grants.
19. To monitor grot spots and problem sites and take appropriate action.
20. To advise the Executive on the handling of noise and other nuisance complaints of a local nature.
21. To advise the Executive on the operation of pest control services.
22. To advise the Executive on the enforcement of refuse collection and recycling matters.
23. To liaise within the Community Safety Partnership and its working groups.

Land

24. To oversee the maintenance of cenotaphs and war memorials.

Housing

30. To advise the Executive on unfit and vacant private sector houses, including making recommendations for compulsory purchase orders and other statutory action.
31. To advise the Executive on matters arising from the carrying out of renovation grant work.

LICENSING COMMITTEE

The Council will appoint a Licensing Committee to discharge the regulatory functions relating to taxi licensing and the functions under the Licensing Act 2003, the Gambling Act 2005 and the Local Government (Miscellaneous Provisions) Act 1982 in particular:

- To oversee all functions under the Licensing Act 2003 and the Gambling Act 2005, in particular to keep the Statements of Policy under review, to promote the licensing objectives under the Licensing Act 2003 and to determine applications not delegated to the Planning, Economic Development and Regulatory Services Manager.
- To make recommendations on licence conditions and requirements.
- To oversee all functions relating to street trading and sex establishments.
- To provide a forum for discussion with the licensed trades and appropriate statutory bodies.
- To take all necessary enforcement action including legal proceedings.

The Committee will have the authority to appoint such sub-committees as it considers appropriate.

TAXI LICENSING COMMITTEE

The Taxi Licensing Committee will:

- a) To determine applications for hackney carriage drivers and private hire drivers and operators licenses, which the Assistant Director Planning, Building Control and Regulatory Services Manager refers to the Committee, including interviewing applicants where appropriate.
- b) Interview applicants and determine applications for hackney carriage and private hire, vehicle, driver and operator licences which the Planning, Economic Development and Regulatory Services Manager considers might be refused;
- c) Make recommendations on licence conditions and requirements;
- d) Meet with representatives of the licensed taxi trades to discuss matters of concern.

EMPLOYMENT APPEALS PANEL

To hear and determine appeals against dismissal arising out of the Council's employment procedures.

RESTRUCTURING COMMITTEE

To review and revise the Council's officer structure.

STANDARDS HEARING COMMITTEE

To hear any cases of alleged breaches of the Member Code of Conduct referred to it by the Monitoring Officer; and to make recommendations to Council in respect of a finding of a breach.

SENIOR MANAGEMENT APPOINTMENTS COMMITTEE

- To make recommendations to the Council on the appointment of the officer designated as the Head of Paid Service.
- To make appointments to the posts designated as Monitoring Officer and S151 Officer.
- To make appointments to the posts of Directors.