



# **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 15 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 15 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.

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. This allows 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 protocol 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](mailto: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 of 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 Procedure 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/Employee 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 Procedure 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;
- Attend meetings of the Executive except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- See reports and background papers, except where confidential or exempt information is likely to be disclosed, 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 Members' 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 Council plan and other plans, policies and strategies as determined by the Council from time to time, including:

Council Plan;  
Council Policy on Climate Change;  
Equality, Diversity and Inclusion Scheme;  
Community Engagement Strategy;  
Community Safety Plan;  
Medium Term Financial Plan;  
Treasury Management Statement;  
Procurement and Commissioning Strategy;  
Anti-Bribery, Fraud and Corruption Policy;  
Anti-Money Laundering Policy;  
Plans and strategies which together comprise the Development Plan, including local development schemes and Development Framework documents;  
Statement of Gambling Licensing Policy;  
Economic Growth Strategy;  
Licensing Policy;  
Taxi Licensing Policy;  
Customer/Digital Strategy;  
ICT Strategy;  
Safeguarding Policy;  
Community Cohesion Strategy;  
Complaints Policy;  
Learning & Development Policy;  
Concessionary Rents Policy;  
Gifts & Hospitality Policy;  
Whistleblowing Policy;  
Partnership plans: Community Safety Strategy, Arts & Culture Strategy, Health & Wellbeing Plan.

#### **(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 (apart from minor amendments);
- (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 and removing the Leader;
- (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 of the Borough;
- (i) confirming the appointment and dismissal of the Head of Paid Service; the power to appoint proper officers as required under various statutory enactments.
- (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.

#### 4.03 **Council meetings**

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings

They will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

## **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 their 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, having regard to the advice of the Monitoring Officer.
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 be the conscience of the Council.
5. To attend such civic and ceremonial functions on behalf of the Council as they determine appropriate.

## **ARTICLE 6 – THE EXECUTIVE**

### **6.01 Role**

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

### **6.02 Form and Composition**

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

### **6.03 Leader**

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

- (a) They resign from the office; or
- (b) They are suspended from being a Councillor 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 a Councillor; or
- (d) The date of the next following annual meeting, save that the Council may remove them from office at any time.
- (e) If the Council passes a resolution to remove the Leader, then the Council must elect a new Leader at the meeting at which the Leader is removed from office or at a subsequent meeting.

### **6.04 Deputy Leader**

The Leader will appoint a Deputy Leader who will be a member of the Executive to hold office until the end of the term of office of the Leader (unless the person resigns as Deputy Leader, ceases to be a Councillor, or is disqualified or removed from office by the Leader). The Leader may, if they think fit, remove the Deputy Leader from office, but must then appoint another person in their place. Such decisions will only take effect from the day of receipt by the Proper Officer of such decisions in writing.

#### 6.05 **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.
- (e) Only Councillors may be appointed to the Executive by the Leader as above and there may be no co-optees and no deputies nor substitutes for Executive Members on the Executive.

#### 6.06 **Portfolios**

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

#### 6.07 **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 7 – OVERVIEW AND SCRUTINY COMMITTEE**

#### 7.01 **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.

#### 7.02 **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 Overview & Scrutiny Procedure Rules for Call-In, set out in Part 4 of the Constitution, exercise the right to Call-in for reconsideration of decisions falling within their remit which have been made but not yet implemented by the Executive, or on behalf of the Executive.

### 7.03 **Specific functions**

#### **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 committees 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.

#### **7.04 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 8 – REGULATORY COMMITTEES**

#### **8.01 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.

Members of the Taxi Licensing Committee must undertake appropriate training in relation to making decisions prior to making any decisions in their role

#### **8.02 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.

Members of the Licensing Committee must undertake appropriate training in relation to making decisions prior to making any decisions in their role

#### **8.03 Area Committees**

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

- Development management.
- Members of Area Committees must undertake appropriate training in relation to making decisions in respect of planning applications prior to making any decisions in their role

#### 8.04 **Development Management Committee**

The Council will appoint a Development Management Committee to determine planning applications:

- a) where the application straddles Area Committee boundaries;
- b) where the application is for 60 or more housing units.

They will also determine planning applications which have been referred from Area Committees because the Planning Officer has advised, before the vote is taken, that the decision the Area Committee is minded taking would represent:

- a) a significant departure from policy; or
- b) a significant risk of costs.

and the Head of Legal and Democratic Services or in their absence the Legal Services Manager (having also contacted the Chair (or in their absence the Vice-Chair) of the relevant Committee) has confirmed in writing that they agree with that view no later than 2 working days after the day of the relevant Committee.

#### 8.05 **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 9 – STANDARDS**

#### 9.01 **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.

#### 9.02 **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.

#### 9.03 **Independent Person**

- The Council has appointed 3 Independent Persons under the provisions of the Localism Act 2011.

- An 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.
- An 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.

#### 9.04 **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. An 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 10 – AREA COMMITTEES**

#### 10.01 **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.

#### 10.02 **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 meetings which deal with both functions of the Executive and functions which are not the responsibility of the Executive will state clearly which items are which.

#### 10.03 **Executive Members on Area Committees**

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

### **ARTICLE 11 - JOINT ARRANGEMENTS**

#### 11.01 **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.

#### 11.02 **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.

#### 11.03 **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.

#### 11.04 **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.

#### 11.05 **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 12 – OFFICERS**

#### 12.01 **Management Structure**

- **General** The Council may engage such employees as it considers necessary to carry out its functions.
- **Chief Officers** The Council will engage persons for the following posts, who will be designated chief officers:
- **Chief Executive (Head of Paid Service)**
- **Director of Place**
- **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~~Leadership 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 and Democratic Services	Monitoring Officer
Director of Resources	Section 151 Officer

Such posts will have the functions described in Article 12.02 to 12.04 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.

#### 12.02 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.

#### 12.03 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 they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- **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 have been the subject of written complaints. They 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.

#### 12.04 **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 they consider 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.

#### 12.05 **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.

#### 12.06 **Conduct**

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

#### 12.07 **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 13 – DECISION MAKING**

#### 13.01 **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.

#### 13.02 **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

#### 13.03 **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 worth £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 in 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 Procedure 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.

#### 13.04 **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.

#### 13.05 **Decision making by the Executive**

Subject to Article 6 the Executive will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

#### 13.06 **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.

#### 13.07 **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.

#### 13.08 **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.

#### 13.09 **Decision making by officers**

The Council will publicise delegated decisions taken by officers on its website [www.pendle.gov.uk](http://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 14 – FINANCE, CONTRACTS AND LEGAL MATTERS**

### **14.01 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.

### **14.02 Contracts**

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

### **14.03 Legal proceedings**

The Head of Legal and Democratic 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 they consider that such action is necessary to protect the Council's interests.

### **14.04 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 Legal and Democratic Services or other person authorised by them, 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 and Democratic Services or made under the Common Seal of the Council.

### **14.05 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 and Democratic 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 and Democratic Services should be sealed. The affixing of the Common Seal will be attested by the Head of Legal and Democratic 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 and Democratic Services, the affixing of the Common Seal may also be attested by the Chief Executive.

## **ARTICLE 15 – REVIEW, REVISION, SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

### **15.01 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.

#### 15.02 **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 up 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.

#### 15.03 **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.

15.04 **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.

#### 15.05 **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 them 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 6 (the Executive) and the Executive Procedure Rules.
2. Article 7(Overview and Scrutiny Committee) and the Overview and Scrutiny Procedure Rules.
3. Article 10 (Area Committees)
4. Article 11 (Joint Arrangements)
5. Article 13 (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 Development Management 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 Council 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.
- 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 and dismissal of the Head of Paid Service and statutory officers.
- 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 the Council with the development of the Council 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 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 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 and Democratic Services or in their absence the Legal Services Manager (having also contacted the Chair (or in their absence the Vice-Chair) of the relevant Committee) has confirmed in writing that they agree 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**

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

**REGULATORY COMMITTEES**

**LICENSING COMMITTEE**

The Council will appoint a Licensing Committee to discharge the regulatory functions relating to 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 Assistant Director Planning, Building Control and Regulatory Services.
- 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) Determine applications for hackney carriage drivers and private hire drivers and operators licenses, which the Assistant Director Planning, Building Control and Regulatory Services 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 Assistant Director Planning, Building Control and Regulatory Services 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.

#### **DEVELOPMENT MANAGEMENT COMMITTEE**

The Committee will determine planning applications:

- a) where the application straddles Area Committee boundaries;
- b) where the application is for 60 or more housing units.

They will also determine planning applications which have been referred from Area Committees because the Planning Officer has advised, before the vote is taken, that the decision the Area Committee is minded to take would represent:

- a) a significant departure from policy; or
- b) a significant risk of costs.

Subject to agreement by the Head of Legal and Democratic Services or in their absence the Legal Services Manager.

#### **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.

#### **WORKING GROUPS**

The Council, Executive or Overview and Scrutiny Committees may establish task-and-finish groups or working groups for the purpose of research, consultation, or policy development. Such groups shall have no delegated powers and may only make recommendations to the body that established them or the appropriate decision making body where it is different.

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## **OFFICER SCHEME OF DELEGATION**

### **Introduction**

1. Decisions need to be taken as near to the point of service delivery as possible.
2. Officers need to be empowered but accountable and responsible.
3. All delegated functions shall be deemed to be exercised on behalf of and in the name of the Council.
4. This scheme does not supersede or negate specific delegations that have previously been granted to officers under specific Council or Executive reports and/or policy where that delegation is not specifically included in this scheme.
5. Delegated powers must be exercised in accordance with the Council's Contract Procedure Rules and Financial Regulations, the Constitution, the legislative responsibilities and policies or relevant Council policies and procedures.
6. Officers must have authority to act in line with their levels of responsibility within the organisation.
7. All existing and newly appointed managers and staff must be advised in writing of their personal levels of delegated authority by their service area (this can be by provision of copies of the relevant documentation).
8. Where an officer is going to be absent for a period of time, the relevant line manager may re-allocate responsibility for that officer's functions as necessary to ensure the effective discharge of those functions during the officer's absence.
9. The Corporate Leadership Team must ensure that this scheme is fully implemented, monitored and reviewed and any changes required are reported to the Monitoring Officer.
10. Any reference in this Constitution, and in any separate record of specific delegations, to delegate to an officer at Chief Officer or Deputy Chief Officer level (regardless of post title) includes any Chief Officer or Deputy Chief Officer (as the case may be) who for the time being has responsibility for the department, service area or function in question, whether that officer is employed by the Council or placed at the disposal of the Council by another Council pursuant to an agreement under s113 of the Local Government Act 1972.
11. Any reference in this Constitution, and in any separate record of specific delegations, to delegate to Chief Officers or Deputy Chief Officers as a class (regardless of post titles) includes Chief Officers or Deputy Chief Officers (as the case may be) whether those officers are employed by the Council or are placed at the disposal of the Council by another Council pursuant to an agreement under s113 of the Local Government Act 1972.

### **Statutory Officers and Proper Officers**

The Council is obliged to designate officers to Statutory Posts and designate a Proper Officer in connection with some functions of the Council.

<b>Function</b>	<b>Designated Officer</b>	<b>Named Deputy where Proper Officer is absent or unable to act</b>
Head of Paid Service – s.4 Local Government and Housing Act 1989	Chief Executive	
s.151 Officer – s.151 Local Government Act 1972	S151 Officer	Deputy S151 Officer
Monitoring Officer – s.5 and s.5A Local Government and Housing Act 1989	Monitoring Officer	
Data Protection Officer	Monitoring Officer	
Returning Officer – s.35 (1) Representation of People Act 1983	Chief Executive	Director of Resources
Electoral Registration Officer – s.8 of the Representation of People Act 1983	Returning Officer	
Proper Officer for the purposes of s.89 (1) Local Government Act 1972 in relation to Notice of Casual Vacancy	Chief Executive	Monitoring Officer
Proper Officer for the purposes of s.115 (2) Local Government Act 1972 in relation to money due from Officers	S. 151 Officer	Deputy S. 151 Officer
Proper Officer for the purposes of s.83 (1) to (4) Local Government Act 1972 in relation to witness and receipt of Declaration of Office	Chief Executive	Monitoring Officer
Proper Officer for the purposes of s.84 (1) Local Government Act 1972 in relation to receipt of resignation of an elected Member	Chief Executive	Monitoring Officer
Proper Officer for the purposes of s.225 Local Government Act 1972 in relation to deposit of documents	Chief Executive	Monitoring Officer
Proper Officer for the purposes of s.228 (3) Local Government Act 1972 in relation to accounts for inspection by any Member of the Council	S.151 Officer	Deputy S. 151 Officer
Proper Officer for the purposes of S 146 (1) (a)	S.151 Officer	Deputy S. 151 Officer

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<b>Function</b>	<b>Designated Officer</b>	<b>Named Deputy where Proper Officer is absent or unable to act</b>
and (b) Local Government Act 1972 in relation to declarations and certificates with regard to transfer of securities		
Proper Officer for the purposes of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.	Chief Executive	Monitoring Officer
Proper Officer for the purposes of s.234 Local Government Act 1972 in relation to the Authentication of Documents.	Chief Executive	Monitoring Officer
Proper Officer for the purposes of s.229 (5) Local Government Act 1972 in relation to certification of photographic copies of documents	Monitoring Officer	Deputy Monitoring Officer
Proper Officer for the purposes of s.234 Local Government Act 1972 in relation to authentication of documents	Monitoring Officer	Deputy Monitoring Officer
Proper Officer for the purposes of s.238 Local Government Act 1972 in relation to certification of byelaws	Monitoring Officer	Deputy Monitoring Officer
Proper Officer for the purposes of s.248 Local Government Act 1972 in relation to officer who will keep the Roll of Honorary Freemen	Chief Executive	Monitoring Officer
Proper Officer for the purposes of schedule 12 paragraph 4 (2) (b) Local Government Act 1972 in relation to signing the summons to a Council Meeting	Chief Executive	Monitoring Officer

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<b>Function</b>	<b>Designated Officer</b>	<b>Named Deputy where Proper Officer is absent or unable to act</b>
Proper Officer for the purposes of schedule 12 paragraph 4 (3) Local Government Act 1972 in relation to receipt of notice about address to which summons is to be sent	Chief Executive	Monitoring Officer
Proper Officer for the purposes of s.30 (5) Local Government Act 1974 in relation to giving notice that copies of an Ombudsman's report are available	Chief Executive	Monitoring Officer
Proper Officer for the purposes of s.4.1 Local Government (Miscellaneous Provisions) in relation to certifying copies of evidence of resolutions and minutes of proceedings	Chief Executive	Monitoring Officer
To act as a Proper Officer (Authorising Officer) under the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (as amended by the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012)	Head of Paid Service Head of Legal and Democratic Services Director of Place S.151 Officer	
To act as the Council's Senior Information Risk Officer.	S.151 Officer	Deputy S.151 Officer

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**Specific Functions delegated to the Chief Executive**

1. To exercise the powers and responsibilities of the Head of Paid Service for the purpose of Section 4 of the Local Government & Housing Act 1989. As Head of Paid Service, derives the following directly from Statute:
  - a) The manner in which the discharge by the Council of its different functions is coordinated;
  - b) The number of grades of staff required by the authority for the discharge of its functions and amending the approved establishment and staffing structure provided any changes are consistent with the budget and policy framework;
  - c) The re-organisation of the authority's staff and;
  - d) The appointment, dismissal and proper management of the authority's staff, other than in relation to Statutory Officers
2. As Head of Paid Service:
  - a) To have authority over all other officers (except the Monitoring Officer and the Section 151 Officer when either act in that capacity) and to be able to approve sub delegation of any of their functions in their absence;
  - b) To formulate employment practices and procedures; and
  - c) To deal with routine matters of day-to-day administration, management and control of matters which are necessary for the proper performance of the Chief Executive's terms of appointment.
3. To take all such action as the Chief Executive considers appropriate in any emergency (as defined by the Chief Executive) including power to make or approve any necessary and urgent arrangements within the powers of the Council for the protection of persons or property in any civil or other emergency, where it is not possible for such action to be approved through normal Council procedure. Such action shall be reported to the next meeting of the Executive or full Council (as appropriate) except where a matter of confidentiality arises and such reporting shall not take place until the expiry of the confidentiality aspect.
4. To exercise all the Council's functions in emergency or urgency situations which, in the Chief Executive's opinion, seriously affect the functions of the Council and/or the well-being of the Council's area. Such action will be taken in consultation with the Leader.
5. To exercise all the functions of the Proper Officer of the Council under all legislation in relation to both Executive and non-Executive functions except where that legislation or this Scheme delegates such functions to another named officer.
6. To formulate and co-ordinate professional advice to all parties in the decision-making process and, in particular, to advise on strategic and corporate policy and to ensure that appropriate arrangements are in place to give effect to the strategies, plans and policies of the Council.
7. To sign on behalf of the Council any document necessary to give effect to any decision of the Council in relation to both Executive and non-Executive functions.
8. To act as the authorised representative of the Council in respect of (1) its membership of any limited company to give effect to any decision of the Council in relation to Executive functions or (2) any partnership or (3) any external bodies which are required by statute or the Council.
9. To sign on behalf of the Council any document necessary to give effect to any resolution of the Council, Committees or sub-committees and/or Officers acting under delegated powers.
10. To act as Proper Officer of the Council, except where legislation or this Constitution names another officer or the Council has specifically determined otherwise.

11. To settle employee and industrial relations matters, including issues involving the application or rates of pay, conditions of service or other staffing benefits etc.
12. To determine and issue to officers policies, procedures and general guidelines for the management of human resources in the areas of recruitment and planning; training and development; employee relations; health, safety and welfare (including occupational health); pay and performance, equality of opportunity and other staff related matters.
13. To affix the Council's seal to any document.
14. To determine approved duties in respect of the Members' Allowances scheme.
15. To make appointments to Committees in accordance with s.16 of the Local Government and Housing Act 1989.
16. To exercise any delegated function in the absence of the named designated officer or nominate another.
17. To discharge any function of the Council not otherwise delegated to Chief Officers, or other named officers.
18. To sign a contract under hand which is in excess of £100,000 in value and to execute any contract to which the Common Seal of the Council is to be affixed.
19. To review allocation of functions amongst members of the Corporate Leadership Team and amend designations of Directors and other Chief Officers.
20. Precautionary suspension of staff.
21. To act as the Returning Officer and undertake all functions relating to elections and electoral registration.
22. Under the Data Protection Act 2018 and Freedom of Information Act 2000, and guided by the Access to Information Procedure Rules, to decide appeals as to whether applications by Councillors for access to material should be refused.
23. To authorise Closure Orders up to 48 hours under Sections 76-93 of the Anti-social Behaviour, Crime and Policing Act 2014.
24. Limits, controls and conditions
  - a) After consultation with the relevant Group Leader to authorise any amendments or changes to the appointment of Councillors and substitute Councillors to Committees or outside bodies.
  - b) After consultation with the Director of Resources (S.151 Officer) to approve supplementary estimates up to and including £10,000 (up to an overall limit of £50,000 in any one year) and to report details of all such approvals to the Executive on a quarterly basis.

### Delegations to all Corporate Leadership Team

1. To act in all matters within area of responsibility and to undertake the proper day- to-day management and control of the service area and the functions administered by that service, including staffing matters in accordance with the Constitution, Council's policies and procedures.
2. To delegate, designate and authorise particular officers as for the purposes of any statutory provisions, including, where necessary or convenient, and having regard to any professional or technical requirements required, an officer who is not an employee of the Council.
3. To exercise the Council's statutory powers to enter land and premises for the purposes of inspection, survey, carrying out of any works, investigation of any matter, the taking of samples or for any other purpose for which the Council is so authorised and to give such notices as may be required.
4. To take any emergency action for the safety of the public or the protection of the property of the Council and where there is the likelihood of significant harm or damage arising, in consultation with the Chief Executive.
5. To prepare and submit responses to national and local consultation exercises in consultation with the relevant Portfolio Holder.
6. To receive petitions relating to their functions and responsibilities, provided that the matter is reported to the next appropriate Council or Executive meeting.
7. In accordance with the Contract Procedure Rules procure goods and services and sign contracts.
8. Statutory Notices - to make any determination and issue any decision under statutory provisions, issue and withdraw any statutory notices or make any order relating to matters that fall within their functions and responsibilities.
9. Statutory Notices - to carry out works in default of compliance with statutory notices and orders.
10. Enforcement - to take any enforcement action including but not limited to, the issue of cautions, the issue of fixed penalty notices (but not including prosecution proceedings) in relation to matters that fall within their functions and responsibilities.
11. Significant Proceedings and Litigation – to issue any prosecutions or recovery action in relation to matters that fall within their functions and responsibilities in consultation with the Head of Legal and Democratic Services.
12. Seizure of goods – where the legislation provides, to seize or effect the forfeiture of goods, assets and other products that fall within their functions and responsibilities.
13. In the absence of the Chief Executive, the functions of the Chief Executive and the Head of Paid Service will be the responsibility of the Director, Assistant Director or Head of Service authorised for that purpose by the Chief Executive.
14. In the absence of an Assistant Director or Head of Service (referred also as service managers), any Head of Service may discharge a delegation in that absence.

15. To take any action in respect of lost or uncollected property found on any Council owned or managed buildings or premises under the powers contained in Section 41 of the Local Government (Miscellaneous Provisions) Act 1982.
16. To make minor or consequential amendments to approved Policy where there has been a change in the legislation requiring an amendment, in consultation with the relevant Portfolio Holder or Chair of relevant Committee and the Head of Legal and Democratic Services.
17. To deal with any matter relating to staff including appointment, disciplinary action including dismissal and organisational restructuring other than any matter which is expressly reserved to Council or Chief Officer Employment Panel, provided that they are in accordance with approved personnel policies, procedures and within the approved budgetary framework in consultation with the Director of Resources.
18. To sign a contract under hand which is in excess of £10,000 but less than £100,000 in value.
19. To negotiate non statutory fees that generate a net income of up to £1,000 where it would otherwise be forgone, in consultation with the Portfolio Holder.
20. To negotiate non statutory fees that generate a net income of over £1,000 where it would otherwise be forgone, in consultation with s151 Officer and Portfolio Holder.
21. To develop and promote partnership working to sustain and improve the vitality and viability of the Borough, in consultation with the Portfolio Holder.
22. To negotiate with contractors who have been awarded contracts or leases post award.
23. To draw up and issue Service Level Agreements associated with partnership working, external grants, income generation, sponsorship and other mutually agreed working arrangements.
24. To sign information sharing agreements with external partners and agencies, in consultation with the Data Protection Officer.
25. To make Grant awards.

#### **Delegations to the Director of Place**

1. To do all such things as are necessary in relation to all routine matters of day to day administration and management of the Council.
2. To authorise any action necessary to protect the safety or welfare of individuals or the safety of property.
3. To do all things as are necessary in relation to all routine matters of day to day administration and management of any Service Area, in particular things necessary to implement Service Plans.
4. To take necessary action to implement the Council's Council Plan.
5. To make appointment to posts on the budgeted establishment in consultation with the Chief Executive.
6. To approve alterations to staffing establishments within approved budgets.

7. To pay compensation up to £1,000 in cases of apparent maladministration (S92 Local Government Act 2000).
8. To deal with all relevant matters relating to health and safety and emergency planning.
9. To approve the letting and usage of Committee and other rooms in the Town Hall to outside organisations.
10. To authorise surveillance etc., operations in accordance with the Regulation of Investigatory Powers Act 2000.
11. To make representations or to apply for reviews in respect of the Licensing Act 2003 on behalf of the Council as Responsible Body under S104 of the Licensing Act 2004.
12. To issue Community Protection Warnings and serve Community Protection Notices under S43 of the Anti-social Behaviour, Crime and Policing Act 2014 in response to behaviour that is having a detrimental impact on the amenity of others and is unreasonable.
13. These powers delegated to the Director of Place may be exercised by any officer of the Council for the time being authorised, in writing by them, to exercise the powers referred to in the said written authorisation.

#### **Delegations to the Director of Resources**

1. To manage internal capital provisions and reserves and to supervise the investment and borrowing of Council monies, in accordance with the approved Treasury Management Strategy, in consultation with the Chief Executive. To make arrangements for the provision and operation of any treasury management, banking and insurance services including the authorisation of any transaction or other financial instrument, provision of indemnities, agreement of terms for the raising, repayment or cancellation of loans, investments and leases.
2. To carry out audits of the Council's accounting records and control systems.
3. To settle insurance claims in consultation with the Chief Executive, Director of Place and Head of Legal and Democratic Services.
4. To authorise surveillance etc., operations in accordance with the Regulation and Investigatory Powers Act 2000.
5. To determine and approve the Council Tax base.
6. To make arrangements for the collection of Business Rates and Council Tax including any prosecution and enforcement and the determination of any discretionary reliefs.
- 7 [To act as the Money Laundering Reporting Officer.](#)
87. To administer the local Council Tax Support Scheme, including the determination of any discretionary elements within approved policy.
98. To take any action to recover debts due to the Council and to write-off any outstanding sums owed to the Council up to £10,000 in respect of each debt, or to an unlimited amount in respect of any debt where the debtor is bankrupt or in liquidation.

109. To approve the use of the Council's coat of arms (including those of predecessor Councils) and the use and display of civic regalia.

119. To take necessary action in furtherance of the Council's twinning activities in consultation with the Mayor, Chair of Pendle Twinning Association, Group Leaders and Chief Executive.

124. To approve the flying of flags on civic and other occasions.

132. To issue Community Protection Warnings and serve Community Protection Notices under S43 of the Anti-social Behaviour, Crime and Policing Act 2014 in response to behaviour that is having a detrimental impact on the amenity of others and is unreasonable.

143. To serve Closure Notices under S76 to 93 of the Anti-social Behaviour, Crime and Policing Act 2014.

154. To approve exemptions to Contract Procedure Rules up to the value of £100,000.

165. To sign a contract under hand which is in excess of £100,000 in value and to execute any contract to which the Common Seal of the Council is to be affixed.

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17. To act as the Council's Corporate Property Officer.

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186. To agree terms and enter into leases at Market Rent of land and buildings and to negotiate and agree all new and ongoing terms relating to such agreements.

197. Disposal of land and building – to agree terms and sell any land or buildings of the Council at Market Value up to a value of £100,000 which are declared surplus to requirements in accordance with criteria and procedures agreed from time to time by the Executive.

2048. Acquisition of land - to agree terms and acquire the freehold or leasehold of any land and buildings where the estimated Market Value of the freehold up to £100,000 or annual rent does not exceed £10,000.

2149. To settle all compensation payments in connection with the compulsory acquisition of land.

229. To grant grazing licences

23. To act as the Council's Senior Information Risk Officer (SIRO)

244. These powers delegated to the Director of Resources may be exercised by any –officer of the Council for the time being authorised, in writing by them, to exercise the powers referred to in the said written authorisation.

#### **Delegations to the Head of Legal and Democratic Services**

1. To act as Registrar of local land charges and to process local search forms.
2. To instigate legal proceedings in any civil or criminal court or any tribunal, including prosecution for breach of any Act, byelaw, the requirements of any notice, order, regulation or direction; to defend the Council in any legal proceedings or appeal; and to make applications for orders in

consultation with Chief Executive/Director of Place/Director of Resources/Assistant Directors/Service Manager.

3. To apply for injunctions under S187B or S214A of the Town and Country Planning Act 1990 in consultation with Chief Executive/Director of Place/Director of Resources/Assistant Directors/Service Manager.
4. To select and instruct Counsel in consultation with Chief Executive/Director of Place/Director of Resources/Assistant Directors/Service Manager.
5. To issue statutory notices, directions and orders other than Planning Enforcement Notices, Planning Contravention Notices, Breach of Condition Notices and Stop Notices at the request of the Chief Executive/Director of Place/Director of Resources/Assistant Directors/Service Manager where appropriate.
6. To enter into contracts for works or services at the request of the Chief Executive, Director of Place or Director of Resources.
7. To attest the affixing of the Common Seal to documents sealed on behalf of the Council.
8. To take any legal action required to protect the Council's land interests in consultation with the Chief Executive, Director of Place and Director of Resources.
9. To require information as to interests in land (S16 Local Government (Miscellaneous Provisions) Act 1976) in consultation with Chief Executive/Director of Place/Director of Resources/Assistant Directors/Service Manager.
10. To make public path orders or concurrent orders under S26, S118 or S119 of the Highways Act 1980 to create, extinguish or divert a public footpath or bridleway where:
  - (a) Relevant local rights of way user groups, other local Councils, ward Councillors, statutory undertakers, landowners and owners of neighbouring properties have been consulted on the proposals and no objections have been received.
  - (b) The proposals satisfy the legislative criteria and the local criteria for an order or orders to be made.
  - (c) The applicant (if one exists) has agreed to pay the full administrative cost for making the necessary public path order or orders.
11. To confirm a public path order made under the powers set out in this Schedule if no objections are received or if any objections received are subsequently withdrawn.
12. To authorise officers in the Legal Section to represent the Council in proceedings in the Magistrates Court under S223 of the Local Government Act 1972.
13. To administer cautions to defendants in criminal proceedings.
14. To give consents under covenants, leases etc.
15. To be the Council's Senior Responsible Officer under the Regulation of Investigatory Powers Act 2000.

16. To sign a contract under hand which is in excess of £100,000 in value and to execute any contract to which the Common Seal of the Council is to be affixed.
17. To issue Community Protection Warnings; serve Community Protection Notices; sign Public Spaces Protection Orders; sign Closure Orders up to 24 hours; authorise Civil Injunction proceedings; and authorise applications for Criminal Behaviour Orders under the Anti-social Behaviour, Crime and Policing Act 2014.
18. To grant dispensations in relation to disclosable pecuniary interests to members of Pendle Borough Council and to members of Town and Parish Councils in the Borough of Pendle on receipt of a written request from any member falling within one of these categories, in accordance with the Protocol adopted by the Council.
19. To be the Council's lead officer on Town and Parish devolution matters
20. These powers delegated to the Head of Legal and Democratic Services (other than the function regarding the Regulation of Investigatory Powers Act 2000 in paragraph 15) may be exercised by any officer of the Council for the time being authorised, in writing by them, to exercise the powers referred to in the said written authorisation.

#### **Delegations to the Assistant Director Operational Services**

##### **Waste Services Delegations**

1. To produce and maintain the local civic continuity and emergency plans in consultation with the Director of Place/Chief Executive.
2. To issue fixed penalty notices in relation to:
  - a) dropping of litter, fly tipping and duty of care offences under the Environment Protection Act 1990,
  - b) dog fouling on land and breaches of Public Space Protection Orders under the Anti-social Behaviour, Crime and Policing Act 2014,
  - c) unlawful advertisements under the Town and Country Planning Act 1990
  - d) abandoned vehicles under the Refuse Disposal (Amenity) Act 1978
  - e) breach of Community Protection Notices under the Anti-social Behaviour, Crime and Policing Act 2014
3. To serve notices under S215 of the Town and Country Planning Act 1990 and to authorise officers to enter land for any purpose in connection with the issue of such notices and to carry out works in default.
4. To serve notices and take consequential action, including carrying out work in default.
5. To issue formal cautions.
6. To recommend to the Head of Legal and Democratic Services that legal proceedings be taken.
7. To exercise statutory powers of investigation and entry (including obtaining warrants) under the following legislation, which includes any statutory re-enactment of such legislation and all regulations made under such legislation:

Notices under S215 of the Town and Country Planning Act 1990.  
Public Health Act 1936  
Environmental Protection Act 1990

Environment Act 1995  
Clean Neighbourhoods and Environment Act 2005  
Prevention of Damage by Pests Act 1954  
The Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016  
Refuse Disposal Amenity Act 1978

8. To act as lead officer on behalf of the Council in respect of health and safety matters.
9. To deal with all matters relating to highway verge and tree maintenance in consultation with the Director of Place and relevant County Council Departments.

#### **Anti-social Behaviour Delegations**

10. To issue fixed penalty notices in relation to dropping of litter under the Environment Protection Act 1990, PSPOs and dog fouling on land under the Anti-social Behaviour, Crime and Policing Act 2014.
11. To issue fixed penalty notices pursuant to breach of Community Protection Notices under S43 of the Anti-social Behaviour Act 2003.
12. To:-
  - (a) Serve notices and take consequential action, including carrying out work in default.
  - (b) To issue formal cautions.
  - (c) To recommend to the Head of Legal and Democratic Services that legal proceedings be taken.
  - (d) To exercise statutory powers of investigation and entry (including obtaining warrants).

Public Health Act 1936  
Environmental Protection Act 1990  
Control of Dogs Order 1992  
Dogs (Fouling of Land) Act 1996  
Clean Neighbourhoods and Environment Act 2005  
Prevention of Damage by Pests Act 1954

#### **Parks and Cemeteries Delegation**

13. To manage the Council's cemeteries including the issue of grave plots.

#### **Outdoor Recreation Delegations**

14. To manage the Council's sports pitches, including hirings.
15. To authorise surveillance etc., operations in accordance with the Regulation of Investigatory Powers Act 2000.

#### **Traffic and Highways Delegations**

16. To serve notices and take other action to maintain and protect the public highway including footpaths and bridleways; and to authorise obstructions under the Highways Acts.

17. To take necessary actions to protect access to the countryside.
18. These powers delegated to the Assistant Director Operational Services may be exercised by any officer of the Council for the time being authorised, in writing by them, to exercise the powers referred to in the said written authorisation.

## **Delegations to the Head of Housing and Environmental Health**

### **Housing Regeneration Delegations**

1. To approve all private sector housing grants.
2. To determine applications for financial assistance with regard to loans and grants.
3. To determine the amount of monies to be repaid by grant applicants on breach of grant conditions.
4. To determine areas to be submitted to the Secretary of State for Selective Licensing under the Housing Act 2004.
5. To determine and administer management orders on private rented housing in the Borough.
6. To serve notices relating to housing conditions and the taking of consequential action, including carrying out work in default.
7. To determine and administer the licensing system in respect of houses in multiple occupation.
8. To determine and administer selective licensing of private sector housing in designated areas of the Borough.
9. To deal with all matters under the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) Order 2014.
10. To determine and administer empty dwelling management orders and deal with all administrative issues regarding enforced sales of properties, including the registration of charges at HM Land Registry prior to enforcing sales to recover outstanding debts for the cost of works carried out by the Council in default.
11. To sign Home Improvement Agency Agreements on behalf of the Council and to consent to variations as work under such Agreements proceeds.
12. To take action in connection with overcrowding in dwellings.
13. To design and manage block improvement schemes, including Facelifting Schemes, Group Repair Schemes, Gateway Schemes, Environmental Schemes and Healthy Home Improvement Schemes.
14. To serve all contractual notices and certificates in relation to building and civil engineering contracts.

15. In respect of any functions carried out within the Service Area to serve notices under S16 of the Local Government (Miscellaneous Provisions) Act 1976.

16. To take such action in connection with powers under the Supported Housing (Regulatory Oversight) Act 2023 and associated regulations

#### **Homelessness Delegations**

17. To administer and determine applications for assistance under the Bond Guarantee Scheme.

18. To determine the Council's legal duty towards households who are homeless or at risk of homelessness.

19. To determine the level of financial support to be offered to households who are homeless or at risk of homelessness and which would have their homelessness prevented/alleviated by help from the Cheque Upfront Scheme, the Homelessness Prevention Budget or Petty Cash.

#### **Environmental Health Delegations**

20. To issue permits under the PPC Regulations.

21. To issue licences, registrations, consents and notices under the European Communities Act 1972, the Food Safety Act 1990 (and any Regulations made under those Acts) the Food Safety & Hygiene (England) Regulations 2013 and EC Regulations 178/2002, 852/2004, 853/2004, 854/2004, 882/2004 and 2073/2005.

22. To issue licences under Caravan Sites and Control of Development Act 1960. These are only considered after a planning consent has been granted.

23. To issue licences and registration relating to acupuncture, tattooing, ear-piercing and electrolysis under the Local Government (Miscellaneous Provisions) Act 1982.

24. To issue consent for the operation of a loudspeaker under the Noise and Statutory Nuisance Act 1993.

25. To discharge enforcement functions under Part 1 of the Health and Safety at Work Act 1974.

26. To issue Community Protection Warnings and serve Community Protection Notices under S43 of the Anti-social Behaviour, Crime and Policing Act 2014 in response to behaviour that is having a detrimental impact on the amenity of others and is unreasonable.

27. To determine the Council's response to consultations by the Environment Agency in relation to Disposal Site Licences under the Control of Pollution Act 1974.

28. To determine whether land is "contaminated land" as defined in S78A of the Environmental Protection Act 1990.

29. In respect of any functions carried out within the Service Area to serve notices under S16 of the Local Government (Miscellaneous Provisions) Act 1976.

30. To serve notices under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 and to take all consequential action, including carrying out work in default and serving fixed penalty notices.

31. To serve notices under S215 of the Town and Country Planning Act 1990 and to authorise officers to enter land for any purpose in connection with the issue of such notices and to carry out works in default

32. Subject to paragraph 33 below to:

- (a) Decide applications for authorisations, registration, consents, licences or certificates of approval.
- (b) Serve notices and take consequential action, including carrying out work in default.
- (c) Issue simple cautions.
- (d) Recommend to the Head of Legal and Democratic Services that legal proceedings be taken.
- (e) Exercise statutory powers of investigation and entry (including obtaining warrants).
- (f) Issue Hygiene Emergency Prohibition Notices and Remedial Actions Notices under the Food Safety and Hygiene (England) Regulations 2013 and orders under the following legislation which includes any statutory re-enactment of such legislation and all regulations made under such legislation:

Public Health Acts 1936 and 1961  
Prevention of Damage by Pests Act 1949  
Shops Act 1950  
Pet Animals Act 1951  
Caravan Sites and Control of Development Act 1960  
Home Safety Act 1961  
Factories Act 1961  
Animal Boarding Establishments Act 1963  
Office, Shops and Railway Premises Act 1963  
Riding Establishments Act 1963  
Defective Premises Act 1972  
Breeding of Dogs Acts 1973 and 1991  
Health and Safety at Work etc., Act 1974  
Control of Pollution Act 1974  
Housing Financial Provisions Act 1975  
Dangerous Wild Animals Act 1976  
Local Government (Miscellaneous Provisions) Acts 1976 and 1982  
Protection from Eviction Act 1977  
Agriculture (Miscellaneous Provisions) Acts 1986 and 1972  
Mobile Homes Act 1983  
Building Act 1984  
Food Act 1984 (Residual Parts)  
The County of Lancashire Act 1984  
Housing Acts 1985, 1988 and 2004  
Landlord and Tenant Act 1985  
Local Government and Housing Act 1989

The Environment Acts 1990, 1995, 2005 and 2011  
Food Safety Act 1990\*  
(\*Authorisations for Food Safety matters should be read in conjunction with the individual officers Competency Framework Assessment.)  
Environmental Protection Act 1990  
Water Industry Act 1991  
Water Resources Act 1991  
The Private Water Supply Regulations 2009  
Land Drainage Act 1991  
Water Consolidation (Consequential provisions) Act 1991  
Clean Air Act 1993  
Noise and Statutory Nuisance Act 1993  
Radioactive Substances Act 1993  
Sunday Trading Act 1994  
Criminal Justice and Public Order Act 1994  
Caravan Sites Act 1968  
Housing Grants Construction and Regeneration Act 1996  
Dogs (Protection of Livestock) Act 1953  
Animals Act 1971  
Guard Dogs Act 1975  
Dangerous Dogs Act 1991  
Protection of Animals Act 1911  
Products of Animal Origin (Third Country Imports) (England) (No. 3) Regulations 2004  
PPC Act 1999 and the Environmental Permitting Regulations 2007  
Noise Act 1996  
The Regulatory Reform Order (Housing Assistance) 2003  
Anti-social Behaviour Act 2003  
Public Health (Control of Disease) Act 1984  
The Control of Pollution (Amendment) Act 1989  
Clean Neighbourhoods & Environment Act 2005  
The Health Acts 2006 and 2009  
Mobile Homes Act 2013  
European Communities Act 1972  
EC Regulations 178/2002, 852/2004, 853/2004, 854/2004, 882/2004 and 2073/2005  
Food Safety Act (Amendment) Regulations 2004  
Food Safety and Hygiene (England) Regulations 2013  
Food Information Regulations 2014  
The Sunbeds (Regulation) Act 2010  
The Smoke and Carbon Monoxide Alarm (England) Regulations 2015  
The Redress Scheme for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014  
Private Water Supply Regulations 2016 and 2017  
The Private Water Supplies (England) (Amendment) Regulations 2018  
Housing and Planning Act 2016  
The Electrical Safety Standards in The Private Rented Sector (England) Regulations 2020  
Police and Criminal Evidence Act (PACE) 1984  
Animal Welfare Act 2006  
The Animal Welfare (Licensing of Activities involving Animals) (England) Regulations 2018  
The Environmental Permitting (England and Wales) Regulations 2016  
Minimum Energy Efficiency Standards Regulations 2015  
Environment Act 2021  
Renters Rights Act 2025

and the following categories of officer may exercise any of the powers in this paragraph on behalf of the Head of Service:-

Residential Team Leader  
 Commercial Team Leader  
 Scientific Officer  
 Housing Enforcement Officers  
 Environmental Health Officers  
 Technical Officers  
 Contaminated Land Officer

33. All powers under the following legislation:-

The Food Act 1984 (Residual Parts)  
 The Food and Environment Protection Act 1985  
 The Food Safety and Hygiene (England) Regulations 2013  
 The Food Safety Act 1990  
 The Food Safety (Amendment) Regulations 2004  
 The Food Information Regulations 2014

And any legislation amending those pieces of legislation and any regulations made thereunder may only be exercised by the following officers:-

<b>Officer</b>	<b>Extent of Authority</b>
Commercial Team Leader	To approve the making of emergency orders under the Food and Environment Protection Act 1985.
Lead Officer within the meaning of the Food Law Code of Practice (England) 2015	The full range of official controls under the legislation listed in Paragraph 31 above.
Three Senior Authorised Officers within the meaning of the Food Law Code of Practice (England) 2015	The full range of official controls under the legislation listed in Paragraph 31 above.
Authorised Officer within the meaning of the Food Law Code of Practice (England) 2015	To inspect establishments with an intervention rating of C-E and to use all powers under the legislation in Paragraph 30 above but not the following: Undertaking inspections of food to determine fitness; Seizing and detaining food; Undertaking food standards work; Undertaking Import Controls functions; Service of Remedial Action Notices; Service of Hygiene Emergency Prohibition Notices.
Regulatory Support Officer within the meaning of the Food Law Code of Practice (England) 2015	Unofficial controls only.

#### **Delegations to the Head of Property & Engineering**

1. To deal with all administrative matters relating to private street works.
2. To deal with all administrative matters relating to cycling and cycleways.

3. To deal with all administrative matters relating to public realm highway improvements.
4. To deal with all administrative matters relating to sett paving stone and flagging works and verge hardening schemes.
5. To administer traffic management schemes in consultation with County Council.
6. To deal with all administrative matters relating to street naming in consultation with County Council.
7. To serve notices and take other action to maintain and protect the public highway including footpaths and bridleways; and to authorise obstructions under the Highways Acts.
8. To carry out flood defence works on ordinary watercourses.
9. To serve notices and take consequential action, including carrying out of work in default, under the Land Drainage Act 1991.
10. These powers delegated to the Head of Property and Engineering may be exercised by any officer of the Council for the time being authorised, in writing by them, to exercise the powers referred to in the said written authorisation.

#### **Delegations to the Assistant Director Planning, Building Control and Regulatory Services**

##### **Planning and Building Control Delegations**

1. To determine all applications under the Planning Acts including, but not exclusively, the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Hazardous Substances Act 1990, the Town and Country (Tree Preservation Order) Regulations, the Town and Country Planning General Development Order and the Town and Country Planning (Control of Advertisements) Regulations in consultation with the Chair of the area committee in which the application is situated. Not where an application is one where:-
  - The [application decision](#) is made or deemed to be made by the Council;
  - The decision could give rise to claim for compensation or a purchase notice;
  - The application is made by a Councillor or officer of the Council;
  - An Environmental Impact Assessment is required;
  - It is intended to overrule the objections or support from 3 or more separate addresses made within the statutory neighbour consultation period;
  - Residential development for more than 0.5 hectares or 10 or more dwellings (excluding reserved matters and variation of conditions);
  - Non-residential development for 1000 sq. m. or more where the site is 1 hectare or more (excluding reserved matters and variation of conditions);
  - A Councillor, within 21 days of notification via the weekly list of the submission of the application, requests that it be determined by the Area Committee;
  - The application is called in to the Committee by the Chair of the Area Committee in which the application site is situated.
2. To determine whether to accept planning applications under the Planning Acts when the Acts indicate the Council can decline to entertain them.
3. To determine whether it is expedient to issue Planning Enforcement Notices, Planning Contravention Notices, Breach of Condition Notices and Stop Notices in consultation with Ward Councillors in whose area the site lies and the Chair of the Area Committee. Not where a

Councillor requests that the decision be determined by the Area Committee. Chair and Ward Councillors to be informed prior to service of Notices.

4. To serve Temporary Stop Notices when it is expedient to take immediate enforcement action.
5. To give an opinion whether a proposed development would be affected by the Environmental Impact Regulations.
6. To serve requisitions for information and planning contravention notices.
7. To remove or obliterate illegally placed placards or posters.
8. To operate the building regulations systems, including the issue of all notices, certificates etc.
9. To deal with dangerous buildings.
10. To deal with complaints to the Council under Part 8 of the Anti-social Behaviour Act 2003 (High Hedges) and Regulations made thereunder, including the issue and withdrawal, waiver or relaxation of the requirements of Remedial Notices.
11. To authorise on their behalf the Council's Planning Officers to enter onto any land for the purpose of carrying out their duties.
12. To authorise the Building Control Manager to issue Building Control decisions.
13. To deal with any matters under the Health Act 2006.
14. To issue Community Protection Warnings and Notices under Section 43 of the Anti-social Behaviour, Crime and Policing Act 2014 in consultation with Ward Councillors in whose area the site lies and the Chair of the Area Committee. Not where a Councillor requests that the decision be determined by the Area Committee. Chair and Ward Councillors to be informed prior to service of Notices.
15. To carry out the Council's responsibilities under Part 4 Chapter 3 of the Localism Act in relation to Assets of Community Value.
16. To make and confirm tree preservation orders under the Town and Country Planning Act 1990 and the Town and Country Planning (Trees) Regulations 2012

#### Licensing Delegations

17. To issue, renew, suspend or revoke hackney carriage and private hire, vehicle, driver and operator licences. The Taxi Licensing Manager is authorised Authority is given to refuse applications where appropriate. -B before exercising this power, the officer shall consult the Chairman of the Taxi Licensing Committee. Where the matter relates to unlawful plying for hire or failure to proceed with reasonable speed to a rank any suspension of a driver's licence shall be for a period of 4 weeks. Where it is in the interest of public safety to do so and, following consultation with the Chair of the Taxi Licensing Committee, to revoke or suspend a driver's licence prior to the driver attending Committee. To issue, renew, suspend or revoke hackney carriage and private hire, vehicle, driver and operator licences and where the decision relates to the age limit of a vehicle, in consultation with the Chair of the Taxi Licensing Committee. Where the matter relates to unlawful plying for hire or failure to proceed with reasonable speed to a rank any suspension of a driver's licence shall be for a period of 4 weeks. Where it is in the interest of public safety to do so and, following consultation with the Chair of the Taxi Licensing

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~~Committee, to revoke or suspend a driver's licence prior to the driver attending Committee. Where the decision relates to the age limit of a vehicle, following consultation with the Chair of the Taxi Licensing Committee.~~

18. To award penalty points under the Council's Penalty Points Scheme relating to hackney carriages and private hire vehicles.
19. To deal with applications for house to house street collection permits.
20. To deal with the following matters concerning liquor licensing under the Licensing Act 2003:-
  - (a) Applications for personal licences if no representations made.
  - (b) Applications for premises licences/club premises certificates if no representations made.
  - (c) Applications for provisional statements if no representations made.
  - (d) Applications to vary premises licences or club certificates if no representations made.
  - (e) Applications to vary the designated personal licence holder in all cases except where the police have made representations.
  - (f) Requests to be removed as a designated personal licence holder in all cases except where the police have made representations.
  - (g) Application for the transfer of premises licences in all cases except where the police have made representations.
  - (h) Applications for interim authorities.
  - (i) To decide whether a complaint is irrelevant, frivolous or vexatious.

Applications for Temporary Event Notices or late Temporary Event Notices

  - (j) To decide whether to object when the Council is a consultee.
  - (k) To deal with minor variations to premises licences and club premises certificates under Sections 41A to 41C and Sections 86A to 86C of the Licensing Act 2003.
  - (l) To agree to adjournments of any hearing being held under the Licensing Act 2003.
  - (m) To extend any time limit provided for in the Licensing Act 2003 (Hearings) Regulations 2005 where it is considered to be necessary in the public interest to do so.
21. To grant Street Trading Consents under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 in cases where the applications are made in accordance with the Council's Street Trading policy and no adverse representations are made by Councillors in respect of the application concerned.
22. To deal with all matters under the Gambling Act 2005 and in particular to grant or refuse applications Family Entertainment Centre Gaming Machine Permits under S247 of that Act.
23. To deal with all administrative and enforcement matters relating to Street Trading under the Local Government (Miscellaneous Provisions) Act 1982.

24. To decide whether to suspend premises licences under Sections 55A and 92A of the Licensing Act 2003 due to non-payment of fees.

25. To deal with the following matters under the Scrap Metal Dealers Act 2013:-

- To licence, renew or vary a licence of a Scrap Metal Dealer.
- To serve Notice of a proposal to refuse or cancel a licence of a Scrap Metal Dealer.
- To serve Notice of a proposal to vary a licence of a Scrap Metal Dealer under S4 of the Scrap Metal Dealers Act 2013.
- To determine applications for licences for Scrap Metal Dealers in circumstances where it is the intention to refuse or cancel a licence under S4 of the Act and where the applicant has not served notice requiring the opportunity to make representations in respect of the proposal to refuse or cancel a licence, or to impose conditions on a licence.
- To register motor salvage operators.
- To decide applications for authorisations, registration, consents, licences or certificates of approval.
- To serve notices and take consequential action, including carrying out work in default.
- To exercise statutory powers of investigation and entry (including obtaining warrants).

Under the following legislation, which includes any statutory re-enactment of such legislation and all regulations made under such legislation:-

Scrap Metal Dealers Act 2013  
Local Government Miscellaneous Provisions Acts 1976 and 1982  
Vehicle (Crime) Act 2001

26. To issue licences and registrations under the Animal Welfare Act 2006 and Animal Licensing Regulations 2018.

27. To register second-hand dealers under the County of Lancashire Act 1984.

28. Pavement Licensing applications considered and issued under Business and Planning Act 2020.

29. Pavement Licences under Part 7A of the Highways Act 1980.

30. To register motor salvage operators.

31. To authorise officers in the Legal Section to give evidence at Licensing Committee hearings and in Court proceedings on behalf of the Council where it is acting as Responsible Authority.

#### **Anti-social Behaviour Delegations**

32. To serve notices under S215 of the Town and Country Planning Act 1990 and to authorise officers to enter land for any purpose in connection with the issue of such notices and to carry out works in default.

33. These powers delegated to the Assistant Director of Planning, Building Control and Regulatory Services may be exercised by any officer of the Council for the time being authorised, in writing by them, to exercise the powers referred to in the said written authorisation.

#### **Delegations to the Assistant Director HR & Organisational Change**

1. [Manage and deliver the Council's HR service and associated operational functions.](#)





**PART 4**

**RULES OF PROCEDURE**

## **RULES OF PROCEDURE AT FULL COUNCIL**

1. ANNUAL MEETING OF THE COUNCIL
2. ORDINARY MEETINGS
3. EXTRAORDINARY MEETINGS
4. TIME AND PLACE OF MEETINGS
5. NOTICE OF AND SUMMONS TO MEETINGS
6. CHAIRING THE MEETING
7. QUORUM
8. DURATION OF MEETING
9. PRESENTATION OF PETITIONS
10. QUESTIONS FROM THE PUBLIC
11. QUESTIONS BY MEMBERS
12. MOTIONS ON NOTICE
13. EMERGENCY MOTIONS
14. MOTIONS WITHOUT NOTICE
15. RULES OF DEBATE
16. STATE OF THE BOROUGH DEBATE
17. PREVIOUS DECISIONS AND MOTIONS
18. VOTING
19. MINUTES
20. RECORD OF ATTENDANCE
21. EXCLUSION OF PUBLIC
22. MEMBERS' CONDUCT
23. DISTURBANCE BY PUBLIC
24. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

## **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.

The annual meeting will:

- (a) elect a person to preside if the Mayor and Deputy Mayor are absent, with such a person not being a member of the Executive;
- (b) receive apologies for absence;
- (c) receive any declarations of interest from Councillors;
- (d) elect the Mayor and Deputy Mayor;
- (e) approve the minutes of the last meeting;
- (f) receive any announcements or communications from the Mayor and/or the Chief Executive;
- (g) elect the Leader;
- (h) note the Deputy Leader and other Members of the Executive as appointed by the Leader of the Council (only when the Members of the Executive's terms of office have expired or where there is a vacancy amongst the members of the Executive);
- (i) report regarding the discharge of Executive functions for the year ahead;
- (j) appoint committees and to appoint Chairs and Vice-Chairs of committees for the municipal year, in accordance with 1.2 below;
- (k) approve the calendar of meetings for the municipal year;
- (l) make appointments to outside bodies except where a body is delegated by the Council; and
- (m) consider any other business set out in the notice convening the meeting.

### **1.2 Selection of Councillors on committees, other meetings and outside bodies**

At the annual meeting, the Council will –

- (a) decide which committees to establish for the municipal year, including the size of those committees;
- (b) decide the allocation of seats to political groups in accordance with the political balance rules;
- (c) appoint Councillors to serve on each committee, including the Chair and Vice-Chair and substitute Councillors who may exercise the powers set out in Rule 6 of these rules;
- (d) appoint to those committees and outside bodies, except when appointments to these bodies have been delegated by the Council or are exercisable by the Executive.

Before the Annual Meeting of the Council and at any other time that a review of the allocation of seats is required, the Chief Executive shall consult Group leaders on the membership of committees and report to the Annual or next following meeting of the Council. Such consultations and report shall determine the allocation to the different political groups and recommend such appointments to give effect to the wishes of the political groups.

A political group shall contain a minimum of two Councillors in order to be recognised for proportionality. The group leaders will notify the Chief Executive, in writing, of the membership of each group.

### **1.3 Dissolution of committees and sub-committees**

Any committee or sub-Committee may be dissolved by the Council at any time save that the Council must have at least one Overview and Scrutiny Committee.

## **2. ORDINARY MEETINGS**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting. Ordinary meetings will:

- (a) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (b) receive apologies for absence;
- (c) receive any declarations of interest from Councillors;
- (d) approve the minutes of the last meeting;
- (e) receive any announcements or communications from the Mayor, the Leader or the Chief Executive;
- (f) receive any petitions;
- (g) receive questions from the public for reply by the Leader under Rule 10;
- (h) receive questions on notice from Members for reply under Rule 11;
- (i) receive reports from the Leader and individual Portfolio Holders and receive questions and provide answers on any of those reports;
- (j) receive reports from the Council's committees and receive questions and provide answers on any of those reports;
- (k) consider notices of motion submitted in accordance with Rule 12 in the order in which they are recorded as having been received;
- (l) consider any other business specified in the summons to the meeting;
- (m) receive any reports that the Chief Executive, Monitoring Officer or Section 151 Officer consider appropriate;
- (n) deal with any business required by statute to be done;
- (o) dispose of business (if any) remaining from the last meeting;
- (p) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (q) debate issues on the state of the Borough if called under Rule 16.

## **3. EXTRAORDINARY MEETINGS**

### **3.1 Calling extraordinary meetings**

The Chief Executive may call an Extraordinary Meeting of the Council. In addition, those listed below may request the Chief Executive to call Council meetings in addition to Ordinary meetings:

- (a) the Council by resolution;
- (b) the Mayor;
- (c) the Leader
- (d) the Monitoring Officer; and
- (e) any eight members of the Council if they have signed a requisition presented to the Mayor and they have refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

### **3.2 Business**

The business to be transacted at an Extraordinary Meeting shall be limited to that contained in the request to call the meeting.

#### **4. TIME AND PLACE OF MEETINGS**

The time and place of meetings will be determined by the Council and notified in the summons sent by the Chief Executive.

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

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear working days before a meeting, the Chief Executive will send a summons signed by them (by an appropriate method) via a Pendle email address to every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.

#### **6. CHAIRING THE MEETING**

The person presiding at the meeting may exercise any power or duty of the Mayor or Chair. Any power or duty of the Mayor or Chair in relation to the conduct of the meeting may be exercised by the Deputy Mayor or Vice-Chair, or in the absence of the Deputy Mayor or Vice-Chair, the person elected to preside at the meeting. Where these rules apply to committee and sub-committee meetings, references to the Chair also include the Chairs of committees and sub-committees.

#### **7. QUORUM**

The quorum of a meeting will be one quarter of the whole number of members entitled to attend. During any meeting if the Mayor counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

#### **8. DURATION OF MEETING**

Unless the majority of members present vote for the meeting to continue with all or any of the remaining business, any meeting that lasts up to 10.00pm will adjourn immediately. Remaining business will be considered at a date and time fixed by the Mayor. If the Mayor does not fix a date, the remaining business will be considered at the next ordinary meeting.

#### **9. PRESENTATION OF PETITIONS**

A member of the public may present a petition on any matter relevant to the Borough on giving notice to the Chief Executive at least seven clear working days before the meeting. The presentation of the petition is governed by the petitions protocol and shall take place as soon as practicable after the start of the meeting. The person presenting the petition may speak for up to five minutes in support of the petition.

#### **10. QUESTIONS FROM THE PUBLIC**

#### 10.1 **General**

Members of the public may ask questions of the Mayor, Leader of the Council, Executive Member or Chair of a committee at Ordinary meetings of the Council during a period of up to 30 minutes set aside for this purpose.

#### 10.2 **Order of questions**

Questions will be asked in the order notice of them was received, except that the Mayor/Leader may group together similar questions.

#### 10.3 **Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive no later than noon three clear working days before the day of the meeting.

#### 10.4 **Number of questions**

At any one meeting no person may submit more than one question and no more than one question may be asked on behalf of one organisation.

#### 10.5 **Scope of questions**

Each question must provide the following information:

- Name and address and contact details of the person asking the question;
- The name of an organisation if the question is being asked on their behalf, along with contact details;
- Details of the question to be asked;
- The name or position of the member of the Council to whom the question is directed to.

The Monitoring Officer may reject a question if it:

- is not about a matter for which the local authority has a responsibility or which the Council has powers or duties or which affect the Borough;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months unless there has been a material change of circumstances;
- relates to any existing or proposed application, permission, licence, consent, benefit, grant or enforcement action; or
- requires the disclosure of confidential or exempt information.

#### 10.6 **Record of questions**

The Chief Executive will immediately send a copy of the question to the Councillor to whom it is to be put. Rejected questions will include reasons for rejection and the questioner will be so informed.

Copies of all questions will be circulated to all Members and will be made available to the public attending the meeting.

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

The Mayor will invite the questioner to put the question and these will be asked in the order they were received. The questioner must read out the question in person and this must be put strictly in the form in which was submitted. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the question on their behalf. The Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

#### 10.8 **Supplementary question**

A questioner who has put a question in person may also put one supplementary question without notice to the person who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in Rule 10.5 above or if the time limit in Rule 10.1 has expired.

#### 10.9 **Written answers**

Any question which cannot be dealt with during public question time will be dealt with by a written answer.

#### 10.10 **Reference of questions to the Executive or a committee**

Unless the Mayor decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Executive or the appropriate committee. Once seconded, such a motion will be voted on without discussion.

#### 10.11 **Public Questions**

Public questions will be limited to 30 minutes in total; each questioner will be allocated not more than 5 minutes, 3 minutes for the original question and 2 minutes for one supplementary question. The response to any question will not exceed 3 minutes for the initial question and 2 minutes for the supplementary question.

### 11. **QUESTIONS BY MEMBERS**

#### 11.1 **On reports of the Executive or committees**

A member of the Council may ask the Leader, Executive Member or Member of a committee any question without notice upon an item relevant to their responsibilities. The Leader, Executive Member or member of a committee shall each have no more than **10 minutes** to respond to such questions and any supplementary questions that may be asked.

#### 11.2 **Questions on notice**

Subject to Rule 11.3, a member of the Council may ask:

- \* the Mayor;
  - \* the Leader;
  - \* an Executive Member;
  - \* the Chair of any committee; or
  - \* any Member appointed to a joint committee or external organisation
- a question on any matter in relation to which the Council has powers or duties or which affects the Borough and which is not otherwise before the meeting. The question shall be put without discussion.

### 11.3 Questions on Notice at committees and sub-committees

Subject to Rule 11.4 below, a Councillor who is a member of a committee or sub-committee may ask a question on any matter in relation to which the Council has powers or duties or which affect and which fall within the terms of reference of that committee or sub-committee

The scope of the questions will be the same as in Rule 10.5 (Scope of Questions).

### 11.4 Notice of questions

A Member may only ask a question under Rule 11.2 if:

- (a) they have given notice at least three clear working days' notice in writing or by electronic mail of the question to the Chief Executive; or
- (b) the question relates to urgent matters; they have the consent of the Mayor and the content of the question is given to the Chief Executive by noon on the day of the meeting.

### 11.5 Response

An answer to a question under Rule 11.1, 11.2 and 11.3 may take the form of:

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

There shall be no discussion on the answer.

### 11.6 Supplementary questions

Any Member may ask one supplementary question without notice to the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply and shall be put without discussion. The number of such supplemental questions which may be asked shall be at the discretion of the Mayor. The responding Member shall answer once all the supplemental questions have been asked.

## 12. MOTIONS ON NOTICE

### 12.1 Notice

Except for motions which can be moved without notice under Rule 14, written notice of every motion, signed by the Member(s) giving it, must be delivered to the Chief Executive and the Monitoring Officer by electronic mail not later than 5 p.m. six clear working days before the date of the meeting. These will be entered in a record open to for public inspection on the Council's website. The submitted motions shall be subject to the satisfaction of the Monitoring Officer.

#### **12.2 Motion set out in the agenda**

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

#### **12.3 Scope**

Motions must be about matters for which the Council has a responsibility or which directly affect the Pendle area and should not concern a matter that has been before Council within the preceding six months unless there has been a material change of circumstances. The motions should not seek to amend the agreed revenue for the Council.

#### **12.4 Advance Notice of the Budget Proposals at the Budget Council Meeting**

- (a) At a Special Budget Council meeting no revenue budget proposal which is not apparent from the agenda and reports for the meeting, may be moved by way of motion or amendment, unless written notice of it, signed by the Member(s) giving it, has been delivered to the Chief Executive not later than 5.00 p.m. five clear working days before the date of the meeting.
- (b) The Chief Executive shall list such motions or amendments in the order in which they were received and shall circulate them to all Members as soon as practicable.
- (c) Where the Mayor considers there are exceptional circumstances he may put to the meeting that this Rule of Procedure be suspended and the matter shall be decided by a simple majority of those Members voting and present in the room at the time the question is put.

#### **13. EMERGENCY MOTIONS**

The Mayor should seek the advice of the Monitoring Officer before accepting an emergency motion.

#### **14. MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- (a) to appoint a Chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to receive reports, or to adopt or otherwise recommendations of the Executive or committees, or to accept or otherwise recommendations contained in a report submitted by an officer;
- (d) to withdraw a motion;
- (e) to proceed to the next business;
- (f) that the question be now put;

- (g) to adjourn a debate;
- (h) to adjourn a meeting;
- (i) that the meeting continue beyond 10.00 p.m.;
- (j) to suspend a particular Council procedure rule;
- (k) to exclude the public and press in accordance with the Access to Information Rules;
- (l) to not hear further a Member named under Rule 22.3 or to exclude them from the meeting under Rule 22.4; and
- (m) to give the consent of the Council where its consent is required by this Constitution.

## **15. RULES OF DEBATE**

### **15.1 No speeches until motion seconded**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

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

When seconding a motion or amendment, a Member may not reserve their speech until later in the debate.

### **15.3 Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. Other than a speech by the Leader on the work of the Executive or by a person who presided at a meeting in reply to questions asked of them under Rule 11.1 no speech may exceed 5 minutes without the consent of the Mayor.

### **15.4 When a Member may speak again**

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

- (a) to speak once on an amendment moved by another Member;
- (b) to move a further amendment if the motion has been amended since they last spoke;
- (c) if their first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

### **15.5 Amendments to motions**

- (a) An amendment to a motion must be relevant to the motion and must either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words.

as long as the effect of (ii) to (iv) is not to negate the motion.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed, although the Mayor may permit two or more amendments to be discussed (but not voted upon) together if they think this will facilitate the proper conduct of business.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) 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.
- (e) After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### 15.6 Alteration of motion

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

#### 15.7 Withdrawal of motion

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

#### 15.8 Right of reply

- (a) Either the mover or the seconder of a motion may reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment but may not otherwise speak on it.
- (c) The mover of the amendment shall have the right of reply before the mover of the original motion replies at the end of the debate on the amendment.

#### 15.9 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) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a Member named under Rule 22.3 or to exclude them from the meeting under Rule 22.4.

#### 15.10 Closure motions

- (a) A Member may move, without comment, 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.
- (b) If a motion to proceed to the next business is seconded and the Mayor thinks the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed they will give the mover of the original motion a right of reply before putting their motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### 15.11 Point of order

A Member 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 Member must at the outset state the rule or law they consider has been broken before explaining the point of order. A Member may not, upon raising a point of order, express differences of opinion with, or contradict a speaker on the question before the meeting. The ruling of the Mayor on the matter will be final.

#### 15.12 Personal explanation

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. A Member may not, upon a personal explanation, otherwise comment upon or answer the speech of another member to seek to clarify or add to their former speech. The ruling of the Mayor on the admissibility of a personal explanation will be final and not open to discussion.

#### 15.13 Disclosable Pecuniary Interests

If a Member has a disclosable pecuniary interest in a matter to be considered, or being considered, at the meeting, and they are aware of this fact, they must not participate, or participate further, in the discussion of the matter at the meeting or participate in any vote on the matter at the meeting. They must also leave the room while the discussion and vote take place on the matter concerned.

Members' attention is also drawn to the requirements of the Council's Code of Conduct relating to the disclosure of Other Registrable Interests and Non-Registrable Interests.

## **16. STATE OF THE BOROUGH DEBATE**

### **16.1 Calling of debate**

A political group leader may call a state of the Borough debate in a form and to be held at a point in the meeting to be agreed with the Mayor and other political group leaders.

### **16.2 Form of debate**

The form of the debate will have the aim of enabling the widest possible public involvement and publicity.

### **16.3 Chairing of debate**

The debate will be chaired by the Mayor.

### **16.4 Results of debate**

The results of the debate will be disseminated as widely as possible within the community and to agencies and organisations in the area.

## **17. PREVIOUS DECISIONS AND VOTING**

### **17.1 Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of the Council within the past six months cannot be moved.

### **17.2 Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved.

## **18. VOTING**

### **18.1 Majority**

Unless this Constitution or the law provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question is put.

### **18.2 Mayor's casting vote**

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

### **18.3 Show of hands**

Unless a ballot or recorded vote is demanded under Rule 18.4 or 18.5, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### **18.4 Recorded vote**

18.4.1 If two 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.

18.4.2 Immediately after any vote is taken at a budget decision meeting of the Council there will be recorded in the minutes of the proceedings of that meeting, the names of the Members who cast a vote for the decision for or against the decision or who abstained from voting.

### **18.5 Right to require individual vote to be recorded**

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

### **18 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.

## **19. MINUTES**

### **19.1 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 question on the minutes that can be discussed is their accuracy.

### **19.2 No requirement to sign the 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.

### **19.3 Form of minutes**

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

## **20. RECORD OF ATTENDANCE**

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

## **21. EXCLUSION OF THE 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 23 (Disturbance by Public).

## **22. MEMBERS' CONDUCT**

### **22.1 Standing to speak**

When a Member speaks they must stand and address the meeting through the Mayor. If more than one Member stands, the Mayor will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

### **22.2 Mayor standing**

When the Mayor stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

### **22.3 Member not to be heard further**

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

### **22.4 Member to leave the meeting**

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

### **22.5 General disturbance**

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

## **23. DISTURBANCE BY PUBLIC**

### **23.1 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.

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**23.2 Clearance of part of meeting room**

If there is a general disturbance in any part of the meeting room open to the public, the Mayor may call for that part to be cleared and may adjourn the meeting for so long as they think necessary.

**24. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

**24.1 Suspension**

All of these Council Rules of Procedure except Rule 18.5 and 19 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.

**24.2 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.

1. SCOPE
2. BUSINESS
3. TIME AND PLACE OF MEETINGS
4. NOTICE OF AND AGENDA FOR MEETINGS
5. CHAIRING MEETINGS
6. QUORUM
7. DURATION OF MEETINGS
8. PRESENTATION OF PETITIONS
9. PUBLIC RIGHT TO SPEAK AT MEETINGS
10. CONDUCT OF MEETINGS
11. DISCLOSABLE PECUNIARY INTERESTS
12. VOTING
13. MINUTES
14. RECORD OF ATTENDANCE
15. CHANGE OF POLITICAL GROUP REPRESENTATION
16. RIGHT OF MEMBERS TO ATTEND AND SPEAK
17. CO-OPTION
18. DISTURBANCE BY PUBLIC
19. RESTRICTION ON APPOINTMENT OF SUB-COMMITTEES

**RULES OF PROCEDURE AT COMMITTEE MEETINGS**

## **1. SCOPE**

- 1.1 These rules apply to meetings of committees, subject to any provision to the contrary in this Constitution or in law.
- 1.2 The spirit of the rules shall apply to meetings of ad hoc panels, working groups etc., as far as practicable.

## **2. BUSINESS**

- 2.1 The order of business at a meeting shall be to:-
  - (a) elect a person to preside if the Chair and Vice-Chair are not present;
  - (b) receive any declarations of interests from Members;
  - (c) for a maximum of 15 minutes receive questions from members of the public on matters not on the agenda for the meeting, and where possible reply to those questions;
  - (d) approve the minutes of the last meeting;
  - (e) consider other business listed on the agenda for the meeting, and any other business which the Chair considers should be dealt with as a matter of urgency pursuant to S100B(4) of the Local Government Act 1972.
- 2.2 The order of business may be varied at the discretion of the Chair.

## **3. TIME AND PLACE OF MEETINGS**

- 3.1 Meetings will ordinarily start at 6.30 p.m.
- 3.2 Meetings will be held at such venues as the committee may determine.
- 3.3 That meetings of the Development Management Committee be normally held at Nelson Town Hall but that where there is a major application (such as for 65 houses or more) in a locality in the Borough, then the Development Management Committee should be held for that meeting at an appropriate venue within that locality.

## **4. NOTICE AND AGENDA FOR MEETINGS**

- 4.1 The Democratic Services Manager will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules.
- 4.2 The Democratic Services Manager will send a copy of the agenda and accompanying reports to each member of the committee, and a copy of the agenda to other members of the Council in either paper form or electronically.

## **5. CHAIRING MEETINGS**

- 5.1 The Chair of committees shall be appointed by the Council.

5.2 An Area Committee shall appoint a Chair from the members of the Council on the Committee. Where a political group has more than half of the members of an Area Committee, that Committee shall appoint the nominees of that group as Chair and Vice-Chair. Where no political group has more than half of the members of an Area Committee, that Committee may appoint any members of the Committee as Chair and Vice-Chair.

5.3 The committees may appoint a Vice-Chair from amongst the members of the Council on the committee.

5.4 In the absence of the Chair and Vice-Chair, a committee shall appoint a person to preside from the members of the Council on the committee.

## **6. QUORUM**

6.1 The quorum of a meeting of a committee shall be one third of the voting membership.

6.2 During any meeting if there is not a quorum present, then the meeting will adjourn immediately and remaining business will be considered at the next ordinary meeting.

## **7. DURATION OF MEETINGS**

7.1 Unless the majority of Members present for the meeting vote to continue with all or any of the remaining business, any meeting that has lasted beyond 10.00 p.m. will adjourn upon conclusion of the item then under consideration. Remaining business will be considered at the next ordinary meeting.

## **8. PRESENTATION OF PETITIONS**

8.1 A member of the public may present a petition on any matter relevant to the Borough, or an area of the Borough, at a meeting of an appropriate committee.

8.2 The presentation of the petition shall take place at an appropriate point in the meeting to be determined by the Chair. The person presenting the petition may speak for up to five minutes in support of the petition.

8.3 Unless receipt of the petition has been included on the agenda, or the petition relates to an item on the agenda, it shall stand referred without discussion to the next meeting of the committee.

8.4 Where a petition is sent to a Council office, it shall be forwarded to the Democratic Services Manager who shall arrange for it to be reported to the next meeting of the appropriate committee.

8.5 The Democratic Services Manager shall maintain a record of all petitions presented or received.

## **9. PUBLIC RIGHT TO SPEAK AT MEETINGS**

9.1 A member of the public may on giving notice address a committee on any matter on the agenda for a meeting, except where the public and press have been excluded from the meeting during consideration of the matter.

- 9.2 They shall normally be heard immediately prior to the discussion of the matter, at the discretion of the Chair.
- 9.3 Their speech shall be limited to five minutes and this may be further curtailed by the Chair if the number of persons wishing to speak is so large as to impede the conduct of business at the meeting. They may not speak again on the same matter, other than to answer any questions from members of the committee.
- 9.4 Notice of a wish to speak shall be given verbally or in writing by 12:00 noon on the day of the meeting to Committee Services and shall specify the matter in question. On non-planning matters, the Chair at their discretion may allow a member of public to speak without having given such notice.
- 9.5 A record of all persons exercising the right to speak shall be included in the minutes of the meeting.
- 9.6 Appropriate information on the public right to speak shall be included on public notices for meetings.

## **10. CONDUCT OF MEETINGS**

- 10.1 The conduct of meetings shall as far as practicable be based on the spirit of the Rules of Procedure at Full Council.
- 10.2 All motions and amendments which have been moved and seconded shall be put to the vote unless withdrawn by the mover.
- 10.3 Subject to Rules 10.1 and 10.2 above, the ruling of the Chair shall be final.

## **11. DISCLOSABLE PECUNIARY INTERESTS**

- 11.1 If a Member has a disclosable pecuniary interest in a matter to be considered, or being considered, at the meeting, and they are aware of this fact, they must not participate, or participate further, in the discussion of the matter at the meeting or participate in any vote on the matter at the meeting. They must also leave the room while the discussion and vote take place on the matter concerned.

Members' attention is also drawn to the requirements of the Council's Code of Conduct relating to the disclosure of Other Registrable Interests and Non-Registrable Interests.

## **12. VOTING**

- 12.1 Any matter will be decided by a simple majority of those Members present and voting.
- 12.2 Voting shall be by show of hands.
- 12.3 The Chair will have a second or casting vote.
- 12.4 Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

12.5 A member may only vote on a planning application, either at an Area Committee meeting or Development Management Committee meeting, if they have attended the meeting throughout the entire debate on the item.

### **13. MINUTES**

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

### **14. RECORD OF ATTENDANCE**

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

### **15. CHANGE OF POLITICAL GROUP REPRESENTATION**

Where a committee is subject to the rules on political balance and a political group wishes to change its representation on that committee, notice in writing to that effect shall be given to the Democratic Services Manager prior to the start of the meeting at which the change of representation is to become effective.

### **16. RIGHT OF MEMBERS TO SPEAK**

16.1 A member of the Council may attend meetings of committees of which they are not a member and may speak on any matter.

16.2 A member wishing to speak on a planning item must attend the entirety of the item concerned

16.32 A member of the Council attending a meeting of a committee of which they are not a member shall not be excluded from the meeting when members of the public and press are excluded pursuant to Section 100A of the Local Government Act 1972.

16.43 The right to attend a meeting shall not apply to:

- (a) A committee dealing with the appointment of an officer, or any grading, disciplinary or grievance matter;
- (b) The Licensing Committee when dealing with hearings in respect of individual applications for licences or consents;
- (c) A Hearings Panel when dealing with the hearing of a complaint referred to it including any procedural or other matter associated with that complaint, where a member of the Council may attend, but not speak;
- (d) Employment Appeals Panels.

### **17. CO-OPTION**

17.1 An Area Committee may co-opt in a non-voting capacity any person who is resident in the Borough and who is not disqualified from membership of a local authority and who is:-

- (a) A member or officer of a town or parish council or parish meeting within the area of the Area Committee; or
- (b) A member of a tenant customer panel in the area of the Area Committee; or
- (c) A member of a chamber of trade or similar organisation representing business and commercial interests in the area of the Area Committee; or
- (d) A member of any other organisation recognised by the Council for this purpose.

17.2 An Area Committee may appoint as a substitute for a co-optee any person who fulfils the criteria above.

17.3 An Area Committee may at any time revoke a co-option or substitute co-option.

#### **18. DISTURBANCE BY PUBLIC**

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

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

#### **19. RESTRICTION ON APPOINTMENT OF SUB-COMMITTEES**

Other than the Executive, a committee may not appoint a sub-committee without the prior approval of the Council.

## **ACCESS TO INFORMATION PROCEDURE RULES**

1. SCOPE
2. ADDITIONAL RIGHTS TO INFORMATION
3. RIGHTS TO ATTEND MEETINGS
4. NOTICES OF MEETING
5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING
6. SUPPLY OF COPIES
7. ACCESS TO INFORMATION AFTER THE MEETING
8. BACKGROUND PAPERS
9. SUMMARY OF PUBLIC'S RIGHTS
10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS
11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS
12. RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS
13. APPLICATION OF RULES OF THE EXECUTIVE
14. PROCEDURE BEFORE TAKING KEY DECISIONS
15. THE FORWARD PLAN
16. GENERAL EXCEPTION
17. SPECIAL URGENCY
18. REPORT TO COUNCIL
19. RECORD OF DECISIONS
20. OVERVIEW AND SCRUTINY COMMITTEE ACCESS TO DOCUMENTS
21. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1. SCOPE**

Rules 1-10 and 12 apply to all meetings of the Council and committees (together called meetings).

Rule 11 applies to meetings of the Hearings Panel convened to consider alleged breaches of the Council's Code of Conduct for Members.

### **2. ADDITIONAL RIGHTS TO INFORMATION**

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or in the law nor do these rules limit or diminish the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 2018.

### **3. RIGHTS TO ATTEND MEETINGS**

Members of the public may attend all meetings subject only to the exceptions in these rules. [The Council has adopted a Protocol for Recording of Council Meetings at Part 5 of this Constitution.](#)

### **4. NOTICES OF MEETINGS**

The Council will give at least five clear working days' notice of any meeting by posting details of the meeting on the Council's website at [www.pendle.gov.uk](http://www.pendle.gov.uk).

### **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

The Council will make copies of the agenda and reports open to the public available for inspection on the Council's website at [www.pendle.gov.uk](http://www.pendle.gov.uk) at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda, together with any accompanying reports and uploaded onto the website.

### **6. SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection; and
- (b) any further statements or particulars necessary to indicate the nature of the items on the agenda;

to any person on payment of a charge for postage and any other costs.

## **7. ACCESS TO INFORMATION AFTER THE MEETING**

The Council will make available copies of the following for six years after a meeting:

- (a) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (b) the agenda for the meeting; and
- (c) reports relating to items when the meeting was open to the public.

Minutes are kept in perpetuity.

## **8. BACKGROUND PAPERS**

### **8.1 List of background papers**

The Democratic Services Manager will arrange for the setting out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their 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 not including published works or those which disclose exempt or confidential information (as defined in Rule 10).

### **8.2 Public inspection of background papers**

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

## **9. SUMMARY OF PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept and available to the public at Nelson Town Hall.

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **10.1 Extent of Exclusion**

The public may only be excluded under Rule 10.2 or 10.3 for the part or parts of the meeting during which it is likely that confidential or exempt information would be divulged.

### **10.2 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.

### 10.3 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.

### 10.4 Meaning of confidential information

Confidential information means information given to the Council by a Government Service or Agency on terms which forbid its public disclosure or information which cannot be publicly disclosed by any enactment or Court Order.

### 10.5 Meaning of exempt information

Exempt information means information falling within the categories set out below.

[NOTE: Information falling within any of paragraphs 1 – 7 is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.]

	Category	Qualification	Interpretation
1.	Information relating to any individual.	The exemption applies only if and so long as in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in not doing so.	
2.	Information which is likely to reveal the identity of an individual.	The Public Interest Test Qualification applies as in 1 above.	
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information).	The Public Interest Test Qualification applies as in 1 above. 'Financial or business affairs' includes contemplated as well as past or current activities. Information falling within this paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under – (a) the Companies Act 1985; (b) the Friendly Societies Act 1974;	Any reference to 'the authority' is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.

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		<p>(c) the Friendly Societies Act 1992;</p> <p>(d) the Industrial and Provident Societies Acts 1965 to 1978;</p> <p>(e) the Building Societies Act 1986; or</p> <p>(f) the Charities Act 1993</p>	<p>'person' includes any public authority, company, or other legally constituted organisations and the partners in a partnership or firm.</p>
4.	<p>Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p>	<p>The Public Interest Test Qualification applies as in 1 above.</p>	<p>Any reference to 'the authority' is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.</p> <p>'labour relations matter' means –</p> <p>(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 that Act);</p> <p>or</p> <p>(b) any dispute about a matter falling within paragraph (a) above; and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary</p>

			<p>modifications, shall apply in relation to officeholders under the authority as they apply in relation to employees of the authority.</p> <p>‘employee’ means a person employed under a contract of service.</p> <p>‘office-holder’ 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 holds 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.	The Public Interest Test Qualification applies as in 1 above.	
6.	Information which reveals that the authority proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	The Public Interest Test Qualification applies as in 1 above.	Any reference to ‘the authority’ is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.

7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	The Public Interest Test Qualification applies as in 1 above	
<b>Exempt information relating to a Hearings Panel established to consider an alleged breach of the Code of Conduct for Members ONLY</b>			
7.1	Information which is the subject to any obligation of confidentiality.	The Public Interest Test Qualification applies as in 1 above.	
7.2	Information which relates in any way to matters concerning national security.	The Public Interest Test Qualification applies as in 1 above.	
7.3	<del>The deliberations of a Hearings Panel established under the provisions of Part 3 of the Local Government Act 2000 in reaching a finding on a matter referred under the provisions of Section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.</del>	<del>The Public Interest Test Qualification applies as in 1 above.</del>	

NOTE: The Public Interest Test

The Public Interest Test in the Freedom of Information (FOI) Act 2000 is specifically defined –

The Authority must release the information unless “*in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information*”.

The starting point is that there is a general public interest in release and the public authority has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.

There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations –

- There is a distinction between the public interest and what merely interests the public.
- Does it further the understanding of and participation in the public debate of issues of the day?
- Does it promote accountability and transparency by public authorities for decisions taken by them or in the spending of public money?
- Does it allow individuals and companies to understand decisions made by public authorities affecting their lives?
- Does it bring to light information affecting public health and public safety?

**11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

- (a) If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked 'Not for publication' together with the category of information likely to be disclosed. If the information is exempt information, the category of the exempt information must also be marked on the report.
- (b) The relevant body is requested in the agenda to confirm the action set out in 11(a) by resolution. Arrangements will be made to recall the press and public immediately should the motion not be passed.
- (c) If the matter is considered in public, any related report will also become available to the public.

## **12. RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS**

### **12.1 Material relating to previous business**

All members of the Council will be entitled to inspect any document which is in the possession or under the control of committees unless it contains information falling within the categories of exempt and confidential information.

### **12.2 Nature of rights**

These rights of a Member are additional to any other right they may have.

## **13. APPLICATION OF RULES FOR THE EXECUTIVE**

Rules 14 to 21 apply to the Executive and any committees it may appoint when meeting to take key decisions. A key decision is as defined in Article 14.03 of this Constitution.

## **14. PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 16 (general exception) and Rule 17 (special urgency) a key decision may not be taken unless:

- (a) A notice (called here a forward plan) has been published in connection with the matter in question.
- (b) At least ~~28 days~~<sup>three</sup> clear days have elapsed since the publication of the forward plan; and
- (c) Where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **15. THE FORWARD PLAN**

### **15.1 Period of Forward Plan**

[The Council is legally required to publish a Forward Plan covering a 28-day period. However,](#) Forward Plans will normally be prepared by the Executive to cover a period of four months, beginning with the first day of any month. They will normally be prepared monthly and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

### **15.2 Contents of the Forward Plan**

The Forward Plan will contain matters which the Executive has reason to believe will be subject of a key decision to be taken by the Executive, a committee of the Executive, Area Committees or under joint arrangements in the course of the discharge of an Executive 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) The date on which, or the period within which, the decision will be taken.
- (c) The identity of the principal groups to be consulted before the decision is taken.
- (d) The means by which any such consultation is proposed to be undertaken.
- (e) The steps any person might take who wishes to make representations about the matter in respect of which the decision is to be made and the date by which those steps must be taken; and
- (f) A list of the documents submitted for consideration in relation to the matter.

### 15.3 Publicity in connection with the Forward Plan

The Forward Plan must be published at least 14 days before the start of the period covered. The Democratic Services Manager will publish once a year a notice in at least one newspaper circulating in the area 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 on a monthly basis.
- (c) That the Plan will contain details of the key decisions to be made for the four-month period following its publication.
- (d) That each Plan will be available for inspection on the Council's website [www.pendle.gov.uk](http://www.pendle.gov.uk)
- (e) That each Plan will contain a list of the documents submitted 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 documents listed in the Forward Plan is available.
- (g) That other documents may be submitted for consideration.
- (h) The procedure for requesting details of documents (if any) as they become available; and
- (i) The dates on each month in the following year on which each Forward Plan will be published and available on the Council's website [www.pendle.gov.uk](http://www.pendle.gov.uk)

Exempt information need not be included in a Forward Plan and confidential information cannot be included.

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## 16. 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 17 (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 until the start of the first month to which the next Forward Plan relates.
- (b) The Head of Legal and Democratic Services has informed the Chair of the Overview and Scrutiny Committee, in writing, of the matter on which the decision is to be made.
- (c) The Democratic Services Manager has made copies of that notice available for the public to view on the Council's website [www.pendle.gov.uk](http://www.pendle.gov.uk)
- (d) At least five clear working days have elapsed since the Democratic Services Manager complied with (a) and (c) above.

Where such a decision is taken, it must be taken in public.

## **17. SPECIAL URGENCY**

If, by virtue of the date by which a decision must be taken, Rule 16 (general exception) cannot be followed, then the decision can only be taken if the agreement of the Chair of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred has been obtained.

## **18. REPORT TO COUNCIL**

### **18.1 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 (Rule 16); or
- (c) The subject of agreement under Rule 16;

the Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies.

### **18.2 Executive's report to Council**

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of 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 decisions and if the Executive is of the opinion that it was not a key decision the reasons for that opinion.

### **18.3 Quarterly reports on Special Urgency Decisions**

In any event the Executive will submit quarterly reports to the Council on any Executive decisions taken in the circumstances set out in Rule 17 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **19. RECORD OF DECISIONS**

After any meeting of the Executive or of any committee it may appoint, the Democratic Services Manager will produce a record of every decision taken at that meeting as soon as practicable. The record will include a written statement which will include: ~~of the reasons for each decision and any alternative options considered and rejected at that meeting.~~

(a) a record of the decision including the date it was made;

(b) a record of the reasons for the decision;

(c) details of any alternative options considered and rejected when making the decision

(d) a record of any conflict of interest

## **20. OVERVIEW AND SCRUTINY COMMITTEE ACCESS TO DOCUMENTS**

### **20.1 Rights to copies**

Subject to Rule 20.2 below, an Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Executive or its committees and which contains material relating to any business transacted at a meeting of the Executive or its committees.

### **20.2 Limit on rights**

An Overview and Scrutiny Committee will not be entitled to:

- (a) Any document that is in draft form; or
- (b) Any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise.

## **21. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **21.1 Material Relating to Previous Business**

All members of the Council will be entitled to inspect any document which is in the possession or under the control of the Executive or its committees unless it contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information.

### **21.2 Material Relating to Key Decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its committees unless it contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information.

### **21.3 Nature of Rights**

These rights of a member are additional to any other right they may have.

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## **BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **1. The Framework for Executive Decisions**

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place it will be the responsibility of the Executive to implement it.

### **2. Process for Developing the Framework**

- (a) The Executive will publicise by inclusion in the Forward Plan 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.
- (b) After consulting stakeholders in a manner appropriate to the matter under consideration and in accordance with details set out in the Forward Plan, the Executive will draw up initial proposals in relation to the plan, strategy or budget. Wherever possible the Executive shall seek the comments of an Overview and Scrutiny Committee.
- (c) The Overview and Scrutiny Committee will consider what representations it wishes to make to the Executive's initial proposals within the timescale set by the Executive.
- (d) The Executive will finalise its proposals for the Council to consider having taken into account the comments from the Overview and Scrutiny Committee. The report to Council will show the Executive's response to those comments.
- (e) The Council will consider the proposals of the Executive and may adopt them, amend them, refer them back to the Executive for further consideration, or substitute its own proposals in their place.
- (f) The Council's decision shall be effective immediately.
- (g) In approving the budget and policy framework, the Council shall 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 Executive, in accordance with paragraphs 5 (virement) and 6 (in-year changes to policy framework) of these Rules. Any other changes to the budget and policy framework are reserved to the Council.

### **3. Decisions outside the Budget or Policy Framework**

- (a) Subject to the provisions of paragraph 5 (virement) the Executive may only take decisions which are in line with the budget and policy framework. If it 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, except as provided in paragraph 4 below (urgent decisions outside the budget and policy framework).
- (b) If the Executive wishes to make such a decision, it shall take advice from the Monitoring Officer and/or the Director of Resources as to whether the decision would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the matter must be referred to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 below (urgent decisions outside the budget and policy framework) shall apply.

#### **4. Urgent Decisions outside the Budget or Policy Framework**

- (a) The Executive may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken if the Chair and two Deputy Chairs from different groups of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

The Chair of the Overview and Scrutiny Committee's consent 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 the consent of the Mayor will be sufficient.

- (b) Following the decision, the Executive 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.

#### **5. Virement**

- (a) The Council shall have the budget heads as determined by the Director of Resources.
- (b) Steps taken by the Executive to implement Council policy shall not exceed those budgets allocated to each budget head. However, it shall be entitled to vire across budget heads with a limit per individual virement of £100,000. Beyond that limit, approval to any virement shall require the approval of the full Council.

#### **6. In-year changes to Policy Framework**

The responsibility of agreeing the budget and policy framework lies with the Council and decisions by the Executive must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by the Executive except those changes:

- (a) Which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint; or
- (b) Are necessary to ensure compliance with the law, ministerial direction or government guidance; or
- (c) Are minor in nature

#### **7. Call In of Decisions outside the Budget or Policy Framework**

- (a) Where the Overview and Scrutiny Committee is of the opinion that an Executive decision is contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or the Director of Resources.
- (b) If the Monitoring Officer and/or Director of Resources is of the view that it is outside the budget or policy framework they shall report to the Executive who must decide what action to take in respect of the report including reporting on the matter to the Council.
- (c) The Council will receive the Executive's report on the matter and the advice of the Monitoring Officer and/or the Director of Resources. The Council may either:

(i) Endorse the decision as falling within the existing budget and policy framework.

OR

(ii) Amend the Council's financial regulations or policy concerned to encompass the decision and agree to the decision with immediate effect.

OR

(iii) Require the Executive to reconsider the matter in accordance with the advice of the Monitoring Officer and/or Director of Resources.

## **EXECUTIVE PROCEDURE RULES**

### **1. OPERATION OF THE EXECUTIVE**

#### **1.1 Discharge of Executive Functions**

The arrangements for the discharge of Executive functions are set out in the Executive arrangements adopted by the Council. Executive functions may be discharged by:

- (a) The Executive as a whole.
- (b) A committee of the Executive.
- (c) An officer.
- (d) An Area Committee.
- (e) Joint Arrangements; or
- (f) Another Local Authority.

#### **1.2 The Council's Scheme of Delegation and Executive Functions**

The Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required for the discharge of all Executive functions and will be set out in Part 3 of the Constitution.

#### **1.3 Conflicts of Interest**

These shall be dealt with as provided for in the Member Code of Conduct in Part 5 of this Constitution.

#### **1.4 Taking Executive Decisions**

- (a) Executive decisions will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where Executive decisions are delegated to a committee of the Executive, the rules applying to decisions taken by them shall be the same as those applying to those taken by the Executive.

### **2. CONDUCT OF EXECUTIVE MEETINGS**

#### **2.1 Executive Meetings**

The Council shall determine at the Annual Meeting the timetable of meetings of the Executive and there shall be at least 8 ordinary meetings of the Executive in each year.

Meetings of the Executive will be held in public except when information of a confidential or exempt nature is to be considered.

#### **Quorum**

The quorum for a meeting of the Executive, shall be 3 and for a committee of the Executive, one half of the voting membership subject to a minimum of 3.

## **2.2 Chairing the Meeting**

If the Leader is present they will chair the meeting. In their absence, then the Deputy Leader will chair the meeting and if not present then a person appointed to do so by those present shall chair it. The conduct of meetings, including the manner of debates and the acceptance or otherwise of motions and amendments, shall be at the discretion of the Chair.

## **2.3 Business**

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

- (a) Consideration of the minutes of the last meeting.
- (b) Declarations of interest, if any.
- (c) For a maximum of 15 minutes, questions from members of the public on matters not appearing on the agenda.
- (d) Matters referred to the Executive by the Overview and Scrutiny Committee or by the full Council for reconsideration in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution.
- (e) Consideration of reports referred by the Overview and Scrutiny Committee.
- (f) Other matters set out in the agenda for the meeting, which shall indicate which are key decisions; and
- (g) A list of forthcoming business for the purpose of updating the Forward Plan.

## **2.4 Consultation**

All reports to the Executive on 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.

## **2.5 Placing Items on the Agenda**

- (a) Any member of the Executive may require that an item is placed on the agenda for the next available meeting of the Executive for consideration.
- (b) Any member of the Council may ask that an item be put on the agenda of an Executive meeting for consideration. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. The Councillor will be invited to attend the meeting.
- (c) The Chief Executive and through them the Directors, Assistant Directors and Heads of Service Areas, may include an item for consideration on the agenda for an Executive meeting.
- (d) The Chief Executive, the Monitoring Officer, the Director of Resources and the Director of Place may require the calling of a meeting to consider a report in pursuance of their statutory duties.

## **2.6 Councillors' Rights of Attendance**

All members of the Council may attend meetings of the Executive, including those parts where the public and press are excluded, and may speak on any item, as invited by the Leader.

## 2.7 Rights of Members of the Public

- (a) A member of the public may ask a question on a matter not appearing on the agenda during public question time.
- (b) A member of the public may, on giving notice prior to the commencement of the meeting, address the Executive on any matter on the agenda, except where the public and press have been excluded from the meeting during consideration of the matter. They shall normally be heard immediately prior to the consideration of the matter. Their speech shall be limited to five minutes and this may be further curtailed by the Chair if the number of persons wishing to speak is so large as to impede the conduct of the business. They shall not speak again other than to answer any questions from members of the Executive.
- (c) A member of the public may present a petition on any matter relevant to the Borough at a meeting of the Executive. They may speak for up to 5 minutes in support of it. Unless receipt of the petition has been included on the agenda or it relates to an item on the agenda, it shall stand referred without discussion to the meeting.

## 2.8 Duration of Meetings

Unless the majority of members present for the meeting resolve to continue with any or all of the remaining business, any meeting that has lasted beyond 10.00 p.m. will adjourn upon conclusion of the item then under consideration. Remaining business will then be considered at the next meeting.

## 2.9 Voting

- (a) Any matter will be decided by a simple majority of those members present and voting.
- (b) Voting shall be by a show of hands.
- (c) The Chair will have a second or casting vote.
- (d) Where any member requests it immediately after a 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.

## 2.10 Power to Cancel

- (a) An Executive meeting may be cancelled by the Chief Executive acting in consultation with the Leader of the Council
- (b) Where the Leader of the Council is unavailable, consultation may take place with the Deputy Leader
- (c) This power is exercised as a procedural matter and does not affect the allocation of executive functions set out in Part 3 of the Constitution.

## 2.11 Circumstances in which Cancellation May Occur

- (a) An Executive meeting may be cancelled where: -
  - a. there is no substantive business requiring determination by the Executive;
  - b. exceptional circumstances arise which make it impracticable or inappropriate for the meeting to proceed; or
  - c. circumstances beyond the Council's control prevent the meeting from taking place, including (but not limited to) emergency situations, building closure, significant operational disruption.

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(b) Where the agenda for the meeting has been published, cancellation shall only occur where the Chief Executive is satisfied that exceptional circumstances exist.

## 2.12 Timing of Cancellation

- (a) Where practicable, cancellation shall take place prior to the publication of the agenda
- (b) Where cancellation occurs after publication of the agenda, the decision shall be taken as soon as reasonably practicable and, wherever possible, no later than midday on the day of the meeting.

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## 2.13 Notification and ~~Publicity~~Publicity

- (a) Upon cancellation of an Executive meeting: -
  - a. all members of the Executive shall be notified as soon as reasonably practicable;
  - b. a formal notice of cancellation shall be published on the Council's website and at the Council offices in the same manner as the agenda; and
  - c. the notice shall state the reason for cancellation, particularly when exceptional circumstances are relied upon.
  - d. notification and publication shall comply with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

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## 2.14 Effect on Business

- (a) Any item of business included on the cancelled agenda shall:
  - a. be carried forward to the next scheduled meeting of the Executive, or
  - b. be considered at a special or reconvened meeting of the Executive convened in accordance with statutory notice requirements.
- (b) No executive decision shall be taken in respect of such item unless it is properly included on the agenda of a subsequent meeting or is authorised under the Council's urgency or officer delegation provisions.

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## 2.15 Record Keeping

A written record of the decision to cancel and Executive meeting, including the reason for cancellation, shall be retained by the Chief Executive in accordance with the Council's document retention policy.

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## **OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **1. Number and arrangements for Overview and Scrutiny Committees**

- (a) The Council will appoint one Overview and Scrutiny Committee as set out in Article 8 of Part 2 of this Constitution.
- (b) The terms of reference of the Overview and Scrutiny Committee are set out in Part 3 of this Constitution.

### **2. Membership of Overview and Scrutiny Committees**

All councillors except members of the Executive may be members of the overview and scrutiny committees. However, no member may be involved in scrutinising a decision in which they have been directly involved.

### **3. Co-optees**

The overview and scrutiny committees shall be entitled to recommend to Council the appointment of non-voting co-optees.

### **4. Meetings of the Overview and Scrutiny Committees**

The Council shall determine at the Annual Meeting the timetable of meetings of the Overview and Scrutiny Committee and there shall be at least 4 ordinary meetings of the Overview and Scrutiny Committee in each year. In addition, special meetings may be called as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chair of the relevant committee/task and finish group, by any two members of the Committee or by the Chief Executive if they consider it necessary or appropriate.

### **5. Quorum**

The quorum for the Overview and Scrutiny Committee shall be one third of the voting membership.

### **6. Leaders of Overview and Scrutiny Committees**

The Chair of the Overview and Scrutiny Committee and two Deputy Chairs from different political groups will be appointed by the Council. The leader of a task and finish group shall be appointed by the councillors on the group from their number.

### **7. Work Programme**

The Overview and Scrutiny Committee will be responsible for setting its own work programme and in doing so shall take into account recommendations from the Council and Executive.

## **8. Agenda items**

- (a) Any member of the Overview and Scrutiny Committee shall be entitled to give notice to the Democratic Services Manager that they wish 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 Democratic Services Manager will ensure that it is included on the next available agenda.
- (b) The Overview and Scrutiny Committee shall respond, as soon as its work programme permits, to requests from the Council and the Executive to review particular areas of Council activity. Where it does so, it shall report its findings and any recommendation back to the Council and/or Executive. The Council and/or the Executive shall consider the report within two months of receiving it.

## **9. Policy Review and Development**

- (a) The role of the Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules (within Part 4 of the Constitution).
- (b) In relation to the development of the Council's approach to other matters not forming part of its budget and policy framework, the Overview and Scrutiny Committee may make proposals to the Executive or the Council in so far as they relate to matters within their terms of reference.
- (c) Overview and scrutiny committees may hold inquiries and investigate the available options for future direction in policy development. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that it reasonably considers necessary to inform its deliberations. It may ask witnesses to attend to address them on any matter under consideration and may pay reasonable expenses for doing so.

## **10. Overview and Scrutiny Reports**

- (a) Once it has finalised recommendations, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Executive (if the proposals are consistent with the existing budget and policy framework) and/or to Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If the Overview and Scrutiny Committee cannot agree on one single final report to the Council or Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Executive with the majority report.

## **11. Making sure that overview and scrutiny reports are considered by the Executive**

- (a) Overview and scrutiny reports referred to the Executive shall be included on the agenda (unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda) within two months of the Overview and Scrutiny Committee completing its report/recommendations.
- (b) The Overview and Scrutiny Committee will have access to the Executive's forward plan and timetable for decisions and intentions for consultation and will be able to respond in the course of the Executive's consultation process in relation to any key decision.

## **12. Rights of Overview and Scrutiny Committee members to documents**

- (a) In addition to their rights as Councillors, members of overview and scrutiny committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and the Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

## **13. Members and officers giving account**

- (a) An overview and scrutiny committee may scrutinise, and review decisions made, or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Executive, the Chief Executive, a Director, Assistant Director, Heads of Service and/or other senior staff to attend before it. Other employees may be required to attend with the approval of the Chief Executive. Persons attending may be asked to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performanceand it is the duty of those persons to attend if so required.
- (b) Where any Member or officer is required to attend under this provision, the Chair will inform the Democratic Services Manager who shall inform the Member or officer in writing giving at least 10 working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced. Where the account to be given will require the production of a briefing note, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then an alternative date for attendance will be given.

## **14. Attendance by others**

Other people, for example residents, stakeholders and Members and officers in other parts of the public sector, may be invited to attend to discuss issues of local concern, give their views and/or answer questions.

## 15. Call-in of Executive Decisions

- (a) When a decision is made concerning the exercise of an Executive function, whether by the Executive, or when delegated to an Executive member or an officer of the council, [a written record of the decision in accordance with paragraph 19 of the Access to Information Procedure Rules](#) shall be published by electronic means within 3 working days of being made and published on the Council's website. All members of the Council will be notified of all decisions within the same timescale by the Democratic Services Manager.
- (b) That notification will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless it is called in under these rules.
- (c) Within 3 days after notification any three members of the Council who are not on the Executive (representing at least two of the political groups) may sign and deliver to the Chief Executive a call-in notice stating why it is felt the decision should be reconsidered.
- (d) The Chief Executive will refer the call-in notice to the Chair and two Deputy Chairs from different groups of the Overview and Scrutiny Committee for determination as to whether the Executive should be asked to reconsider. If necessary, a meeting shall be convened with the callers in to explore the merits of the issue.
- (e) If the majority view is that it be referred back to the Executive for reconsideration, the decision will be referred to the next meeting of the Executive. All action on the matter will remain suspended.
- (f) If the Executive decides not to change its decision this will be reported to the next meeting of the Overview and Scrutiny Committee who may refer the matter to the full Council.
- (g) In order to ensure that call-in is not abused, nor causes unreasonable delay, there are the following limitations on its use:
  - (i) If the decision of the Executive was to make a recommendation to the full Council it may not be called in;
  - (ii) once a decision has been called in it may not be called in again.
- (h) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public interest. The record of the decision shall state whether in the opinion of the Executive it is an urgent one and therefore not subject to call-in. The Chief Executive must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

## 16. Councillor Call for Action

Councils must make arrangements for the Councillor Call for Action (CCfA) in order to comply with the requirements of the Local Government and Public Involvement in Health Act 2007.

The CCfA is a mechanism whereby individual ward Councillors can bring forward issues of local concern relating to 'a local government matter' as defined in Section 119 of the Act or "a local crime and disorder matter" as defined in Section 126 of the Act, for consideration by overview and scrutiny. It should be used only where all other methods of resolution have been exhausted.

No CCfAs will be considered during the pre-election period.

### Guidance for Members on CCfA

- (a) To refer a CCfA to an overview and scrutiny committee, details of the issue must be submitted to the Head of Legal and Democratic Services on the prescribed form. Full details of what has already been done to try and resolve the issue must be provided and the Councillor should have first referred to the Council's guidance and worked through the checklist.
- (b) The Head of Legal and Democratic Services will consult with the Chair and the two Deputy Chairs of the Overview and Scrutiny Committee to decide whether the CCfA is valid.
- (c) Where other mechanisms have not been pursued which could resolve the issue the Head of Legal and Democratic Services will advise the Councillor accordingly. Where it is agreed that the CCfA is valid, the matter will be placed on the agenda of the next meeting of the Overview and Scrutiny Committee.
- (d) The Councillor raising the call for action will be asked to address the Overview and Scrutiny Committee, which will agree whether or not to pursue the issue through the overview and scrutiny process. Where the Committee declines to pursue the matter, reasons must be given for the decision.
- (e) Where the Committee agrees to pursue the matter, an overview and scrutiny committee will investigate the issue, gathering evidence and interviewing witnesses as necessary.
- (f) The results of the review will be fed back to the Councillor and recommendations approved by the Overview and Scrutiny Committee will be submitted to the Executive, Council or partner organisation as appropriate.

When making a CCfA request, Councillors should take into account that the following matters are excluded by law from the Councillor Call for Action –

- (i) Any matter relating to a planning or licensing decision
- (ii) Any matter where there is a right of recourse to review or right of appeal
- (iii) Any matter which is vexatious and persistent; discriminatory; or is not reasonable for discussion at an overview and scrutiny committee

## 17. The Party Whip

When considering any scrutiny matter in respect of which they are subject to the party whip, the Member must declare the existence of the whip, and the nature of it, before the commencement of the Committee's deliberation on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

The phrase 'the party whip' means

*"Any instruction given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote on any matter before the Council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that Councillor should they speak or vote in any particular manner."*

## 18. Procedure at Overview and Scrutiny Committee meetings

- (a) Agendas for scrutiny meetings shall include the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest (including whipping declarations);
  - (iii) consideration of any matter referred to the Committee for a decision in relation to call-in of an Executive decision;
  - (iv) responses of the Executive or the full Council to overview and scrutiny reports;
  - (v) other business set out on the agenda for the meeting.
- (b) Where a scrutiny meeting is conducting an investigation (e.g. with a view to policy development), and people have been asked to attend to give evidence, the following principles shall be followed:
  - (i) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, a report will be prepared and approved by the Overview and Scrutiny Committee prior to submission to the Executive and/or Council as appropriate and shall be made public.

## 19. Designated Crime and Disorder Committee

The Overview and Scrutiny Committee shall be the Council's designated Crime and Disorder Committee: (Police and Justice Act 2006)

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions;
- (b) to make reports or recommendations to the Executive and/or full Council with respect to the discharge of those functions

**Pendle Borough Council**



# **Contract Procedure Rules**

MaySeptember 2026<sup>5</sup>

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## CONTRACT PROCEDURE RULES

### INTERPRETATION

1. These Contract Procedure Rules are standing orders of the Council (made pursuant to Section 135 of the Local Government Act 1972)-with respect to the making of Contracts.

2. These rules comply with:

- [The Procurement Act 2023](#)
- [The Public Contract Regulations 2015](#)
- [The Public Service \(Social Value\) Act 2012](#)

4.3. In these Rules, each of the expressions in the left-hand column below shall have the meaning stated against that expression in the right-hand column.

CPR	Contract Procedure Rule.
Chief Officer	is the Chief Executive, Director of Resources or Director of Place.
Contract	is any agreement between the Council and one or more Providers for the supply of goods or materials to the Council, for the execution of works for or on behalf of the Council, or for the provision of services to the Council or to others on its behalf (including but not limited to the provision of services, wholly or partly, in return for a concession).
Contractor	is any provider supplying or offering to supply goods, works, or services (including concessions) to the Council and includes any individual, firm, agent, company, partnership, public authority or other organisation.
Executive	means Pendle Borough Council's Executive.

~~Corporate Leadership Team~~ includes the Chief Officers and the Monitoring Officer

Corporate Management Leadership Team includes the members of ~~Corporate Leadership Team~~ Chief Officers and the following;

- Head of Legal and Democratic Services
- Head of Policy and Commissioning
- Head of Finance
- Assistant Director of Operational Services
- ~~Assistant Director of Planning, Building Control and Regulatory Services~~
- Assistant Director Human Resources and Organisational Change
- Head of Environmental Housing and Health
- Head of Economic Growth

Manager(s) All ~~members of Corporate Management Team~~ procuring managers

Monitoring Officer is the officer designated as such under s5 of the Local Government and Housing Act 1989 (currently the Head of Legal and Democratic Services).

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Responsible Officer any permanent or temporary staff member who is properly authorised to carry out any of the Council's contracts functions.

Section 151 Officer is the officer with responsibility for the proper administration of the financial affairs of the Council in accordance with Section 151 of the Local Government Act 1972 (currently the Director of Resources ) or the Deputy S151 Officer (the Head of Finance).

System Accountant is the lead procurement officer for the Council

2.4. References to monetary values in these Contract Procedure Rules **exclude VAT**.

~~References to Contract Value are defined as either;~~

~~where the contract is for a fixed period, by taking the total estimated price to be paid during the whole of the fixed period (but inclusive of any possible period of extension);~~

~~where the contract is for an uncertain or undetermined duration, by multiplying the monthly payment by 48 (or the annual payment multiplied by 4);~~

~~for nominated suppliers and sub-contractors, the total value shall be the value of that part of the main contract to be fulfilled by the nominated supplier or sub-contractor.~~

5. Where reference is made in these Contract Procedure Rules to the Director of Resources, in the absence of that officer the Head of Finance is the authorised substitute. In the absence of the Head of Legal & Democratic Services, the Legal Services Manager will be the authorised substitute.

3.6. Contracts valued at over £100,000 are a Key Decision and require prior approval by the Executive before the Contract is Awarded.

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## SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

### CPR1 BASIC PRINCIPLES

- 1.1 All purchasing and disposal procedures must;
- a) Comply with the Procurement Act 2023
  - a)b) achieve value for money for public money spent;
  - b)c) be consistent with the highest standards of integrity;
  - e)d) ensure fairness and equity in allocating public contracts;
  - e)e) comply with all legal requirements;
  - e)f) ensure that non commercial considerations do not influence any contracting decision;
  - f)g) support the Council's corporate and service aims and policies;
  - g)h) comply with the Council's Procurement Policy and Strategy.
- 1.2 No Officer shall seek to enter into a contract, or purport to enter into a contract, for the supply of works, goods or services unless there is adequate provision in the Council's Revenue Budget and/or Capital Programme.
- 1.3 Under no circumstances should Contracts be broken down in size so as to have the effect of lowering the Contract value or to avoid the requirements for tendering or the need for written quotations.

### CPR2 SCOPE AND APPLICATION

- 2.1 These Procedure Rules shall apply to any Contract, with the exceptions listed in CPR 2.2, and also to the nomination of sub-contracts under any such Contract (whether in each case the Council is contracting or nominating on its own behalf or wholly or partly on behalf of others).
- 2.2 These Procedure Rules DO NOT apply to transactions of the following types;
- a) Purchases or sales by auction or at public fairs or markets;
  - b) Contracts for the engagement of Counsel, or for the engagement of external Solicitors to represent the Council in specified legal proceedings;
  - c) Orders placed under a corporate contract;
  - d) Contracts with statutory undertaking(s) for work which only they can carry out;
  - e) Contracts of employment (inc temporary cover);
  - f) Contracts formalising the funding of particular voluntary sector bodies where the purpose of the contract is to establish the general conditions whereby the body may be funded by the Council.

### CPR3 RESPONSIBLE OFFICERS' DUTIES

- 3.1 All employees of the Council and firms/advisors employed to act in any capacity to manage or supervise a Contract must comply with these Procedure Rules, the Council's Financial Procedure Rules, the Code of Conduct and with all binding UK legal requirements. Responsible Officers must ensure that any agent, Consultants and contractual partners acting on their behalf also comply.

- 3.13.2 Responsible Officers shall always;
- a) seek value for money;
  - b) show no favour or disfavour to any Provider nor discriminate against Providers;
  - c) conduct tendering and price testing in accordance with proper practices and the highest standards of propriety;

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- d) do nothing that contravenes domestic law;
- e) ensure that adequate Contract records are kept for all Contracts upon which they are engaged.
- f) have regard to any purchasing guidance that may be available;
- g) check whether a corporate contract exists before seeking to let another contract; where a suitable corporate contract exists, this must be used unless there is an auditable reason not to do so;
- h) take all necessary legal, financial and professional advice.

3.3 Where the Council uses consultants to act on its behalf in relation to any procurement, then the Responsible Officer shall ensure that the consultants carry out any procurement in accordance with these Contract Procedure Rules. No consultant shall make any decision on whether to award a contract or who a contract should be awarded to. The Responsible Officer shall ensure that the consultant's performance is monitored and appropriate records are kept.

~~3.23.4~~ When any employee either of the Council or of a Service Provider may be affected by transfer arrangements, Responsible Officers must ensure the Transfer of Undertaking (Protection of Employment)(TUPE) issues are considered and obtain legal advice before proceeding with inviting tenders or quotations.

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#### **CPR4 COMPLIANCE WITH CONTRACT PROCEDURE RULES AND LEGISLATION**

- 4.1 Every Contract made by the Council or on its behalf shall comply with the all relevant domestic legislation, these Contract Procedure Rules and Codes of Practice and the Council's Financial Procedure Rules subject to the following provision. Guidance on best practice for procurement for public sector organisations, together with supporting documentation can be found on the Government website; <https://www.gov.uk/government/collections/procurement-policy-notes>
- 4.2 Arrangements made to meet the requirements of any present or future domestic legislation shall take precedence over any provision of these Contract Procedure Rules.

#### **CPR5 EXEMPTIONS FROM CONTRACT PROCEDURE RULES**

- 5.1 Exemptions from the requirements of these Contract Procedure Rules are to be the exception and not the rule. They must not be granted as a matter of administrative convenience and must be supported by documented and evidenced reasons as to the legitimate need for the exemption to be granted.
- 5.2 When an exemption is sought from tendering or the requirement to obtain written quotations, the relevant Manager will need to justify the use of an alternative method of selection so that propriety, value for money and compliance with domestic legislation can be demonstrated. It will also include reasons such as, but not limited to, the following:
  - a) that only one Provider is able to carry out the work or service or to supply the goods for technical or artistic reasons or because of exclusive or proprietary rights.
  - b) that time limits required for tendering cannot be met for reasons of extreme urgency and which were unforeseen and unattributable to the Council.
  - c) that additional goods, works or services are required which, through unforeseen circumstances, were not included in the original contract and which are either strictly necessary for the completion of the Contract or, for technical or economic reasons, cannot be carried out separately without great inconvenience/additional costs.

- d) that goods are required as a partial replacement for or in addition to existing goods or installations and obtaining them from another Provider would result in incompatibility or disproportionate technical difficulties in operation or maintenance.
  - e) That despite seeking the relevant number of quotations, insufficient quotations have been obtained.
- 5.3 The Manager must complete a Request for an Exemption to Contract Procedure Rules and seek the prior agreement of the Director of Resources. See Appendix A.
- 5.4 The Director of Resources must then report to the next possible meeting of the Accounts & Audit Committee details of such exemptions.
- 5.5 Any Exemptions over £100,000 must be agreed by ~~t~~he Executive prior to [contract award agreement](#).
- 5.6 Exemption (on grounds other than 5.2 (a) to e)) from any of the following provisions of these Procedure Rules may be made only by the direction of the Executive where it is satisfied that the exemption is justified in special circumstances.
- (a) No exemption may be granted which would result in a breach of UK law;
  - (b) from CPR 27 (Acceptance of Tenders); unless on grounds of extreme urgency (e.g. during civil emergency) from CPR 29 (Form of Contract); or from CPR 30 (Execution of Contracts).

#### **CPR6 JOINT, COLLABORATIVE AND E-PROCUREMENT ARRANGEMENTS**

- 6.1 In order to secure value for money, the Council may enter into joint or collaborative procurement arrangements. Prior to any purchases or contracts being made, Responsible Officers should seek advice from the System Accountant on these matters and must consult the Director of Resources where the purchase is to be made using a joint or collaborative procurement arrangement with another local authority, government department, statutory undertaker or public service consortium.
- 6.2 Collaborative and Partnership Agreements are subject to all UK procurement legislation and must, therefore, follow these Contract Procedure Rules. If in doubt, Responsible Officers must seek advice from the Director of Resources and/or the System Accountant before embarking on a procurement process.
- 6.3 All purchases made via a bona-fide local authority purchasing and distribution consortium are deemed to comply with these Contract Procedure Rules and no exemption is required. However, purchases above the relevant threshold must be let under the relevant procedure, unless the consortium has satisfied this requirement already by letting their contract in accordance with the procedures on behalf of the Council and other consortium members. The Responsible Officer must be satisfied that the relevant procedures have been applied.
- 6.4 Any contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the Contract Procedures Rules of the leading organisation, will be deemed to comply with these Contract Procedure Rules and no exemption is required.
- ~~6.5~~ The use of e-Procurement technology does not negate the requirement to comply with all elements of these Contract Procedure Rules particularly those relating to competition and value for money unless specific exemptions apply.

## SECTION 2: COMMON REQUIREMENTS

### CPR7 STEPS PRIOR TO PURCHASE

7.1 Responsible Officers must appraise the purchase, in a manner commensurate with its complexity and value, and taking into account any guidance available from the Accountancy Section, by;

- a) taking into account the requirements of any relevant service/efficiency review;
- b) appraising the need for the expenditure and its priority;
- c) defining the objectives of the purchase;
- d) assessing the risks associated with the purchase and how to manage them;
- e) considering what procurement method is most likely to achieve the purchasing objectives, including;
  - internal and external sourcing;
  - partnering;
  - packaging strategy;
  - collaborative arrangements.
- f) consulting users as appropriate about the proposed procurement method, contract standards and performance user satisfaction monitoring;
- g) drafting the terms and conditions that are to apply to the contract;

~~g) Social Value, including environmental priorities, must be considered in the procurement process. For contracts with a total value of £50,000 or more, it must be clearly evidenced how a contract will deliver its social value commitments and how this will be monitored post contract award. Having regard to the requirements of the Public Services (Social Value) Act 2012. The Act places a requirement on commissioners to consider the economic, environmental and social benefits of their approaches to procurement before the process starts including whether to consult on these issues.~~

~~h) Specifications should not be approved or used in procurement without clear statements of requirements for performance measurement and monitoring. These should be approved by Corporate Leadership Team. Implementation plans should be developed in draft at specification stage and refined during the evaluation process so that officers can be clear with bidders how contract monitoring will work in practice.~~

7.2 There should also be confirmation that;

- a) there is ~~Councillor~~ delegated approval for the expenditure and the purchase accords with the approved policy framework and Scheme of Delegation as set out in the Council's Constitution;
- b) if the purchase is considered to be a Key Decision, all appropriate steps have been taken.

### CPR8 INTERESTS OF OFFICERS IN CONTRACT MATTERS

8.1 Managers, Responsible Officers and any other person (whether or not in the employment of the Council) assisting any of them in connection with any part of the procurement process shall comply with all requirements applicable from time to time of the law and of the Council's Code of Conduct for Employees as regards:

- a) the declaration of interests (either generally or in relation to a particular procurement matter), and;
- b) refraining from participation in some or all stages of particular procurement matters.

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NB: At the time of adoption of these Rules, the Current provisions are:

- Section 117(1) of the Local Government Act 1972;
- The Council's Code of Conduct for Employees, (issued February 2012).

## CPR9 PREVENTION OF CORRUPTION

9.1 The Responsible Officer must comply with the Employee Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the Responsible Officer to demonstrate that anything received was not received corruptly. High standards of conduct are obligatory.

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9.19.2 For the avoidance of doubt, all Gifts and Hospitality shall be recorded in the Council's Gift & Hospitality Register.

9.29.3 The Council also maintains an Anti-Fraud, Bribery and Corruption policy which sets out the Council's policy for dealing with these issues. Every organisation, whether large or small, is at risk from fraud and councils are no exception to this. All councils have a duty to protect the public purse and a major part of this is by limiting exposure to fraud and corruption and reducing risk through effective prevention and detection.

## CPR10 RECORDS

Financial records shall normally be retained for a period of 6 years plus the current financial year. Some external funding may require longer periods of retention ([see the Document Retention Policy](#)):-

10.1 Where the value of the contract is less than ~~£50,000~~ £50,000, the following records must be retained by the Responsible Officer;

- invitations to quote and quotations
- a record of;
  - any exemption and the reason for them;
  - the reason if the lowest price is not accepted.

c) records of communications with the successful contractor

10.2 Where the value of the contract exceeds £50,000, the Responsible Officer must record;

- the method of obtaining the tenders (see Rule 20);
- any contracting decisions and the reasons for it;
- any exemption under Rule 5 together with the reasons for it;
- the award criteria in descending order of importance;
- tender documents sent to and received from candidates (where these are not returned to/retained by Legal and Democratic Services);
- pre-tender market research;
- clarification and post tender negotiation(s) (to include minutes of meetings where applicable);
- the contract documents;
- post contract evaluation and monitoring;
- communications with all candidates and with the successful contractor throughout the period of the contract.

## CPR11 ADVERTISING

11.1 Responsible Officers shall ensure that, where proposed contracts, irrespective of their value, might be of interest to potential candidates, a sufficiently accessible advertisement is published. Generally, the greater the interest of the contract to potential bidders the wider the coverage of the advertisement should be. Examples of where such advertisements might be placed include;

a) The government's procurement portal (mandatory for all above threshold contracts and below-threshold open procurements). A below-threshold tender notice must be published on the central digital platform before being published elsewhere

a)b) The CHEST

b) the Council's website;

c) ~~portal websites specifically created for contract advertisements including Find a Tender~~

~~<https://www.find-tender.service.gov.uk/>~~

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11.2 Responsible Officers are responsible for ensuring that all potential candidates for a contract are suitably assessed. For contracts below the threshold for goods and services, this assessment process can be determined by the Responsible Officer but must, at least, ensure that candidates have sound;

a) economic and financial standing, and;

b) technical and professional ability to fulfil the requirements of the Council.

11.3 For contracts / procurements above the threshold for goods and services, subject to Rule 5 on Exemptions, the Responsible Officer must have regard to guidance issued by the Cabinet Office in relation to the qualitative selection of economic operators.

## CPR12 DYNAMIC MARKETS

12.1 Dynamic Markets should be used where recurrent transactions of a similar type are likely but where such transactions need to be priced individually and cannot easily be aggregated and priced in a single tendering exercise. Lists cannot be used where the procedure applies.

12.2 In consultation with the System Accountant, Responsible Officers may draw up;

a) Lists of contractors ready to perform contracts to supply goods and services of particular types on the basis of agreed contract terms; and

b) Criteria for shortlisting from the Lists.

12.3 No contractor may be entered on a List until they have been satisfactorily assessed by the Responsible Officer, having regard to the questions that may be asked of the supplier/provider per guidance issued by the Cabinet Office per 11.3 above.

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12.4 Lists may be drawn up after an advertisement inviting applications for inclusion on the Dynamic Market. The advertisement must be placed via The CHEST & Find a Tender portals, to secure the widest publicity among relevant suppliers. Contractors may be entered on a Dynamic Market between the initial advertisement and re-advertisement provided the requirements of Rule 12.3 are met.

12.5 The List and Shortlisting criteria must be reviewed at least annually by the Responsible Officer and re-advertised every three years. On re-advertisement, a copy of the advertisement must be sent to each person on the list, inviting them to re-apply. Review means;

- a) completing a new assessment based on questions that are relevant to the subject matter of the procurement and proportionate;
- ~~b) the deletion of those contractors no longer qualified, with a written record kept justifying that decision.~~

~~b)~~

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### CPR13 FRAMEWORK AGREEMENTS

13.1 Framework Agreements help public and third sector buyers to procure goods and services from a list of pre-approved suppliers, with agreed terms and conditions and legal protections. A Framework Agreement will contain instructions for use within its terms.

~~13.1.3.2~~ Contracts based on Framework Agreements may be awarded by either;

- a) 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
- b) where the terms laid down in the Framework Agreement are not precise enough to complete the particular call-off, by holding a mini competition in accordance with the following procedures;
  - inviting the organisations within the Framework Agreement that are capable of executing the subject of the contract to submit written tenders;
  - fixing a time limit which is sufficiently long to allow tenders for each specific contract to be submitted taking into account factors such as the complexity of the subject of the contract;
  - awarding each contract to the tenderer who has submitted the best tender on the basis of the award criteria set out in the specification of the Framework Agreement.

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• 13.2 If an appropriate Framework Agreement is available, it must be considered regardless of the contract value.

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### CPR14 STANDARDS AND AWARD CRITERIA

14.1 The Responsible Officer must ascertain what relevant UK standards apply to the subject matter of the contract and ensure that those standards are considered and attained before awarding a contract.

~~14.2 The Officer must define Award Criteria that are appropriate to the purchase and designed to secure an outcome giving Value for Money for the Council and only use Award Criteria permitted by applicable UK legislation. The Responsible Officer must, before tendering the contract, define the award criteria that are appropriate to the purchase and designed to ensure an outcome giving value for money for the Council. The basic criteria will be;~~

~~14.2~~

~~14.3 All contracts, except where lowest price was predetermined to be the appropriate contract award criterion, shall be awarded on the basis of the offer which represents the Most Advantageous offer to the Council. The evaluation criteria shall be determined in advance of any tendering process and listed in the invitation to tender or invitation to negotiate, in order of~~

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importance. In addition, the evaluation criteria shall be strictly observed at all times throughout the contract award procedure by any person involved in the tender evaluation.

(a) 'lowest price' where payment is to be made by the Council;

(b) 'highest price' where payment is to be received by the Council;

(c) 'most advantageous' where considerations other than price also apply.

14.4 The most advantageous tender (MAT) criterion enables the contracting authority to take account of criteria that reflect qualitative, technical and sustainable aspects of the tender submission as well as price when reaching an award decision. If this criterion is adopted, it must be further defined by reference to sub-criteria which may refer only to relevant considerations. These may include price, service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant environmental considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales service, technical assistance and any other relevant matter.

a-

14.5 Price should account for at least 40% of the score.

14.6 Award criteria must include:

Price (minimum 40%), Quality, Contracts over £50,000 must include Social Value (minimum 10%)

14.4 Award criteria must not include;

14.7

• Non-commercial considerations (excluding social value);

•

• matters which would discriminate against suppliers.

## CPR15 INVITATION TO TENDER (ITT)/QUOTATIONS – GENERAL RULES

15.1 Invitations to Tender (ITT) shall state that no tender will be considered unless it is received by the date and time stipulated in the ITT. No tender delivered in contravention of this clause shall be considered unless in the opinion of the Head of Legal and Democratic Services, there is clear evidence that the tender was posted or hand delivered before the date for receipt of tenders in which case the Responsible Officer shall have discretion to admit the tender to opening and consideration. Subject to this exception tenders which are received late shall be retained unopened by the Head of Legal and Democratic Services until after the result of the tendering process has been published to tenderers.

15.2 All ITT shall include, but not be limited to, the following;

- a) a specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers;
- b) a requirement for tenderers to declare that the tender content, price or any other figure or particulars concerning the tender have not been disclosed by the tenderer to any other party (except where such disclosure is made in confidence for a necessary purpose);
- c) a requirement for tenderers to complete fully and sign all tender documents including a form of tender and certificates relating to canvassing and non collusion;

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- d) notification that tenders are submitted to the Council on the basis that they are compiled at the tenderers expense;
- e) a description of the award procedure and, unless defined in a prior advertisement, a definition of the award criteria in objective terms and ~~if possible~~ in descending order of importance;
- f) notification that no tender will be considered unless it is enclosed in a sealed envelope or container which bears the word 'Tender' followed by the subject to which it relates, but no other name or mark indicating the sender;
- g) a stipulation that tenders submitted by fax or other electronic means will not be considered (unless they have been sought in accordance with an electronic tendering system approved by the Head of Legal and Democratic Services and the Director of Resources e.g. the CHEST).
- h) The method by which any arithmetical errors discovered in the submitted tenders is to be dealt with. In particular, the overall price prevails over the rates in the tender or vice versa.

15.3 All ITT or Quotations must specify the goods, services or works that are required, together with the terms and conditions that will apply.

15.4 The ITT or Quotation must state that the Council is not bound to accept any quotation or tender.

15.5 All potential tenderers invited to submit a tender or quotation must be provided with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis

## SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

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### CPR16 ESTIMATES OF CONTRACT VALUE

16.1 Before seeking quotes or inviting tenders for the execution of any work or for the provision of any goods or services the Responsible Officer shall record an estimate in writing of the likely expense of executing the work, or the provision of goods or services in a suitable manner.

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16.2 The estimated value of the Contract shall be calculated as follows:

- a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period, inclusive of any possible extension periods;
- b) where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months;
- c) where the contract is for an uncertain duration, by multiplying the monthly payment by 48;
- a-d) in the case of framework agreements and dynamic purchasing systems, the maximum estimated value of all contracts envisaged for the total term of the framework agreement or the dynamic purchasing system.

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### CPR17 PRE-TENDER/QUOTATION ENQUIRIES

17.1 Enquiries of Contractors may be made before tenders or quotations are invited in order to:

- a) establish whether the goods, works or services the Council wishes to purchase are available and within what price range;
- b) prepare tender documents, price estimates and contract documents;
- c) establish whether particular Providers wish to be invited to tender or quote.

17.2 In making enquiries:

- a) no information will be disclosed to one Provider which is not then disclosed to all those of which enquiries are made or which are subsequently invited to tender or quote;
- b) no Provider will be led to believe that the information they offer will necessarily lead to them being invited to tender or quote or be awarded the Contract.

17.3 Responsible Officers must not, however, seek or accept technical advice on the preparation of an Invitation to Tender or Quotation from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential Contractors or distort competition.

### CPR18 PURCHASING – COMPETITION REQUIREMENTS

18.1 Note that the Council's constitution states that all contracts over £100,000 shall be designated as Key Decisions and therefore require prior approval of The Executive before contracts are awarded. However, these Contract Procedure Rules apply to all contracts, irrespective of their value and the procedures set out should be followed at all times.

18.2 Where the estimated value of the proposed contract is within the values in the first column below, the award procedure in the second column must be followed;

Contract Value	Award Procedure	Shortlisting
Up to £10,000	<ul style="list-style-type: none"> <li>o Minimum of one written quotation should be obtained.</li> <li>o The most advantageous tender should be accepted.</li> <li>o The tender price should be within the agreed budget estimate.</li> <li>o An official order shall be issued.</li> </ul>	Responsible Officer
£10,001 to £24,999,999	<ul style="list-style-type: none"> <li>o Minimum of three written quotations must be obtained.</li> <li>o The most advantageous tender should be accepted.</li> <li>o The tender price should be within the agreed budget estimate.</li> <li>o An official order shall be issued</li> </ul>	Manager and Responsible Officer
£25,000 to £49,999	<ul style="list-style-type: none"> <li>o <u>Minimum of three written quotations must be obtained.</u></li> <li>o <u>The most advantageous tender should be accepted.</u></li> <li>o <u>The tender price should be within the agreed budget estimate.</u></li> <li>o <u>An official order shall be issued</u></li> <li>o <u>A contract details notice must be published on the central digital platform</u></li> <li>o <u>If holding an open competition (rather than inviting tenders from pre-selected suppliers) a below-threshold tender notice must be published on the Governments central digital platform before being published elsewhere.</u></li> </ul>	Manager and Responsible Officer with support from the Systems Officer
£50,001 to £100,000	<ul style="list-style-type: none"> <li>o <u>A below-threshold tender notice must be published on the Governments central digital platform before being published elsewhere. Tenders should will then be be invited using an Invitation to Tender made available via The CHEST and advertised on Find A Tender</u></li> <li>o The most advantageous tender should be accepted.</li> <li>o The tender price should be within the agreed budget estimate.</li> <li>o <u>A contract details notice must be published on the central digital platform</u></li> </ul>	Manager and Responsible Officer with support from the Systems Officer

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Contract Value	Award Procedure	Shortlisting
<b>£100,001 to threshold (£179,087)</b>	<ul style="list-style-type: none"> <li>o <u>A below-threshold tender notice must be published on the Governments central digital platform before being published elsewhere. Tenders will then be invited using an Invitation to Tender made available via The CHEST</u></li> <li>o <del>Tenders should be invited using an Invitation to Tender made available via The CHEST and advertised on Find A Tender.</del></li> <li>o The most advantageous tender should be accepted.</li> <li>o The tender price should be within the agreed budget estimate.</li> <li>o <u>A contract details notice must be published on the central digital platform</u></li> <li>o Formal Legal Contract used.</li> </ul>	<p><del>Requires prior approval of The Executive</del> Executive approval is required before award of the contract</p> <p>Manager and Responsible Officer <u>with support from the Systems Officer</u></p>
<b>Above Threshold (Goods &amp; Services £173,1009,088) (Works contracts £4,327,500)</b>	<ul style="list-style-type: none"> <li>o <u>Where the estimated value of a contract exceeds the current threshold the contract shall be tendered in accordance with the UK Regulations, after consultation with the Systems Accountant. Relevant procedure to be followed, ie; those set out in '£100,001 to threshold' above.</u></li> <li>o <u>Thresholds are revised every 2 years, current threshold was implemented 1<sup>st</sup> January 2026</u></li> </ul>	<p>Executive approval is required before award of the contract</p> <p><del>Requires prior approval of The Executive</del></p> <p>Member of Corporate Leadership Team</p> <p>Manager and Responsible Officer</p>

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~~18.3~~ For all contracts irrespective of value (unless it is not practical to do so), an official order shall be placed using the Council's approved Order Form using the Civica Financials system.

18.3

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18.4 For contracts of value between £10,000 and £50,000, where the relevant number of quotations has been sought, but fewer quotations have been obtained, the Responsible Officer may seek an exemption from the requirement to obtain the number of quotations specified above with the written agreement of the Director of Resources.

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~~18.4~~18.5 In all cases, except where it is impracticable for reasons of extreme urgency, confirmation of the Contractor's terms of business (usually via a quotation) shall be obtained before an order is placed.

~~18.5~~18.6 The Responsible Officer shall record the Contractors approached, their responses, details of any quotations provided, the subject matter of the quotation, the name of the Contractor, the time and date of the quotation, details of the price offered and any other trading terms.

## Engagement of Consultants

~~18.6~~18.7 The engagement of consultants shall follow the principles for appointing contractors as set out in these Contract Procedure Rules with the proviso that, in circumstances requiring flexibility or specialised need, and within thresholds, the Manager may seek an Exception with the Director of Resources.

~~18.7~~18.8 Negotiated fee tenders may be contemplated in exceptional circumstances where;

- there is insufficient time to obtain competitive tenders; or
- systems or designs may be specific to a particular consultant (e.g. propriety systems); or
- ~~(iii)~~(iii) in the view of the Chief Officer, it would be in the Council's best interest to negotiate a fee with the consultant due to their previous involvement in a project.

~~18.8~~18.9 It shall be a condition of the engagement of the services of a consultant responsible for the supervision of a contract on behalf of the Council that, in relation to the contract, ~~he/she~~they shall;

- ~~(iv)~~(iv) comply with the Council's Financial Procedure Rules and these Contract Procedure Rules as though he/she were a member of the Corporate Management Team;
- ~~(v)~~(v) at any time during the discharge of the contract, produce to any relevant officer on request all the records maintained by them in relation to the contract; and
- ~~(vi)~~(vi) on completion of the contract, forward all records to the relevant Manager, Responsible Officer or other designated Officer.

18.10 Throughout the commission, the relevant Manager, Responsible Officer or other designated Officer shall ensure that appropriate monitoring arrangements are put in place.  
~~(i)~~

~~(ii)~~18.11 Exemption shall be reported to the next Accounts & Audit committee in line with CPR5.

## CPR19 AWARD OF CONTRACTS – BASIC PRINCIPLES

19.1 No Contract may be awarded unless the proposed expenditure involved has been included in approved revenue or capital estimates or has been otherwise approved by, or on behalf of, the Council. The Responsible Officer shall ensure that evidence of authority to spend, and the budget code to be used, is recorded on the Contract file.

19.2 Contracts with a quoted value of £100,000 or less may be awarded on behalf of the Council by the relevant member of Corporate ~~Leadership Management~~ Team to the Contractor who offers the lowest price or whose offer is considered by the Manager to be the most advantageous to the Council, provided in both cases the price quoted is within the budgetary limits approved by the Executive.

19.3 Contracts with a quoted value in excess of £100,000 may be awarded on behalf of the Council by the ~~relevant Chief Officer~~Chief Executive, the Director of Resources or the Head of Legal and Democratic Services, following a report to the Executive, to the Provider who offers the lowest price or whose offer is considered ~~by the Chief Officer~~ to be the most advantageous to the Council provided in both cases the price quoted is within the budgetary limits approved by the Council or Committee appointed for that purpose.

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19.4 No contract with a quoted value in excess of £100,000 shall be awarded until the Director of Resources has checked the Contractor's financial standing and provided written confirmation that this is satisfactory for the Contract to be undertaken.

19.5 The Responsible Officer ~~/Systems Accountant~~ shall ensure compliance for the publication of Contract Award Notices via [the Governments Central Digital Platform and](#) The CHEST and provide copies of the Notice(s) to the Director of Resources and the Head of Legal and Democratic Services.

19.6 Details of all Contract awards exceeding £5,000 shall be forwarded to the Finance Section for inclusion in the Council's Contracts Register as soon as possible after the award and prior to works commencing. Such notification to also include evidence of the authority to enter into the Contract.

19.7 In compliance with the Council's promotion of equality, Responsible Officer's should ensure they consider and comply with the Council's legal obligations under the Equality Act 2010 and its associated Public Sector Equality Duty. More information on this is provided at [Appendix B](#).

#### **CPR20 COMPETITIVE TENDERING – CONTRACTS OVER £50,000**

20.1 No Contract, the estimated value of which exceeds £50,000, shall be made unless:

a) at least 21 days' public notice has been given ~~in one or more of the local newspapers on the Governments Central Digital Platform, in Contracts Finder~~ and in such trade journals as the Responsible Officer shall consider desirable, stating the nature and purpose of the Contract, inviting tenders and stating the last date when tenders will be received; or

b) tenders for the Contract (being a Contract for the execution of work) have been invited by the Responsible Officer from amongst the appropriate approved list of Providers compiled under CPR 12; or

c) public notice has been given in respect of a particular Contract in the manner described in CPR 12 inviting applications from Providers to be placed on a list to be approved by the Council from which Providers selected by the Responsible Officer will be invited to submit tenders; or

~~25.~~  
e)d) the proposed Contract, being a Contract for the execution of work, forms part of a serial programme the terms having been settled with the Contractor on the basis of the application of a stated addition or deduction to the rates and prices contained in an initial Contract awarded competitively following an invitation to tender in accordance with the provisions of (a), (b), or (c) above subject to a maximum extension under this Rule not exceeding 100% of the original Contract value or £100,000 whichever is the lower.

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#### **CPR21 TENDER INVITATION**

21.1 Following the end of the Expressions of Interest period, [if applicable](#), Tender documents will be ~~will be~~ issued to all relevant parties who have lodged interest.

21.2 Reasonable requests for further information relating to the Contract documents will be granted provided the request enables the Council to supply the information not less than six days (or four days in cases of emergency) before the date specified for receipt of tenders. Information supplied to one Provider will be shared with all Providers unless in the opinion of the

Responsible Officer and following consultation with the Head of Legal and Democratic Services there are appropriate grounds for not doing so.

21.3 Every invitation to tender will state that a tender will only be considered if it is;

- a) accompanied by an undertaking which shall become a condition of the Contract that the amount of the tender has not been calculated by agreement or arrangement with any person other than the Council and that the amount of the tender has not been communicated to any person other than the Council and will not be communicated to any person until after the closing date for the submission of tenders (except for the purposes of obtaining any bond/surety where this is a requirement of the proposed Contract).

21.4 Tenders must be submitted via The CHEST, ~~F~~facsimile ~~or postal~~ or postal submissions will not be considered.

## CPR22 RECEIPT OF TENDERS

22.1 Acceptance of late Tender Responses will be considered by the Authority, in its absolute discretion and only where an Applicant identifies, to the absolute satisfaction of the Authority (whose decision shall be absolute and final), that extraordinary circumstances beyond the reasonable management and control of the Applicant prevented the Tender Response from being submitted on time. Applicants must keep their contact details on the eTendering tool ~~Chest~~ up to date or they will be unable to receive communications from the Authority.-

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## CPR23 OPENING OF TENDERS

23.1 All tenders with an estimated value in excess of £100,000 will be opened by the relevant member of Corporate Leadership Management Team or their nominated representative in the presence of the Head of Legal and Democratic Services or their nominated representative.

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## CPR24 ERRORS OR DISCREPANCIES IN TENDERS ETC.

24.1 Where examination of tenders reveals arithmetical or copying errors present in the documents submitted at the time of tender these shall be corrected by the Responsible Officer and details shall be recorded and maintained on the appropriate Contract file. If the correction has the effect that the tender is no longer the most competitive tender then the next tender in competitive order is to be examined and dealt with in the same way.

24.2 Where examination of tenders or checking of a priced bill or specification submitted at the Council's request after tenders have been opened reveals errors or discrepancies (other than arithmetical errors in documents submitted at the time of tender as in CPR 24.1 above) which would affect the tender figure(s) in an otherwise successful tender, the Provider is to be given details of such errors and discrepancies but no other information and afforded an opportunity of confirming or withdrawing their tender in writing. If the tenderer confirms their tender all the rates and prices on which it was based shall be adjusted (upwards or downwards) by the same percentage so as to correspond with the tender figure (corrected in accordance with CPR 24.1 above if there was also an error or discrepancy requiring to be dealt with under that CPR).

24.3 If the Provider withdraws, the next tender in competitive order is to be examined and dealt with in the same way. Any exception to the procedure outlined above may be authorised only by the Executive after consideration of a report from the Responsible Officer concerned.

## **CPR25 SHORTLISTING**

25.1 Any shortlisting must have regard to the financial and technical standards relevant to the contract and the award criteria.

25.2 Details of Officers responsible for shortlisting are provided in Rule 18.2.

## **CPR26 CONTRACT NEGOTIATIONS**

26.1 The Responsible Officer may negotiate the contract in the manner set out in CPR 26.2 below provided the terms of the contract remain substantially unaltered;

- a) where tendering produced no tenders or inappropriate tenders, for example where the tender figure in an otherwise successful tender exceeds approved or budgeted expenditure, or where the sum has changed since tenders were invited; or
- b) where tendering was discontinued because of irregular tenders, for example because tenders fail to meet the requirements specified in the Contract documents or offer variations on them or the works, supplies or goods fail to meet the tender specification.

26.2 The Responsible Officer shall invite all tenderers to amend their tenders, in writing, in such matters (e.g. unit price, delivery, discounts or by removing elements of the specification or bill of quantities) as the Responsible Officer specifies. All negotiations shall be conducted by at least two officers, one of whom should not be otherwise involved in the contract award. The Responsible Officer shall keep a written record of all negotiations, including notes of all meetings and the names of those people present.

## **CPR27 ACCEPTANCE OF TENDERS**

27.1 ~~A tender other than the lowest tender if payment is to be made by the Council or the highest tender if payment is to be received by the Council, or the tender which in the opinion of the Responsible Officer is the most advantageous to the Council (having regard to price, quality and technical considerations) shall not be accepted until the Executive has considered and approved a written report from the Responsible Officer.~~ A Tender which is not considered by the Responsible Officer to be the most advantageous to the Council (taking into account price, quality, and technical considerations), must not be accepted unless and until the Executive has considered and approved a written report from the Responsible Officer.

27.2 No Contract may be awarded unless the expenditure involved has been included in approved estimates or in capital or revenue accounts or has been otherwise approved by or on behalf of the Council.

27.3 The only exception permitted under this Procedure Rule is where works/supplies/services are ordered on grounds of extreme urgency (e.g. responding to a civil emergency). The Responsible Officer should consult with the Director of Resources and appraise them of the position so that as soon as practicable arrangements can be made to report the matter to the Executive.

27.4 No contract with a quoted value in excess of £1000,000 shall be awarded until the Director of Resources has checked the Provider's financial standing and provided written confirmation that this is satisfactory for the Contract to be undertaken.

27.5 The Responsible Officer/~~Systems Accountant~~ shall ensure compliance for the publication of Contract Award Notices via the Governments Central Digital Platform and The CHEST and provide copies of the Notice(s) to the Director of Resources and the Head of Legal and Democratic Services.

27.6 Details of all Contract awards exceeding £5,000 shall be forwarded to the Finance Section for inclusion in the Council's Contracts Register as soon as possible after the award and prior to works commencing. Such notification to also include evidence of the authority to enter into the Contract.

#### **CPR28 NOMINATED SUB-CONTRACTORS AND SUPPLIERS**

28.1 Contract Procedure Rules apply to the nomination of a sub-contractor or supplier for carrying out works or services or supplying goods or materials.

28.2 Where the estimated amount of the sub-contract or the estimated value of the goods to be supplied by the nominated supplier does not exceed £50,000 then unless in the opinion of the Responsible Officer there are grounds for exemption, competitive written quotations shall be sought in accordance with CPR 18.

28.3 Where the estimated amount of the sub-contract or the estimated value of the goods to be supplied by the nominated supplier exceeds £50,000 then unless in the opinion of the responsible Service Manager there are grounds for exemption, tenders shall be invited in accordance with CPR 20.

28.4 Any exemption from these Procedure Rule requirements must comply with CPR 5.

#### **CPR29 – RESERVE COMPETITIONS FOR BELOW-THRESHOLD CONTRACTS**

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29.1 The government has introduced a new, voluntary policy that permits the Council to reserve competitions for below-threshold contracts to businesses based locally or in the UK. Authorities may also reserve such competitions to Small and Medium-Sized Enterprises (SMEs) and Voluntary and Community Social Enterprises (VCSEs).

29.2 The policy is only available to 'relevant contracts', that is a below-threshold contract.

29.3 When running a competition for a below-threshold contract the following options can be considered:

- Reserving the competition to only contractors based within the United Kingdom;
- Reserving the competition to only contractors based within the local area. The local area can be defined as Pendle only or Lancashire as a whole.

29.4 Below-threshold contracts may also be reserved to SME's and/or VCSE's.

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## SECTION 4: CONTRACTS AND OTHER FORMALITIES

### CPR3029 FORM OF CONTRACT

- 7.130.1 Every Contract exceeding £100,000 in value and in any other case where the Director of Resources so decides, shall either be documented using an approved Standard Form of Contract or be in writing in a form approved by the Director of Resources and shall specify;
- a) the works or services to be performed and/or the goods or materials to be supplied;
  - b) the parties to the contract including any guarantor;
  - c) the price to be paid with a statement of discounts or other appropriate adjustments;
  - d) the time within which the Contract is to be performed or carried out;
  - e) that the Provider will not assign the Contract without the written consent of the Council;
  - f) any appropriate restriction on sub-contracting by the Provider;
  - g) where appropriate that the Provider will pay liquidated damages or other damages to the Council should the terms of the Contract not be properly carried out, including the method by which such damages will be calculated and the circumstances in which they will be payable;
  - h) any performance bond or parent company guarantee required and the Responsible Officer shall consult with the Head of Legal and Democratic Services before including or excluding such a requirement in the tender documents;
  - i) that the Provider will adopt safe methods of work and comply with all other requirements of the Health and Safety at Work Act 1974;
  - j) that the Council may cancel the Contract and recover any loss if the Provider, its employees, agents and sub-providers offer any reward relating to the Contract or commit any offence under the Prevention of Corruption Acts 1889 to 1916 or have given any fee or reward the receipt of which is an offence under section 117(2) of the Local Government Act 1972;
  - k) that the Provider shall comply with UK Data Protection legislation and indemnify the Council in respect of the use, disclosure or transfer of personal data by the Provider, its employees, agents and sub-Providers.
  - l) that services will be delivered to all customers fairly and without unlawful discrimination in support of the Council's obligations under the Public Sector Equality Duty as set out in the Equality Act 2010. The Provider shall not unlawfully discriminate within the meaning of the Race Relations Act 1976 or any comparable statutory provision relating to discrimination in employment, and shall ensure that all employees, agents and sub-contractors do not unlawfully discriminate, and shall comply with all relevant codes of practice issued by the Equalities and Human Rights Commission, or comparable body and, so far as is practicable, operate an equal opportunities policy which complies with the practical guidance and recommendations contained in such codes of practice;
  - m) Payment arrangements, including reference to the payment of valid, undisputed invoices by the Council within 30 days. It will be a condition of the contract that the Contractor/Supplier is required to include similar provisions in their contracts, and so on, down the supply chain.

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- 7.230.2 In every contract, the Contractor shall be required to indemnify the Council against;
- a) any claim which may be made in respect of employers' liability against the Council or the Contractor by any workmen employed by the Contract or any Sub Contractor in the execution of the works or the provision of goods and services;
  - b) any claim for bodily injury to or damage to property of third parties;

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c) any claim which be may be made under the Health and Safety at Work etc Act 1974 against the Council or the Contractor unless such claim is substantially due to the neglect of the Council or any of its Officers.

~~7.330.3~~ In respect of ~~3029.2~~ above, the Contractor shall be required by the Head of Legal and Democratic Services to produce satisfactory evidence that he is insured against any such claims.

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~~7.430.4~~ Where an appropriate British Standard Specification or British Standard Code of Practice issued by the British Standards Institution is current at the date of the tender, every contract shall require that, as the case may be, all goods and materials used or supplied and all workmanship shall be in accordance with that Standard.

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### **CPR319 EXECUTION OF CONTRACTS**

~~a.31.1~~ Contracts with a value ~~upto £100,000 of less than £50,000~~ may be signed by the relevant member of Corporate ~~Management Leadership~~ Team.

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~~b.31.2~~ Every Contract which exceeds £1050,000 in value shall either be signed or sealed for and on behalf of the Council by the ~~Director Chief Executive, Director of Resources or the Head of Legal and Democratic Services~~ or be executed as a deed.

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### **CPR324 CONTRACT VARIATION**

~~a.32.1~~ Where by reason of any extra or variation (other than a Contract extension under CPR 20.1(d)) it is apparent that:

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- a) the tender sum is to be exceeded by 10 per cent; or
- b) the variation would extend the Contract period by more than three months or 50 per cent of the original Contract period; or
- c) if the works, services or goods to be added or deleted from the Contract are substantially different in scope

~~31.132.2~~ The Responsible Officer shall report the same to the Director of Resources and the Head of Legal and Democratic Services.

~~31.232.3~~ Should further variations as set out in CPR ~~324.1~~ above arise after the Responsible ~~Officer's report~~ Officer's report, these further variations shall also be reported as set out in CPR ~~324.2~~ above.

~~31.332.4~~ Details of all variations shall be reported to the Executive on a regular basis as part of the regular monitoring / budgetary control process ensuring compliance with Financial ~~b.~~ Procedure Rules.

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### **CPR332 UNSATISFACTORY PROGRESS**

~~332.1~~ If the Executive is satisfied following consideration of a report from a Responsible Officer that a Contractor has not completed a contract in a satisfactory manner, such Contractor shall not thereafter for a period of three years be invited to tender, be included on a Dynamic Market or, if the said Contractor submits a tender in response to a public advertisement, that tender shall not be considered.

## SECTION 5: CONTRACT MANAGEMENT

### CPR343 MANAGING CONTRACTS

a-34.1 Members of Corporate ~~Leadership~~Management Team are responsible for allocating contract management responsibilities for all new contracts. All contracts must have a named Contract Manager for the entirety of the contract.

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### CPR354 RISK ASSESSMENT AND CONTINGENCY PLANNING

a-35.1 A business case must be prepared for all procurements with a potential value over \_\_\_\_\_ the EU threshold. Provision for resources for the management of the contract, for its entirety, must be identified in the business case.

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34.135.2 For all contracts with a value over £100,000, contract managers must;

- a) maintain a risk register during the contract period;
- b) undertake appropriate risk assessments; and
- c) for identified risks, ensure contingency measures are in place.

### CPR365 CONTRACT MONITORING, EVALUATION AND REVIEW

a-36.1 All contracts which have a value higher than the UK threshold limits or, irrespective of value, which the Executive designates, must be subject to regular formal reviews with the contractor.

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35.136.2 During the life of the Contract, the Responsible Officer must monitor in respect of, but not limited to, the following;

- a) performance;
- b) compliance with specification and contract;
- c) cost;
- d) any value for money requirements;
- e) risk management;
- f) user satisfaction.

## SECTION 6: CONTRACTS FOR THE SALE OF ASSETS

### CPR376 DISPOSAL OF ASSETS

a-37.1 Before negotiations on the disposal of an asset reach the stage of provisional agreement for sale or tenders are invited for the disposal of land, the Executive shall have declared the asset surplus to the Council's requirements to be marketed for sale or, if there is unlikely to be any competition, shall have approved negotiations with one party (CPR 432). If appropriate, approval will have been granted for the submission of a planning application for development.

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### CPR387 DISPOSAL OF ASSETS – ESTIMATED VALUE NOT EXCEEDING £10,000

2.1038.1 Sales of assets (including land) which have a value of less of £10,000 or less, disposal should be by competitive tender or public auction with notification via the Council's website, or as per the procedures below and in accordance with the Officer Scheme of Delegation.

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## **CPR398 DISPOSAL OF ASSETS – ESTIMATED VALUE EXCEEDING £10,000**

**398.1** Sales of assets (including land) which have a value of less of £10,000 or less, disposal should be by competitive tender or public auction with notification via the Council's website, or as per the procedures below and in accordance with the Officer Scheme of Delegation.

## **CPR4039 ADVERTISEMENT**

**a-40.1** Where an asset (land or property) is marketed for sale, sales particulars will be produced and the asset will be advertised widely, including electronically, and by other means most appropriate for the subject asset. Sealed tenders will be invited by a specified closing date and may include the requirement for a binding contract pack together with payment of a 10% deposit to be submitted with the Tender. Any deposit would be refunded to unsuccessful tenderers. The sales particulars will advise interested parties that the Council is **not** obliged to accept any tender.

**39.140.2** Sealed tenders will be opened and recorded in writing by the Head of Legal and Democratic Services or their nominated representative.

**39.240.3** The highest offer will be accepted and reported to the Executive (except where delegated powers to officers allow the sale to be completed without reporting back to Executive). All marketing of the asset will cease at this stage.

**39.340.4** In the event of a late tender which is higher than the highest tender received within 15 working days of the notified last date for tenders, all tenderers will be advised of the amount of the late tender and be requested to submit their 'best and final' financial tender in the form of a sealed bid by a set date no more than 15 working days following the receipt of the late tender. Only the first late tender received shall trigger the process by which best and final sealed tenders are invited. The tenders will be opened in accordance with Rule 39.2. The highest tender at that date must be accepted and no further offers shall be considered. Subject to the Executive's approval to accept the higher tender, Legal Services must then be instructed to complete the sale with early exchange of contracts.

**39.440.5** Subject to the agreement of the Director of Resources, an exemption from Rules **4039.1** will be granted if;

- a) the assets to be disposed of are so specialised that only a limited number of potential buyers are available but in such cases a reasonable number of those potential buyers shall be invited to submit tenders;
- b) there would be no genuine competition (for whatever reason);
- c) sales are to be by Auction.
- d) Disposal is to be in accordance with CPR**410**, CPR**424** or CPR**432**.

The reason for the exemption will be included in the report to the Executive recommending that the asset is declared surplus for disposal.

## **CPR419 DISPOSAL OF LAND AT A DISCOUNT**

**a-41.1** Ordinarily, in accordance with s123 of the Local Government Act 1972, the Council is required to obtain 'best consideration' for the disposal of land. However, the General Disposal Consent (England) 2003 includes provisions to allow disposal of land at less than 'best consideration'.

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40.141.2 In addition to compliance with these Contract Procedure Rules where applicable, any disposal of land at a value less than 'best consideration' must only be undertaken;

- a) in accordance with the General Disposal Consent (England) 2003 which, amongst other things, limits the value of any discount to £2million; and
- b) with the approval of the Executive following a report including;
  - unrestricted value of the land (i.e. the best price reasonably obtainable for the land on terms that are intended to maximise consideration (and assessed in accordance with the General Disposal Consent (England) 2003);
  - the value of discount being given; the reasons for giving the discount;
  - the restricted value.

#### **CPR424 LAND EXCHANGE (OTHERWISE REFERRED TO AS 'LAND SWAPS')**

41.142.1 In the event that a land exchange is proposed to the Council, the prospective purchaser should express interest in acquiring the land in writing and specify the particular purposes for which the land is required and the equivalent land being exchanged. The Council's land should not be exchanged for speculative purposes. No respective land values should be discussed or agreed at this stage.

41.242.2 Following a report from the Responsible Officer setting out the benefits and disadvantages of the proposal and any financial and legal implications including respective independent valuations of each area of land, the Executive will consider the proposed land exchange and the reasons why it is being recommended. The Executive will decide (acting on behalf of the Council in its capacity as Vendor) if the proposal is acceptable in principle and whether to agree in the particular circumstances (which will be recorded) that the negotiations should proceed following this procedure.

41.342.3 Following approval in principle by the Executive, the Responsible Officer will inform the prospective purchaser that;

- a) the Council is following this procedure;
- b) until such time as a legally binding agreement to dispose of the land is entered into, the Council is obliged to consider any other offers for the land which may be received.

41.442.4 Negotiations must be in writing.

41.542.5 Subject to the proposed land exchange being considered reasonable, the terms and conditions of the disposal will be reported to the Executive for approval.

41.642.6 In the event that the land exchange needs to be dealt with urgently, the approval of the Strategic Director in consultation with the Group Leaders will be sought and the terms reported to the next meeting of the Executive. The application of this rule should be by exception and should not be the normal procedure for land exchanges.

41.742.7 If applicable, exchange of contracts for the land exchange should be conditional upon planning permission being obtained for the use proposed by the purchaser. In the event that planning permission is not granted, the Council will not be liable to the prospective purchaser for any costs relating to the proposed exchange.

## **CPR432 DISPOSAL BY WAY OF NEGOTIATED TENDER PROCEDURE FOR SALE TO ONE PARTY**

42.143.1 The prospective purchaser should express interest in acquiring the land in writing and specify the particular purposes for which the land is required. The land should not be required for speculative purposes. No price should be discussed at this stage.

42.243.2 The Executive will consider the proposed use of the land and the reasons why it is being recommended that negotiations should proceed by way of negotiated tender for disposal to one party.

42.343.3 The Executive will then decide (acting on behalf of the Council in its capacity as Vendor) if the proposed use is acceptable, whether to declare the land surplus to requirements and whether to agree in the particular circumstances (which will be recorded) that the negotiations should proceed following this procedure. Prior to this, Property Services should establish whether any planning uses other than the one proposed by the purchaser will yield a higher value and inform the Executive if this is the case so that this can be considered as part of the decision to dispose of the asset. Negotiations must be in writing.

42.443.4 The prospective purchaser should be informed that;

- a) the Council is following this procedure;
- b) until such time as a legally binding agreement to dispose of the land is entered into, the Council is obliged to consider any other offers for the land which may be received.

42.543.5 The prospective purchaser should be invited to make a 'best and final' financial offer for the land taking into account any terms and conditions of the sale, state and condition of the land.

42.643.6 If the 'best and final' financial offer is considered to be reasonable, the terms and conditions of the disposal will be reported to the Executive for approval.

42.743.7 In the event that the disposal needs to be dealt with urgently, the approval of the Strategic Director in consultation with the Group Leaders will be sought and the terms reported to the next meeting of the Executive. The application of this rule should be by exception and should not be the normal procedure for disposal.

42.843.8 If appropriate the exchange of contracts to dispose of the land to the prospective purchaser may be conditional upon planning permission being obtained for the use proposed by the purchaser. In the event planning permission is not granted, the Council will not be liable to the prospective purchaser for any costs incurred relating to the proposed disposal.

## **CPR443 CONTRACTS TO BE IN WRITING**

a-44.1 Unless the assets to be disposed of are such that the title passes on delivery, every contract shall be in writing.

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**APPLICATION FOR EXEMPTION FROM CONTRACT PROCEDURE RULES**

Contact Officer:		Date of request:	
Directorate:		Service Area:	
Name of Contractor: Address of Contractor: Contact Name for Contractor:			
Amount of the contract (Net): <i>(estimated or actual)</i>		Expenditure Code and Budget Provision <i>(please provide the expenditure code and confirm whether or not the scheme is grant funded)</i>	
Contract awarded date:			
Contract start date: <i>(estimated or actual)</i>		Contract extension available: Y/N	
Contract end date: <i>(estimated or actual)</i>		Total option to extend in months if Y:	
Procurement process used (click box): Request for Quote <input type="checkbox"/> Invitation to Tender <input type="checkbox"/> Other (please state in adj. box) <input type="checkbox"/>			
Nature of Contract: <i>(include items/services to be provided)</i>			
Is the Request retrospective? Yes / No			
Are there any Conflicts of Interest with this request? Yes / No			

**Please outline the CPR's you wish to exempt (please quote para no.)**

**Please explain why you want an exemption to the above CPR and how you have satisfied yourself that the procurement requirements do not apply?**

**How was this particular contractor selected and what evidence do you have to demonstrate value for money? How was this particular contractor selected and what evidence do you have to demonstrate value for money? Have any alternative arrangements been considered?**

**What is the proposed action to be taken at the end of the exception? (i.e. contract terminates or to be re-commissioned/procured- if the latter please provide further details of how this will be achieved.)**

**APPROVAL REQUEST**

The information provided on this form is correct. The proposed expenditure is within Budget and Policy Framework and is in accordance with the requirements of the Contract Procedure Rules with the exception of those for which an exemption is being applied for.

Signature of Director / Head of Service

Date:

***Please email completed forms to Phil Hartup, System Accountant, Finance.***

**FINAL SIGN OFF BY DIRECTOR OF RESOURCES**

TO BE DELETED AS APPROPRIATED

Accepted

I have no objections to the exemption sought and I am satisfied that value for money can be demonstrated.

Signature of Director of Resources	Date:
Date reported to Accounts & Audit Committee:	

## EQUALITY CONSIDERATIONS IN PROCUREMENT

### Background

When conducting procurement activities, the Council must ensure it meets the legal obligations under the Equality Act 2010 and its associated Public Sector Equality Duty in a way that is consistent with achieving value for money and relevant public procurement law.

### What is the Public Sector Equality Duty?

The PSED is contained within section 149 of the Equality Act 2010. It requires those public bodies which are subject to the duty, to have due regard to the three aims of the duty:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
- Foster good relations between people who share a protected characteristic and people who do not share it.

The PSED should help to ensure that public goods and services are accessible to, and meet the diverse needs of all users to ensure that no one group is disadvantaged in accessing public goods and services.

### Who does the duty apply to?

The PSED applies to the public bodies listed in Schedule 19 to the Equality Act 2010 (when they are exercising their functions, including procurement) and to other organisations when carrying out a public function<sup>1</sup>. In terms of public procurement, departments should be aware of the following:

- Contracting out a service to which the PSED applies – if a department is contracting out a service to which the PSED applies, the department will need to consider whether the contractor would need to meet certain requirements of the PSED in carrying out that service so that the department can fulfil its duty.
- Contracting out a public function – the successful contractor will be required to fulfil the requirements of the PSED in respect of the public function that it is performing but not beyond that function, e.g. in its wider business/functions. Although this is a statutory duty on the contractor, it would usually be set out in the contract conditions. In addition to the statutory duty on the contractor, the department's PSED itself is non-delegable and so, the public body subject to the PSED remains liable for compliance with its duty and not the contractor.

## **‘Due regard’ and assessing relevance**

The public procurement rules allow for equality-related issues to be taken into account in the procurement process where they are relevant to the subject matter, or relate to the performance, of the contract. ‘Due regard’ in the context of public procurement means consciously considering the relevance of the three aims of the duty to the individual procurement and ensuring that where equality issues are incorporated into the procurement process, it is done in a proportionate way (i.e. the actions taken are proportionate to the degree of relevance of the equality issue to the individual procurement), taking into account value for money. It is important that the issues are looked at substantively and with an open mind, it is not enough to just note that there will be no negative impact, as there are parts of the duty which look at whether positive improvements can be made. It is good practice for those subject to the PSED to keep a record of the process of consideration to help demonstrate they have given real consideration to the three aims (whether or not equality is relevant to what is being procured). Departments should also be aware of their obligations to publish certain information under the Equality Act 2010 (Specific Duties Regulations)

The degree of relevance of equality will vary depending on the individual procurement.

For services, the degree of relevance is likely to be greater if:

- The service involves direct contact with the public
- The service combines technical performance with provision directly to the public, for example, transport services and communication services;
- The service will be performed on the public authority’s premises, where the contractor’s workforce will be in contact with the public authority’s employees, for example, facilities management services.

For goods, the degree of relevance of equality is likely to be greater if:

- The goods need to meet specific technical needs of the user, for example, meeting the needs of disabled people to ensure that the goods are fit for purpose.

For works, the degree of relevance of equality is likely to be greater if:

- The works need to ensure accessibility for disabled people, for example, building accessibility for disabled people;
- The works are being performed on the public authority’s premises where the contractor’s workforce will be in contact with the public authority’s employees or members of the public.

The extent to which equality can be reflected in the procurement process varies depending on both the degree of relevance of equality to the individual procurement and on the stage of the procurement process. A case-by-case assessment is needed. If in doubt, departments should seek advice from Legal Services.

Where it is clear from the start of the procurement, having conducted pre-procurement engagement and in identifying the need, that equality is not relevant to what is being procured, no further consideration or actions are required. The PSED is a continuing duty so if equality is a relevant consideration in what is being procured it should be considered at an early stage and throughout the procurement process (both beforehand and at the time a relevant decision is being made). As a matter of good practice, departments may wish to keep some formal record to show that they have considered the duty in conducting a procurement exercise.

## **Ensuring transparency**

In keeping with relevant procurement law and the Government's commitment to be more transparent about how public money is spent, where equality requirements are being incorporated into the procurement process, this must be clearly set out in the tender documents and resulting contract documents.

Under the Government's transparency policy, all central government tender documents and contract for procurements over the value of £10,000 must be published on Contracts Finder. Greater transparency of tender documents and contracts will provide some indication as to whether and how equality has been incorporated into a particular procurement. This information will allow potential providers and the public to hold the Council to account where they believe that relevant equality considerations are not adequately addressed in a particular procurement or where they believe that such matters have not been incorporated in a proportionate way.

## Appendix C

### Government Guidance Thresholds and Inclusion of VAT

[Guidance: Thresholds \(HTML\) - GOV.UK](#)

UK Limit £214,904 (including VAT), £179,087 (excluding VAT)

## Appendix D

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<b>Agent</b>	A person or organisations acting on behalf of the Council or on behalf of another person
<b>Award Criteria</b>	The criteria by which the successful quotation or tender is be selected
<b>Award Procedure</b>	The procedure for awarding a contract as specified in Rules CPR19,20, and 27
<b>Below Threshold Contract</b>	<a href="#">A below-threshold contract is a public contract for goods, works, or services with an estimated value below the statutory thresholds set out in Schedule 1 of the Procurement Act 2023.</a>
<b>Best Value</b>	<p>The duty, which Part 1 of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council.</p> <p>The terminology has now in many cases been superseded by Value for Money.</p>
<b>Bond</b>	An insurance policy: if the contractor does not do what it has promised to do under a contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Council against a level of costs arising from the contractor's failure.
<b>Candidate</b>	Any person who asks or is invited to submit a quotation or tender
<b>Chief Officer</b>	The officers defined as such in the Council's Constitution
<b>Code of Conduct (employee)</b>	The code regulating the conduct of Officers
<b>Committee</b>	A committee which has the power to make decision for the Council, for example a joint committee with another local authority, but not a scrutiny committee
<b>Constitution</b>	<p>The constitutional documents approved by the Council which;</p> <ul style="list-style-type: none"> <li>• Allocates powers and responsibilities within the Council and between it and others</li> <li>• Delegates authority to act to the Executive, Committees and Officers</li> <li>• Regulates the behaviour of individuals and groups through rules of procedure, codes and protocols</li> </ul>
<b>Consultant</b>	Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the Council has no ready access to employees with the skills, experience or capacity to undertaken the work
<b>Contracting Decision</b>	<p>Any of the following decisions;</p> <ul style="list-style-type: none"> <li>• Composition of approved lists</li> <li>• Withdrawal of invitation to tender</li> <li>• Whom to invite to submit a quotation or tender</li> <li>• Shortlisting</li> <li>• Award of contract</li> <li>• Any decision to terminate a contract</li> </ul>
<b>Democratic and Legal</b>	<a href="#">As identified in the Council's Constitution.</a>

<b>Services Manager</b>	
<b>European Economic Area Exempted Contract</b>	An exempt procurement is a contract specifically listed in Schedule 2 of the Procurement Act 2023 that is exempt from standard competitive tendering rules. These contracts allow public authorities to avoid costly, lengthy, or inappropriate procurement processes for specific needs, such as national security, acquisition of Land/buildings, public employment, legal services etc. For details view <a href="http://www.companieshouse.gov.uk/about/miscellaneous/listeeaCountries.shtml">http://www.companieshouse.gov.uk/about/miscellaneous/listeeaCountries.shtml</a>
<b>Financial Procedure Rules</b>	The Financial Procedure Rules outlining officer responsibilities for financial matters issued by the Director of Resources in accordance with the Council's Constitution.
<b>Framework Agreement</b>	An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, on particular with regard to price, and where appropriate, the quantity envisaged.
<b>Government Procurement Agreement</b>	The successor agreement to the General Agreement on Trade and Tariffs.
<b>Invitation to Tender (ITT)</b>	Invitation to Tender documents in the form required by these Contract Procedure Rules.
<b>Most Advantageous Tender (MAT)</b>	
<b>Most Economically Advantageous Offer/ Tender (MEAT)</b>	From the Council's perspective the most economically advantageous offer from a Supplier assessed by reference to relevant evaluation criteria linked to the subject matter of the contract in question for example, quality, price, technical merit, aesthetic and functional characteristics, running costs, cost effectiveness, after sales service and technical assistance, delivery date and delivery period or period of completion
<b>Nominated Suppliers and Sub Contractors</b>	Those persons specified in a main contract for the discharge of any part of that contract.
<b>Non Commercial Considerations</b>	<ul style="list-style-type: none"> <li>• The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters');</li> <li>• Whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self employed persons of their services only;</li> <li>• Any involvement of the business activities or interests of contractors with irrelevant field of government policy;</li> <li>• The conduct of contractors or workers in industrial disputes between them or any involvement in the business activities of contractors in industrial disputes between other persons;</li> <li>• The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests, of contractors;</li> <li>• Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees;</li> <li>• Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support;</li> </ul>

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	<ul style="list-style-type: none"> <li>Use or non use by contractors of technical or professional services provided by the authority under the Building Act 1984</li> </ul> <p>Workforce matters and industrial disputes as defined above cease to be non commercial considerations to the extent necessary or expedient to comply with Best Value, or where there is a transfer of staff to which the Transfer of Undertakings (Protection of Employment) Regulations 1981 (TUPE) may apply.</p>
<b>Parent Company Guarantee</b>	A contract which binds a parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Council, the Council can require the parent company to do so instead.
<b>Procurement Strategy</b>	The document setting out the Council's approach to procurement and key priorities for the next few years.
<b>Public Contract</b>	<a href="#">A public contract is a contract entered into by a contracting authority with a value above the relevant threshold that is not exempted by Schedule 2 of the Procurement Act 2023 (Act).</a>
<b>Quotation</b>	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
<b>Relevant Contract</b>	Contracts to which these Contract Procedure Rules apply.
<b>Responsible Officer</b>	The officer designated by the Chief Officer to deal with the contract in question. Ordinarily, this will be a member of Corporate <a href="#">Management Leadership Team</a> .
<b>Shortlisting</b>	The process of selecting candidates who are to be invited to quote or bid or to proceed to final evaluation.
<b>Social Value</b>	<a href="#">Social value is the positive, often non-financial, impact an organization has on society, the environment, and the economy, beyond its core commercial activities. It measures improvements in community wellbeing—such as job creation, carbon reduction, or training</a>
<b>Tender</b>	A candidate's proposal submitted in response to an Invitation to Tender.
<b>Total Value</b>	<p>The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal calculated as follows;</p> <ul style="list-style-type: none"> <li>Where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period;</li> <li>Where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months;</li> <li>Where the contract is for an uncertain duration, by multiplying the monthly payment by 48 months or the annual payment by 4 years;</li> <li>For feasibility studies, the value of the scheme or contracts which may be awarded as a result;</li> <li>For nominated suppliers and sub contractors, the total value shall be the value of that part of the main contract to be fulfilled by the nominated suppliers and sub contractors.</li> </ul>
<b>Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)</b> <b>SI 2006 No 246</b>	Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the authority is transferred from one organisation (e.g. private contractor, local authority in house team) to another (e.g. following a contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE

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	regulations ensure that the rights of employees are transferred along with the business.
<b>Value for Money</b>	Value for money is not the lowest price possible; it combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price.

**Pendle Borough Council**



# **Financial Procedure Rules**

**May 2026**

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## SECTION 1 - STATUS OF FINANCIAL PROCEDURE RULES

1.1 These Financial Procedure Rules provide the framework for managing the Council's financial affairs. They apply to every Councillor and Officer of the Council and anyone acting on its behalf.

1.2 They identify the financial responsibilities of the full Council, the Executive, the Head of Paid Service (Chief Executive), the Monitoring Officer (Head of Legal & Democratic Services), the Section 151 Officer (Director of Resources), the Director of Place and other members of the ~~Corporate Management Team~~ Corporate Leadership Team.

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1.3 All members of the Corporate Leadership Team ~~and Corporate Management Team~~ should maintain a record where decision making has been delegated to members of their staff, including seconded staff.

1.4 All Councillors and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.

1.5 The Director of Resources is responsible for maintaining a continuous review of the Financial Procedure Rules and submitting any additions or changes necessary to the Council for approval. He/she is also responsible for reporting, where appropriate, breaches of the Financial Procedure Rules to the Council and/or the Executive.

1.6 The Council's detailed financial procedures, setting out how the procedures will be implemented, are contained in these Financial Procedure Rules.

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1.7 Members of Corporate Leadership Team ~~and Corporate Management Team~~ are responsible for ensuring that their staff are aware of the existence and content of the Council's Financial Procedure Rules and other internal regulatory documents and that they comply with them.

1.8 The Director of Resources is responsible for issuing advice and guidance to underpin the Financial Procedure Rules that Councillors, Officers and others acting on behalf of the Council are required to follow.

1.9 For the purpose of these Financial Procedure Rules, the Corporate Leadership Team (CLT) shall comprise of the following officers;

- a. Chief Executive
- b. Director of Resources (S151)
- c. Director of Place
- d. Head of Legal & Democratic Services

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~~e. The Members of the Corporate Management Team (CMT) shall comprise the members of the CLT plus the following officers.~~

d.

- e.e. Assistant Director Operational Services
- a. Assistant Director, Planning, Building Control and Regulatory Services
- a-b. Assistant Director HR and Organisational Change
- b-c. Head of Housing & Environmental Health
- e-d. Head of Economic Growth

- d.e. Head of Finance
- e.f. Head of Policy & Commissioning
- f.g. Head of Property & Engineering

- 1.10 Reference in these Financial Procedure Rules to 'Manager' or 'Managers' refers to all members of ~~Corporate Management Team~~Corporate Leadership Team.
- 1.11 Failure to comply with the requirements of Financial Procedure Rules may, if appropriate, lead to action being taken against Officers under the Council's Disciplinary Procedure and against Councillors under the Code of Conduct.

## **SECTION 2 - FINANCIAL MANAGEMENT STANDARDS**

- 2.1 Financial management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget.

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### **The Council**

- 2.2 The Council is responsible for adopting the Council's Constitution and for approving the policy framework and budget within which the Executive operates. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The framework is set out in the Council's Constitution.

### **The Executive**

- 2.3 The Executive is responsible for proposing the policy framework and budget to the full Council, and for discharging its functions in accordance with the policy framework and budget.

### **The Statutory Officers**

- 2.4 The roles and responsibilities of the Statutory Officers and Managers of the Council are set out below;

#### *Head of Paid Service (Chief Executive)*

- 2.5 The Chief Executive is responsible for the overall strategic management of the Council as a whole. ~~He or she~~ They must report to and provide information for the full Council, the Executive and other committees or panels. They are responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Chief Executive is also responsible, together with the ~~Corporate Management Team~~ Corporate Leadership Team, for the system of record keeping in relation to all Council decisions.

#### *Monitoring Officer (Head of Legal & Democratic Services)*

- 2.6 The Head of Legal & Democratic Services is responsible for;
- promoting and maintaining high standards of conduct, including financial conduct. They are also responsible for reporting any actual or potential breaches of the law or maladministration to the full Council and/or the Executive, and for ensuring that procedures for recording and reporting key decisions are operating effectively.
  - ensuring that Executive decisions and the reasons for them are recorded in the Minutes and that these are made public. They must also ensure that all Councillors are aware of decisions made by the Executive and those made by Officers who have delegated responsibility.
  - advising all Councillors and officers about who has authority to take a particular decision.
  - for advising the Executive or full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework.
  - [together with the Director of Resource] for advising the Executive and/or full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget framework.

#### S151 Officer (Director of Resources)

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- 2.7 The Director of Resources has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from;
- a. Section 151 of the 1972 Local Government Act.
  - b. The 1988 Local Government Finance Act.
  - c. The 1989 Local Government and Housing Act.
  - d. The 2022 Accounts and Audit Regulations.
  - e. The 2003 Local Government Act.

2.8 The Director of Resources is responsible under Section 151 of the 1972 Local Government Act for the proper administration of the Council's financial affairs.

- 2.9 Section 114 of the 1988 Local Government Finance Act requires the Director of Resources to report to the full Council, Executive and the External Auditor if the Council or one of its officers;
- a. has made, or is about to make, a decision that involves incurring unlawful expenditure,
  - b. has taken, or is about to take, an unlawful action that has resulted or would result in a loss or deficiency to the Council
  - c. is about to make an unlawful entry in the Council's accounts.

Section 114 of the 1988 Act also requires;

- a. the Director of Resources to nominate a properly qualified member of staff to deputise should ~~he or she~~ they be unable to perform the duties under section 114 personally;-
- b. the Council to provide the Director of Resources with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

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- 2.10 Section 25 of the Local Government Act 2003 requires the Director of Resources to:
- a. report to a meeting of full Council on the robustness of the budget estimates (calculated in accordance with s31 to s36 of the Local Government Finance Act 1992)
  - b. report to a meeting of full Council on the adequacy of proposed reserves

- 2.11 Section 27 of the 2003 Act also requires the Director of Resources, in relation to the previous financial year if it appears that a controlled reserve is or is likely to be inadequate, to:
- a. report on the reasons for that situation; and
  - b. report on the action, if any, which he/she considers it would be appropriate to take to prevent such a situation arising in relating to the corresponding reserve for the financial year under consideration

- 2.12 It is the responsibility of members of ~~Corporate Management Team~~ Corporate Leadership Team (and the staff within their Service) to consult with the Director of Resources and seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred. Members of ~~Corporate Management Team~~ Corporate Leadership Team are responsible for:
- a. ensuring that Executive Members, Committees, Working Groups and Panels are advised of the financial implications of all proposals and that the Director of Resources has agreed the financial implications.
  - b. signing certain contracts on behalf of the Council (in compliance with the Contract Procedure Rules).

### Scheme of Virement (Revenue)

- 2.13 Virement is the switching of resources between approved budgets in order to achieve Council or Service objectives. Details are as set out below;
- a. The scheme of virement is intended to enable the Executive, the Chief Executive, ~~Corporate Management Team~~Corporate Leadership Team 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. It is administered by the Director of Resources within guidelines set by the full Council and any variation from this scheme requires the approval of the full Council.
  - b. The full Council is responsible for agreeing procedures for virement of expenditure between budget headings.
  - c. Members of ~~Corporate Management Team~~Corporate Leadership Team are responsible for agreeing in-year virements in accordance with the virement scheme. They must notify the Director of Resources of all proposed virements.
  - d. ~~Corporate Management Team~~Corporate Leadership Team and designated budget managers are therefore authorised to incur expenditure in accordance with the estimates that make up the budget.
- 2.14 Virement does **not** create additional overall budget provision. Managers are expected to exercise their discretion in managing their budgets responsibly and prudently having regard to the following;
- a. fortuitous or one-off savings shall not be used to fund new, continuing or longer term commitments.
  - b. Any savings in the budget for capital financing costs (including lease rentals), investment income, internal recharges and insurances shall not be used to fund new expenditure on other heads of expenditure.
  - c. In the case of a budget for employee costs, any virement must be net of the annual vacancy (or turnover) factor budget.
  - d. Any additional costs arising in the following financial year are to be financed from further savings in the budget, unless agreed otherwise by full Council as part of the annual budget framework.
  - e. Virement will not be permitted from any income budget until the budgeted level of income in any one financial year has been achieved within that financial year.
- 2.15 Virements between revenue budget heads within the same service area shall be authorised as follows:
- a. Up to and including £10k on any one budget head during the year may be authorised by the Director or Service Head on budgets under their control following notification to the S151 Officer.
  - b. In excess of £10k but less than £~~100~~50k requires consultation with the S151 Officer, provided there is no material negative effect on service delivery.
  - ~~c. In excess of £50k but less than £100k requires Executive Approval, a report will be prepared jointly by the Director/Head of Service and the S151 Officer.~~
  - d. In excess of £100k requires ~~full Council~~Executive Approval, a report will be prepared jointly by the Director/Head of Service and the S151 Officer.

- 2.16 Virements that will impact on the budget of two or more service activities may only be implemented with the relevant service managers and following consultation with Corporate Leadership Team:-
- a. Up to and including £10050k may be authorised by Corporate Leadership Team providing there is no impact on the level of service activity of a service area.
  - b. For virements in excess of £10050k but less than £100k prior approval of the Executive is required, a report will be prepared jointly by the Director/Head of Service and the S151 Officer.
  - c. ~~In excess of £100k requires full Council approval, a report will be prepared jointly by the Director/Head of Service and the S151 Officer.~~
- 2.17 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 the amount is used in accordance with the purposes for which it has been established and the Executive has approved the basis and the terms, including financial limits, on which it will be allocated. Allocations in excess of the financial limits should be reported back to the Executive for approval.

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### **Supplementary Revenue Estimates**

- 2.18 Supplementary Revenue Estimates are additional revenue budget provisions over and above that approved by Council as part of the annual budget setting process. Details are as set out below;
- a. No revenue expenditure shall be incurred in connection with the adoption of any new policy without the prior approval of the Council.
  - b. Any proposed expenditure that is not included in the approved Budget Estimates or any likely overspending which cannot be met by a budget transfer in accordance with the approved scheme of virement as outlined above shall not be incurred without the granting of a supplementary revenue estimate approved by the Executive.
- 2.19 Supplementary Revenue Estimates up to a total of £100,000 in any one financial year can be approved by the Chief Executive, in consultation with the Director of Resources and the Director of Place provided that:-
- a. any such Supplementary Revenue Estimates do not create an on-going financial commitment for the Council. In the event of such a Supplementary Revenue Estimate, it must be approved by the Executive;
  - b. due regard is given to the effect of the Supplementary Revenue Estimate(s) on the Council's Medium Term Financial Strategy;
  - c. that any such Supplementary Revenue Estimates do not result in the Council's General Fund Balance falling below the minimum working balance.
- 2.20 Where, any single Supplementary Revenue Estimates, or the total of Supplementary Revenue Estimates in any one year, exceed £100,000, approval of the Executive must be sought where;
- a. ~~Where,~~ as a result of a proposed Supplementary Revenue Estimate, the Council's approved Minimum Working Balance would be breached, any such Supplementary Revenue Estimate must only be approved by the Council after consideration of a report to the Executive from the Director of Resources on the adequacy of the General Fund Working Balance.
  - b. The Council receives external funding related to specific proposed revenue expenditure, either by virtue of conditions associated with the external funding or by a decision of the Executive, relevant Managers may, in consultation with the Director of Resources, create additional budget provision and incur expenditure as appropriate, equivalent to the amount of external funding receivable.

- c. such external funding receivable must, before any additional budget provision is created or expenditure is incurred, either have been received or be confirmed in writing by the Funder. Under no circumstances should Managers commit to, or incur expenditure without written confirmation of, and agreement to, the funding and associated conditions. Managers must consult both the Director of Resources and Director of Place on any such conditions prior to accepting an offer of external funding.

### **Budget Slippage**

- 2.21 Budget slippage is unspent budget provision in one financial year that relates to an expenditure commitment in the next. Budget Slippage relates to an unspent budget estimate for which there is an actual, and not possible, commitment to incur expenditure in the future. Ordinarily, this will apply when the commitment is to be incurred in a financial year following the budget underspend.
- 2.22 Subject to the approval of the Director of Resources, Managers may request the carry forward from one financial year to the next financial year an unspent budget estimate relating to an actual commitment provided that:
  - a. the controllable budget for which the Manager is responsible is not overspent in total.
  - b. the Manager is able to demonstrate that there is an actual, and not possible, commitment to incur expenditure. For example, there is a specific Executive resolution to incur the expenditure, an order has been placed for goods and services, the works for which the budget estimate relates are on-going and not yet complete or an offer of grant has been made by the Council but has not yet been taken up (subject to time limits placed on the grant offer).
- 2.23 Where, any budget slippage, or the total of budget slippage in any one year, exceed £100,000, approval of the Executive must be sought.
- 2.24 Any budget slippage which has not been applied to the associated commitment within six months of the financial year end will be removed from the service budget and transferred back to reserves unless otherwise agreed by the Director of Resources.

### **Accounting Policies**

- 2.25 The Director of Resources is responsible for selecting accounting policies and ensuring that they are applied consistently as set out below;
- 2.26 The Director of Resources shall prepare the Council'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 (CIPFA/LASAAC) for each financial year ending 31 March.
- 2.27 The key controls for accounting policies are:
  - 1. systems of internal control are in place that ensure that financial transactions are lawful.
  - 2. suitable accounting policies are selected and applied consistently.
  - 3. proper accounting records are maintained.
  - 4. financial statements are prepared which present fairly the financial position of the Council and its expenditure and income.
  - 5. judgements and estimates that are reasonable and prudent.
  - 6. a timetable for final accounts preparation is drawn up to advise staff and external auditors accordingly.

- 2.28 The accounting policies shall cover such items as:
1. separate accounts for capital and revenue transactions.
  2. the basis on which debtors and creditors at year end are included in the accounts.
  3. plant, property and equipment.
  4. employee benefits.
  1. financial instruments.
  6. accounting for value added tax.
  7. grants and contributions.
  8. Leases.
  9. Related Party Transactions
- 2.29 Members of [Corporate Management Team](#)[Corporate Leadership Team](#) shall;
1. adhere to the accounting policies and guidelines approved by the Director of Resources.
  2. Support the Director of Resources to ensure the proper administration of the financial affairs of the Council.
  3. Support a monitoring system to review compliance with financial standards, regular comparisons of performance indicators and benchmark standards to be reported to Managers, Councillors, the Executive, other Committees and full Council as appropriate.
  4. To ensure that financial information is made available for the purposes of any applicable national and local financial performance indicators.
  5. To promote sound financial practices in relation to the standards, performance and development of staff in their services.
- 2.30 Maintaining proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources. The Council has a statutory responsibility to prepare its annual accounts to give a true and fair view of its operations during the year.
- 2.31 The key controls for accounting records and returns are:
1. finance staff and budget managers operate within the required accounting standards and timetables.
  2. all financial transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis.
  3. reconciliation procedures are carried out to ensure transactions are correctly recorded.
  4. prime documents are retained in accordance with legislative and other requirements.
  5. Where possible, separate the duties of staff providing information about sums due to or from the Council and calculating, checking and recording these sums from the duty of collecting or disbursing them.
  6. employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
  7. ensure that all claims for funds including grants are made by the due date.
  8. maintain adequate records to provide a management/audit trail leading from the source of income/expenditure through to the accounting statements.
  9. supply any information required to enable the Statement of Accounts to be completed in accordance with statutory requirements and timescales.

## Statement of Accounts

- 2.32 The Statement of Accounts shall be prepared in accordance with the above policies and further a set out below;
1. The Statement of Accounts are subject to External Audit. This audit provides independent assurance that the accounts are prepared properly, that proper accounting practices have been followed and that arrangements have been made for securing economy, efficiency and effectiveness in the use of the Council's resources.
  2. Prior to approval by the Accounts and Audit Committee, the Director of Resources shall sign and date the statement of accounts, stating that it presents a true and fair view of the financial position of the Council at the accounting date and its income and expenditure for the financial year ended 31 March.

## Responsibilities of Councillors

- 2.33 In accordance with the Accounts and Audit Regulations, the Council's Statement of Accounts must be signed and dated by the Chairman of the Accounts and Audit Committee at the meeting at which it is approved.
- 2.34 All Councillors shall complete any request for information in respect of Related Party Transactions.

## 3 SECTION 3 - FINANCIAL PLANNING

- 3.1 Each local Council has a statutory responsibility to publish various performance plans. The purpose of these performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement. The full Council is responsible for agreeing the Council's policy framework and budget. In terms of financial planning, the key elements are the:
- a. ~~Corporate Council Plan~~
  - b. Medium Term Financial Forecast
  - c. Revenue Budget
  - d. Treasury Management Strategy (incorporating the Prudential Limits and Indicators, Policy on Minimum Revenue Provision and Annual Investment Strategy);
  - e. Capital Programme
  - f. Capital Strategy and the Asset Management Plan.
- 3.2 The Council is responsible for;
- a. approving the policy framework and budget as set out in the Constitution.
  - b. approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Decisions should be referred to the full Council by the Head of Legal & Democratic Services.
  - c. for setting the level at which the Executive, notwithstanding the approved Scheme of Virement, may reallocate budget funds from one service to another. The Executive is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the overall financial limits set by the Council.

### **Council Corporate Plans & Performance Monitoring**

- 3.3 The Chief Executive is responsible for proposing the ~~Council~~ Corporate Plan to the Executive for consideration before its submission to the full Council for approval.
- 3.4 The key controls for performance plans are:
- a. to ensure that all relevant plans are produced and that they are consistent with Corporate Priorities.
  - b. to produce plans in accordance with statutory requirements.
  - c. to meet the timetables set.
  - d. to ensure that all performance information is accurate, complete and up to date.
  - e. to provide improvement targets which are meaningful, realistic and challenging.
- 3.5 Members of ~~Corporate Management Team~~ Corporate Leadership Team shall;
- a. contribute to the development of performance plans in line with statutory requirements.
  - b. advise and supply the required financial information for inclusion in performance plans in accordance with statutory requirements and agreed timetables.
  - c. contribute to the development of corporate and service targets and objectives and performance information.
  - d. ensure that systems are in place for their area(s) of responsibility to measure activity and collect accurate information for use as performance indicators.
  - e. ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met for their area(s) of responsibility.

### **Medium Term Financial Planning**

- 3.6 The Council 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 and objectives that have been agreed by the Council. The budget is the financial expression of the Council's plans and policies.
- 3.7 Medium-term planning (over a three to five-year period) 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 Council is always preparing for events in advance.
- 3.8 The revenue budget must be constructed to ensure that resource allocation properly reflects the service plans and priorities of the full Council. Budgets (spending plans) are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent.
- 3.9 The key controls for budgets and medium-term planning are:
- a. specific budget approval for all expenditure.
  - b. budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by Council/Committee 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.
- 3.10 The Director of Resources shall prepare and submit reports on budget forecasts to ~~Corporate Management Team~~ Corporate Leadership Team and Council, including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.

- 3.11 ~~The Director of Resources shall~~ encourage the best use of resources and value for money by working with ~~Corporate Management Team~~Corporate Leadership Team to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- 3.12 ~~To assist the Director of Resources~~ in the preparation of estimates to be submitted to Council ~~the Director of Resources will having regard to~~take into account:
- ~~budget – monitoring~~budget monitoring process
  - legal requirements
  - policy requirements as defined by the full Council in the approved policy framework
  - initiatives already under way.
- 3.13 ~~To prepare budgets~~Budgets shall be prepared that are consistent with any relevant cash limits, with the Council's annual budget cycle and with guidelines issued by the Executive and/or the Director of Resources. The format should be as prescribed by the Director of Resources in accordance with the full Council's general directions.
- 3.14 ~~To integrate~~ financial and budget plans will be integrated into service planning, so that budget plans can be supported by financial and non-financial performance measures.

#### **Budgeting Setting & Format**

- 3.15 The general format of the budget will be approved by Council ~~and proposed~~following recommendation by the Executive on the advice of the Director of Resources. The draft budget should include allocation to different services and projects, proposed local taxation levels and any use of reserves and/or balances.
- 3.16 The Director of Resources is responsible for ensuring that a revenue budget is prepared on an annual basis together with a medium-term revenue forecast and presented to the Executive for consideration, prior to submission to the full Council. The full Council may amend the budget or ask the Executive to reconsider it before approving it in accordance with the statutory deadline.
- 3.17 The format of the budget determines the level of detail to which financial control and management will be exercised. The format shall comply with all legal requirements including CIPFA's Code of Practice.
- 3.18 Members of ~~Corporate Management Team~~Corporate Leadership Team shall comply with accounting guidance provided by the Director of Resources.

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#### **Charging for Services – Fees and Charges**

- 3.19 Corporate Leadership Team shall review the charges made for services under their control both during the financial year and as part of the budget preparation process. Anticipated variations in income, as a consequence, shall be taken into account when preparing the revenue budget for the following financial year. Changes to pricing or to charging arrangements can be introduced only after consultation with the Director of Resources and approval by Full Council.
- ~~3.18~~3.20 Corporate Leadership Team shall have regard to the Council's Fees and Charges Policy when considering the setting of existing or new fees and charges.

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## Budget Monitoring and Control

3.193.21 The Director of Resources is responsible for providing Councillors and Officers with appropriate financial information to enable budgets to be monitored effectively. They must put in place arrangements for the monitoring and control of capital and revenue expenditure against budget allocations.

3.203.22 It is the responsibility of members of ~~Corporate Management Team~~Corporate Leadership Team to monitor and control income and expenditure within their capital and revenue budgets and to monitor performance, taking account of financial information made available by the Director of Resources. In accordance with the arrangements and timetable issued by the Director of Resources, Services should comment on variances within their own areas and agree the reporting of such information to the Executive. They should also take any appropriate action necessary to avoid exceeding their budget allocation and alert the Director of Resources to problems, and proposed remedies, as soon as they are identified.

3.213.23 The Director of Resources will issue guidelines on budget preparation. The guidelines will take account of:

- a. legal requirements
- b. medium-term planning projections
- c. the Strategic Plan
- d. available resources
- e. spending pressures and other relevant government guidelines
- f. other internal policy documents
- g. cross-cutting issues (where relevant).

3.223.24 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 Council to review and adjust its budget targets during the financial year. It also provides the mechanism that holds to account, managers responsible for defined elements of the budget.

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

3.243.26 For the purposes of budgetary control by 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 a Manager's agreed scheme of delegation.

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

- a. budget 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. budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities.
- d. budget managers follow the approved certification process for all expenditure.
- e. income and expenditure are properly recorded and accounted for.
- f. performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget
- g. compliance with the agreed scheme of virement.

- h. budget management is exercised within annual cash limits unless the full Council agrees otherwise.
- i. each Manager has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities
- j. expenditure is committed only against an approved budget head.
- k. all officers responsible for committing expenditure comply with relevant guidance, and the Financial Procedure Rules
- l. significant variances from approved budgets are investigated and reported by budget managers regularly.
- m. reports to ~~Corporate management Team~~[Corporate Leadership Team](#), Executive and Council highlight any material variances during the financial year.

3.263.28 Members of ~~Corporate Management Team~~[Corporate Leadership Team](#) shall;

- a. maintain budgetary control within their Service to ensure that all income and expenditure is properly recorded and accounted for.
- b. ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Manager (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.
- c. 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.
- d. ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.
- e. ensure prior approval by the full Council or the Executive for new proposals, of whatever amount, that:
- f. create financial commitments in future years (where required).
- g. agree with any other relevant member of ~~Corporate Management Team~~[Corporate Leadership Team](#) where it appears that a budget proposal, including a virement proposal, may impact materially on another service area.
- h. update existing policies, initiate new policies or cease existing policies.

3.273.29 Reports on new proposals must explain the full financial implications following consultation with the Director of Resources. Managers should aim to contain the implications of such proposals within their approved budgets.

### Capital Programme

3.283.30 The Director of Resources is responsible for ensuring that a capital programme is prepared on an annual basis for consideration by the Executive before submission to the full Council.

3.293.31 Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, 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.

3.32 The Prudential Code for Capital Finance in Local Authorities governs the financing capacity of the Council. Authorities are required by Regulation to have regard to the Prudential Code when carrying out their duties in England and Wales under Part 1 of the Local Government Act 2003. The objectives of the Prudential Code are to ensure, within a clear framework, that the capital investment plans of local authorities are affordable, prudent and sustainable. Capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

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~~3.30~~

3.34~~3.33~~ The key controls for capital programmes are:

- a. specific approval by the full Council for the programme of capital expenditure
- b. the development and implementation of asset management plans.
- c. accountability for each proposal is accepted by a named manager
- d. For each new scheme a Capital Appraisal shall be carried out and approved by ~~Corporate Management Team~~Corporate Leadership Team prior to the agreement of Executive and then Council.
- e. monitoring of progress in conjunction with expenditure and comparison with approved budget.
- f. scheme of virement for capital projects

3.33~~3.34~~ The Director of Resources shall;

- a. prepare capital estimates jointly with the ~~Corporate Management Team~~Corporate Leadership Team and to report them to Council for approval.
- b. prepare and submit reports on, amongst other things, the affordability, sustainability and prudence of the Council's proposed capital programme in accordance with the Prudential Code for Capital Finance in Local Authorities.
- c. prepare and submit reports on the projected income, expenditure and resources compared with the approved estimates.
- d. issue guidance concerning capital schemes and controls, for example, on project appraisal techniques. The definition of 'capital' will be determined by the Director of Resources, having regard to government regulations and applicable accounting guidance.
- e. provide periodic reports outlining progress on the overall capital programme indicating where amendments may be required to reflect changing circumstances and to ensure the necessary approval mechanisms for virement or supplementary capital estimates are complied with.
- f. obtain authorisation from the Executive for individual schemes where the estimated expenditure exceeds the capital programme provision by more than a specified amount (currently this is 5% of the original capital budget approved).

3.35 Members of ~~Corporate Management Team~~Corporate Leadership Team shall;

- ~~g.~~a. comply with guidance concerning capital schemes and controls issued by the Director of Resources.
- ~~h.~~b. ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the Director of Resources (Appendix A).
- ~~i.~~c. implement capital schemes within the approved timescale and to submit regular returns of estimated final costs of schemes in the approved capital programme to and as required by the Director of Resources.
- ~~j.~~d. ensure that adequate records are maintained for all capital contracts.
- ~~k.~~e. proceed with projects only when there is adequate provision in the capital programme and with the agreement of the Director of Resources, where required.
- ~~l.~~f. submit reports, jointly with the Director of Resources, to the Executive where the estimated costs of a scheme vary by more than 5% of the original capital budget approved.

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~~m.g.~~ prepare and submit reports, jointly with the Director of Resources, to the appropriate Committee, on completion of all contracts.

~~n.h.~~ ensure that credit arrangements, such as leasing agreements (including office equipment), are not entered into without the prior approval of the Director of Resources and, if applicable, approval of the scheme through the capital programme.

### **Scheme of Virement (Capital Programme)**

~~3.36~~ The scheme of virement for the Capital Programme is intended to enable members of ~~Corporate Management Team~~Corporate Leadership Team and their staff to manage the Capital Programme with a degree of flexibility within the overall policy framework determined by the full Council, and therefore to optimise the use of resources in the delivery of services to achieve the corporate priorities of the Council.

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~~3.37~~ The scheme is administered by the Director of Resources within guidelines set by the full Council. Any variation from this scheme requires the approval of Council.

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~~3.35~~~~3.38~~ Virement in the capital programme does not create additional overall budget provision. Service Managers are expected to exercise their discretion in managing their capital programme budgets responsibly and prudently taking note of the following;

- a. fortuitous or one-off savings shall not be used to fund new, continuing or longer term commitments;
- b. virement will not be permitted from the budget of a capital project which is financed by way of external funding where the effect of the virement will be to reduce the amount of external funding receivable by the Council, assets to be leased or internal recharges;
- c. the relevant Manager, in conjunction with the Director of Resources and the Director of Place, must seek the approval of the Executive before undertaking a virement where the effect of the virement represents a change to an existing policy decision.
- d. The Director of Resources shall agree and maintain a record of all capital programme virements implemented and to report these to the Executive as appropriate.

~~e.~~ all proposed capital virements not covered by the above or totalling over £100,000 (in any financial year) must be approved by the Executive.

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~~3.36~~~~3.39~~ Where an approved budget in the Capital Programme 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 Executive has approved the basis and the terms, including financial limits, on which it will be allocated. Allocations in excess of the financial limits should be reported back to the relevant Committee for approval.

### **Supplementary Capital Estimates**

~~3.37~~~~3.40~~ No capital expenditure shall be incurred in connection with the adoption of any new policy without the prior approval of the Council.

~~3.38~~~~3.41~~ Any proposed capital expenditure that is not included in the approved capital programme or any likely overspending which cannot be met by a budget transfer in accordance with the approved scheme of virement as outlined above shall not be incurred without the granting of a supplementary capital estimate approved by the Council after consideration of a report from the Executive.

3.393.42 Supplementary Capital Estimates up to £100,000 can be approved by the Chief Executive, in consultation with the Director of Resources, provided that;

- a. the total of all Supplementary Capital Estimates approved by the Chief Executive in any one financial year does not exceed £100,000); and
- b. where any such proposal for a Supplementary Capital Estimate is a new addition to the capital programme, and is not in connection with the adoption of a new policy, it has been subject to a capital project appraisal as determined by the Director of Resources.
- c. any such Supplementary Capital Estimates do not create an on-going financial commitment for the Council. In the event of a such Supplementary Capital Estimate, it must be approved by Council after consideration of a report from the Executive;
- d. due regard is given to the effect of the Supplementary Capital Estimate(s) on the Council's Medium Term Financial Strategy (incorporating the Medium Term Capital Programme);
- e. where the total of Supplementary Capital Estimates in any one year exceeds £100,000, any subsequent Supplementary Capital Estimates for that same financial year must be approved by the Council after consideration of a report from the Executive. Any such report must be prepared by the relevant Managers, in conjunction with the Director of Resources.
- f. Where the Council receives external funding related to specific proposed capital expenditure, either by virtue of conditions associated with the external funding or by a decision of the Executive, Managers may, in consultation with the Director of Resources, create additional capital budget provision and incur capital expenditure as appropriate, equivalent to the amount of external funding receivable.
- g. Any such external funding receivable must, before any additional capital budget provision is created or expenditure is incurred, either have been received or be confirmed in writing by the Funder. Under no circumstances should Managers commit to, or incur expenditure without, written confirmation of, and agreement to, the funding and associated conditions. Service Managers must consult both the Director of Resources and Director of Place on any such conditions prior to accepting an offer of external funding.

3.403.43 Managers must ensure that, where it is applicable, any additional revenue expenditure arising from a capital scheme funded from external funding can be contained within their approved budget or, where this is not the case, that any additional budget provision is created in accordance with FPR 1.10 to 1.17 (Revenue Virement), FPR1.18 to 1.24 (Supplementary Estimates) or FPR 1.25 to 1.29 (Budget Slippage).

#### **Maintenance of Reserves**

3.413.44 It is the responsibility of the Director of Resources to advise the Executive and the full Council on prudent levels of balances and reserves for the Authority. The Council shall maintain reserves in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom (CIPFA/LASAAC) and agreed accounting policies.

3.423.45 The Council must decide the level of general balances and reserves it wishes to maintain before it can decide the level of Council Tax. Balances and reserves are maintained as a matter of prudence. They enable the Council 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. For each reserve established, the purpose, usage and basis of transactions must be clearly identified.

#### 4 SECTION 4 – Risk Management and Control of Resources

- 4.1 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.
- 4.2 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.
- 4.3 Robust, integrated system should be developed and maintained for identifying and evaluating all significant strategic and operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.
- 4.4 The Executive is responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management including the content of the Council's Strategic Risk Register. The Executive is responsible for ensuring that proper insurance exists where appropriate and to promote a culture of risk management awareness throughout the Council.
- 4.5 The Director of Resources is responsible for preparing the Council's risk management policy statement, for promoting it throughout the Council and for advising the Executive on the proper level of insurance cover where appropriate.
- 4.6 The key controls for risk management are:
  - a. procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the Council.
  - b. a monitoring process is in place to review regularly the effectiveness of risk reduction strategies 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 initiative.
  - 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 Council has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.
- 4.7 The Director of Resources is responsible for;
  - a. in conjunction with the Chief Executive to prepare and promote the Council's risk management statement.
  - b. develop risk management controls in conjunction with other members of [Corporate Management Team](#)[Corporate Leadership Team](#).
  - c. lead the Corporate Governance Steering Group to oversee corporate governance and risk.
  - d. maintain under continuous review the Council's Strategic Risk Register in conjunction with the Council's Corporate Governance Working Group.
  - e. To prepare and submit reports on Risk Management to the Executive and the Accounts and Audit Committee.

f. To include all appropriate employees of the Council in a suitable fidelity guarantee insurance.

g. to effect and maintain corporate insurance cover, through external insurance (and internal funding where considered appropriate to do so).

~~g.~~

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4.8 Members of ~~Corporate Management Team~~ Corporate Leadership Team shall;

a. notify the Head of Legal Services and the Director of Resources immediately of any loss, liability or damage that may lead to a claim against the Council, together with any information or explanation required by the Director of Resources or the Council's insurers.

b. share responsibility for risk management, having regard to advice from the Director of Resources and specialist officers (e.g. crime prevention, fire prevention, health and safety) and to report any risk management implications to Councillors as appropriate.

c. ensure that there are regular reviews of risk within their service and that any such risks are notified to the Director of Resources to be considered for inclusion on the Council's Strategic Risk Register.

d. notify the Director of Resources promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.

~~d.~~

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4.9 The Head of Legal & Democratic Services will be responsible for any negotiations on claims in consultation with other officers where necessary. They will consult the Director of Resources and the Director of Place on the terms of any indemnity that the Council is requested to give and ensure that employees, or anyone covered by the Council'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.

#### Internal Controls

4.10 The Council is a complex organisation and beyond the direct control of individuals. It therefore requires internal controls to manage and monitor progress towards strategic objectives.

4.11 Internal control refers to the systems of control devised to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.

~~4.11~~

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4.12 The Council has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations and to manage wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives.

4.13 The key controls and control objectives for internal control systems are:

a. key controls should be reviewed on a regular basis and the Council should, in accordance with the Accounts and Audit Regulations prepare a formal Annual Governance Statement annually to the effect that it is satisfied that the systems of corporate governance, including those relating to 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. It should operate in accordance with public sector internal auditing standards or guidance and with any other statutory obligations and regulations.
  - e. prior to approval by the Accounts and Audit Committee, the Council's Leader (as the most senior member) and Chief Executive must sign and date the Council's Annual Governance Statement.
- 4.14 The Executive is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- 4.15 The Director of Resources shall 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.
- 4.16 Members of ~~Corporate Management Team~~[Corporate Leadership Team](#) shall;
- a. establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial and service performance targets.
  - b. 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.
  - c. review existing controls in the light of changes affecting the Council and to establish and implement new ones in line with guidance from the Director of Resources. ~~Corporate Management Team~~[Corporate Leadership Team](#) should also be responsible for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.
  - d. ensure staff have a clear understanding of the consequences of lack of control.

#### Internal Audit

- 4.17 The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations 2015, regulation 5, more specifically requires that a “relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance”.
- 4.18 Accordingly, internal audit is an independent and objective appraisal function established by the Council 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. Pendle Borough Council's internal Audit function is currently undertaken by MIAA under an external contract.
- 4.19 The key controls for internal audit are:
- a. that it is independent in its planning and operation
  - b. the Internal Audit Manager has direct access to the Head of Paid Service, all levels of management and directly to elected Councillors
  - c. the Internal Audit Manager complies with CIPFA's Public Sector Internal Audit Standards and associated guidance contained in the Local Government Application Note.
- 4.20 The Director of Resources shall ensure that the Internal Audit Manager has the authority to:

- a. access Council 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 employee of the Council to account for cash, stores or any other Council 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 Chair of the Accounts and Audit Committee and the Executive

4.21 The Director of Resources shall consult with Managers and to present for Committee approval the Strategic and Annual audit plans prepared by the Internal Audit Manager, which take account of the characteristics and relative risks of the activities involved and ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

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4.214.22 Members of ~~Corporate Management Team~~ Corporate Leadership Team shall;

- a. ensure that the Internal Audit Manager is given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.
- b. ensure that the Internal Audit Manager is provided with any information and explanations that he/she seeks in the course of his/her work.
- c. consider and respond promptly to recommendations in audit reports.
- d. ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- e. notify the Director of Resources immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources. Pending investigation and reporting, Managers should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
- f. ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Internal Audit Manager prior to implementation.

**External Audit**

4.23 Public Sector Audit Appointments Ltd (PSAA) has been specified as an appointing person under the provisions of the Local Audit and Accountability Act 2014 and regulation 3 of the Local Audit (Appointing Person) Regulations 2015. For audits of the accounts from 2018/19, PSAA appoints an auditor to relevant principal local government authorities that have opted into its national scheme. Appointments are made for the duration of the five-year appointing period, covering the audits of the accounts for 2023/24 onwards. The Council's external auditor will remain Grant Thornton UK LLP for the five year term from April 2023.

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~~4.234.24~~ 4.24 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 National Audit Office to prepare a Code of Audit Practice, which external auditors follow when carrying out their duties. The Code of Audit Practice sets out the auditor's objectives to form and express an opinion on:

- a. the financial statements (including the Annual Governance Statement) that have been prepared by management with the oversight of those charged with governance (the Accounts and Audit Committee); and
- b. the Value for Money arrangements in place at the Council for securing economy, efficiency and effectiveness in its use of resources.

4.244.25 The Council's accounts are scrutinised by external auditors, who must be satisfied that the statement of accounts give a true and fair view of the financial position of the Council and its income and expenditure for the year in question and complies with legal requirements.

4.254.26 The responsibilities of the Director of Resources are;

- a. 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.
- b. To ensure there is effective liaison between external and internal audit.
- c. To work with the external auditor and advise the full Council, Councillors, and ~~Corporate Management Team~~Corporate Leadership Team in their responsibilities in relation to external audit.

4.264.27 Members of ~~Corporate Management Team~~Corporate Leadership Team shall;

- a. ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.
- b. ensure that all records and systems are up to date and available for inspection.

4.274.28 The Council may, from time to time, also be subject to audit, inspection or investigation by external bodies such as HM Revenues and Customs, who have statutory rights of access.

#### **Preventing Fraud & Corruption**

4.284.29 The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council. The Council's expectation of propriety and accountability is that Councillors and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

4.30 The Council also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.

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4.304.31 The key controls regarding the prevention of financial irregularities are that:

- a. the Council has effective anti-fraud, theft and corruption and Bribery policies and maintains a culture that will not tolerate fraud or corruption.
- b. all Councillors and Staff act with integrity and lead by example, following the Nolan Principles.
- c. senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Council or who are corrupt.
- d. high standards of conduct are promoted amongst Councillors by the Council's Standards Committee.
- e. Members follow the LGA Code of Conduct.
- f. Officers and Members complete registers of interests and registers for the recording of hospitality or gifts accepted.
- g. whistle blowing procedures are in place and operate effectively.
- h. legislation including the Public Interest Disclosure Act 1998 is adhered to.

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4.314.32 The Director of Resources shall maintain adequate and effective internal control arrangements and ensure that all suspected irregularities are reported to the Internal Audit Manager at MIAA, the Corporate Leadership Team and the Accounts and Audit Committee.

- 4.324.33 Members of ~~Corporate Management Team~~~~Corporate Leadership Team~~ shall;
- a. ensure that all suspected irregularities are reported to the Director of Resources and the Internal Audit Manager.
  - b. instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour and warrants disciplinary action in consultation with the Human Resources Manager.
  - c. ensure that where financial impropriety is discovered, the Director of Resources 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. Such action to be discussed and agreed with the Director of Resources.
  - d. Ensure staff complete entries in the register of interests of staff and a register of gifts and hospitality.

## Assets

4.334.34 The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth 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.

- 4.344.35 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 Council 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 Council so as to maximise benefits.
  - d. an asset register is maintained for the Council, assets are recorded when they are acquired by the Council and this record is updated as changes occur with respect to the location and condition of the asset.
  - e. all staff are aware of their responsibilities with regard to safeguarding the Council's assets and information, including the requirements of the Data Protection Act and software copyright legislation
  - f. all staff are aware of their responsibilities with regard to safeguarding the security of the Council's computer systems, including maintaining restricted access to the information held on them and compliance with the Council's computer and internet security policies.

- 4.354.36 The Director of Resources shall
- a. ensure that an asset register is maintained in accordance with good practice for all fixed assets. The function of the asset register is to provide the Council with information about fixed assets so that they are safeguarded, used efficiently and effectively and adequately maintained.
  - b. receive the information required for accounting, costing and financial records from each member of ~~Corporate Management Team~~~~Corporate Leadership Team~~.
  - c. ensure that assets are valued in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom (CIPFA/LASAAC).
  - e.

- 4.364.37 ~~Corporate Management Team~~~~Corporate Leadership Team~~ shall;
- a. ensure that records and assets are properly maintained and securely held. They shall also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

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- b. ensure that the appropriate Manager (currently the Head of Property and Engineering Services Manager (~~Liberata UK Ltd~~)) shall maintain a property database in a form approved by the Director of Resources for all properties, plant and machinery and moveable assets currently owned or used by the Council. Any use of property other than for responsibilities and duration of use
- c. 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 of Place has been established as appropriate.
- d. ensure the proper security of all buildings and other assets under their control.
- e. where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a joint report between Estates and the Property Services Manager to the Executive.
- f. pass title deeds to the Head of Legal & Democratic Services who shall be responsible for their safe custody.
- g. ensure that no Council asset is subject to personal use by an employee without proper authority.
- h. ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Council.
- i. ensure that the service area maintains a register of moveable assets in accordance with arrangements defined by the Director of Resources.
- j. ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- k. consult the Director of Resources and Internal Audit Manager in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- l. ensure cash holdings on premises are kept to a minimum and in compliance with any provisions agreed with the Council's insurers.
- m. ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times and that any loss is reported.
- n. record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless, the Executive approves the use of the negotiated tender procedure.
- o. arrange for the valuation of assets for accounting purposes to meet requirements specified by the Director of Resources.
- p. ensure that all employees 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 Council in some way.
- q. To maintain inventories and record an adequate description of furniture, fittings, equipment, plant and machinery.
- r. To carry out, at least on an annual basis, a 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 computers, cameras and video recorders should be identified with security markings as belonging to the Council.
- s. provide the Director of Resources with a copy of the inventory on an annual basis.
- t. To make sure that property is only used in the course of the Council's business, unless a designated Manager has given permission otherwise.
- u. make arrangements for the care and custody of stocks and stores in their service.
- v. 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.
- w. investigate and remove from the Council's records (i.e. write off) discrepancies as necessary with the prior approval of the Director of Resources unless the Executive's

approval is required in which case the matter will be reported jointly by the Director of Resources and the Manager concerned.

4.374.38 In consultation with the Director of Resources to identify for write-off or disposal of redundant stocks and equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction, unless the Executive decides otherwise in a particular case.

4.384.39 To seek the prior approval of the Director of Resources to the write-off of redundant stocks and equipment valued up to £100,000 and the approval of the Executive for items valued in excess of £100,000.

### Intellectual Property

4.394.40 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.

4.404.41 Certain activities undertaken within the Council may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property.

4.414.42 In the event that the Council decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with the Council's approved disposal procedures.

4.424.43 Members of [Corporate Management Team](#)[Corporate Leadership Team](#) shall ensure that controls are in place to ensure that staff do not carry out private work in Council time and that staff are aware of the employer's rights with regard to intellectual property.

### Asset Disposals

4.44 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 Council.

4.43

4.444.45 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 Council and, subject to legislative concessions, the best price is obtained, bearing in mind other factors, such as environmental issues. All disposals should be in accordance with Contract Procedure Rules (Section 6).

4.454.46 The Director of Resources shall ensure appropriate accounting entries are made to remove the value of disposed assets from the Council's records and to include the sale proceeds if appropriate.

4.464.47 Members of [Corporate Management Team](#)[Corporate Leadership Team](#) shall;

- a. seek advice from purchasing advisors on the disposal of surplus or obsolete materials, stores or equipment.
- b. ensure that income received for the disposal of an asset is properly banked and coded.
- c. consult with the Director of Resources and the Head of Legal & Democratic Services on all assets proposed for disposal.

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- d. ensure only those assets owned by the Council are disposed (i.e. as opposed to those that are leased).

## Treasury management & Banking

4.48 CIPFAs Code of Practice on Treasury Management aims to provide assurances that the Council'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 Council's capital sum. The Council has adopted the key recommendations of CIPFA's Code of Practice for Treasury Management in the Public Services.

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4.484.49 The Council will create and maintain, as the cornerstones for effective treasury management:

- a. a treasury management policy statement (TMPS), stating the policies, objectives and approach to risk management of its treasury management activities;
- b. suitable treasury management practices (TMP's) setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- c. the content of the policy statement and TMPs will follow the recommendations contained in the Code, subject only to amendment where necessary to reflect the particular circumstances of this organisation. Such amendments will not result in the organisation materially deviating from the Code's key principles.
- d. The Council will receive for approval an annual strategy and plan in advance of the year which will set the framework within which treasury management activity will be conducted during the year.

4.494.50 The Council delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to the Executive. The Executive shall receive reports during the year including a mid-year review and an annual report. The Council delegates responsibility for the execution and administration of treasury management decisions to the Director of Resources, who will act in accordance with the Council's policy statement and TMPs and, if he/she is a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.

4.51 This Council nominates the Accounts and Audit Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.

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4.514.52 All money in the hands of the Council is controlled by the officer designated for the purposes of section 151 of the Local Government Act 1972, namely the Director of Resources.

4.524.53 The Director of Resources is responsible for;

- a. reporting to the Executive during the financial year on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers.
- b. taking all executive decisions on borrowing, investment and financing acting at all times in such a manner as to comply with the CIPFA Code of Practice on Treasury Management in the Public Services, The Prudential Code for Capital Investment and the Council's treasury management policy statement and strategy.
- c. to secure banking facilities and operate bank accounts as are considered necessary within the terms agreed by the Council's bankers – opening or closing any bank account shall require the approval of the Director of Resources.

- d. to ensure that all investments of money are made in the name of the Council and in accordance with the Council's approved Treasury Management Policy Statement, The Prudential Code for Capital Investment and approved Treasury Management Practices.
- e. to ensure that all securities that are the property of the Council and the title deeds of all property in the Council's ownership are held in the custody of the Head of Legal Services.
- f. to act as the Council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Council.
- g. all trust funds shall be operated within any relevant legislation and the specific requirements for each trust.

4.54 Members of ~~Corporate Management Team~~ Corporate Leadership Team shall 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 Executive or full Council.

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### Imprest Accounts

4.54.55 Members of ~~Corporate management Team~~ Corporate Leadership Team shall ensure that employees operating an imprest account shall:

- 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 produce upon demand by the Director of Resources cash and all vouchers to the total value of the imprest amount.
- c. record transactions promptly
- d. reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder
- e. provide the Director of Resources with a certificate of the value of the account held at 31 March each year
- f. 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
- g. on leaving the Council's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Director of Resources for the amount advanced to ~~them~~ him or her.

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## 5 SECTION 5 – Systems & Procedures

- 5.1 Sound systems and procedures are essential to an effective framework of accountability and control. Service areas have many systems and procedures relating to the control of the Council's assets, including purchasing, costing and management systems. They are increasingly reliant on computers 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.
- 5.2 The key controls for systems and procedures are:
- a. basic data exists to enable the Council'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.

5.3 The Director of Resources has a professional responsibility to ensure that the Council's financial systems are sound and should therefore be notified of any new developments or changes. They are responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by Service Managers to the existing financial systems or the establishment of new systems must be approved in advance by the Director of Resources.

- 5.4 Members of ~~Corporate Management Team~~ Corporate Leadership Team are responsible for the proper operation of financial processes in their own service areas including to make arrangements for the proper administration of the Council's financial affairs, including:
- a. issue advice, guidance and procedures for officers and others acting on the Council's behalf.
  - b. determine the accounting systems, form of accounts and supporting financial records.
  - c. establish arrangements for audit of the Council's financial affairs.
  - d. approve any new financial systems to be introduced.
  - e. approve any changes to be made to existing financial systems.
  - f. ensure that their staff receive relevant financial training that has been approved by the Director of Resources.
  - g. where appropriate, computer and other systems are registered in accordance with Data Protection legislation. All such systems must be notified to the Council's Data Protection Officer. ~~Corporate Management Team~~ Corporate Leadership Team must ensure that staff are aware of their responsibilities under Freedom of Information and Data Protection legislation.
  - h. ensure that accounting records are properly maintained and held securely.
  - i. ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Director of Resources.
  - j. 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.
  - k. incorporate appropriate controls to ensure that all input is genuine, complete, accurate and timely.
  - l. 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.
  - m. develop and maintain a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
  - n. ensure that systems are documented and staff trained in operations.
  - o. consult with the Director of Resources before changing any existing system or introducing new systems.
  - p. ensure that effective contingency arrangements, including back-up procedures, exist for computer systems.

## Income

5.5 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 Council's cashflow and also avoids the time and cost of administering debts.

5.6 The key controls for income are:

- a. all income due to the Council is identified and charged correctly, in accordance with an approved charging policy, which should be reviewed regularly.
- b. all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery.
- c. all money received by an employee on behalf of the Council is paid without delay ~~to the Revenue and Benefits Manager (Liberata UK Ltd) or, as he or she directs,~~ to the Council's bank account, and properly recorded. The responsibility for cash collection should be separated from that for identifying the amount due and that for reconciling the amount due to the amount received.
- d. effective action is taken to pursue non-payment within defined timescales
- e. formal approval for debt write-off is obtained.
- f. appropriate write-off action is taken within defined timescales.
- g. appropriate accounting adjustments are made following write-off action.
- h. all appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule.
- i. money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

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5.7 The Revenues and Benefits Manager (Liberata UK Ltd) shall;

- a. establish effective arrangements for the collection of all income due to the Council and to approve the procedures, systems and documentation for its collection.
- b. 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.
- c. In consultation with the Director of Resources, to agree the write-off of individual bad debts (in accordance with the ~~Scheme of Delegation Debt Write-Off Policy;~~ and to refer larger sums to the Executive.

Value	Approval	Reported to
Up to £5	Responsible Budget Holder	Director of Resources
Up to £10,000*	Director of Resources	Executive
Over £10,000	Executive	

\* ~~or to an unlimited amount in respect of any debt where the debtor is bankrupt or in liquidation.~~

- e-d. to advise the Director of Resources of any accounting adjustments required following write-off action.

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5.8 Members of ~~Corporate Management Team~~ Corporate Leadership Team shall;

- a. 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 the corporate Fees ~~and~~ Charges policy ensuring that all income due to the Council is recorded in the accounts.
- b. separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.
- c. issue official receipts or to maintain other documentation for income collection.
- d. ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.
- e. hold securely receipts, tickets and other records of income for the appropriate period.
- f. lock away in appropriate secure locations all income to safeguard against loss or theft, and to ensure the security of cash handling.
- g. ensure that income is paid fully and promptly into the Cashiers Section or the Council's bank account(s) 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.
- h. ensure income is not used to cash personal cheques or other payments.

- i. establish and initiate appropriate recovery procedures, including legal action (via legal services) where necessary, for debts that are not paid promptly.
- j. recommend to the Revenue and Benefits Manager (Liberata UK Ltd) all debts to be written off and to keep a record of all sums written off up to the approved limit.
- k. 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.
- l. notify the Director of Resources of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Director of Resources as part of the annual closedown process of the Council's accounts.

### Ordering and Paying for Goods & Services

5.9 Public money should be spent with demonstrable probity and in accordance with the Council's policies. Authorities have a statutory duty to achieve value for money. The Council'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 Council's Contract Procedure Rules.

- 5.10 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. wherever possible, inf order to maintain separation of duties, authorised signatories should refrain from raising orders which they can approve themselves.
  - c. all goods and services shall be ordered in accordance with the Council's Contract Procedure Rules.
  - d. goods and services received are checked to ensure they are in accordance with the order. Where possible, goods should not be received by the person who placed the order.
  - e. payments are not made unless goods have been received by the Council to the correct price, quantity and quality standards.
  - f. all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method.
  - g. all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention schedule.
  - h. all expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected
  - i. orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts.
  - j. Official orders must be in a form approved by the Director of Resources.
  - k. Official orders must be issued for all work, goods or services to be supplied to the Council, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Director of Resources.

### Financial Limits for Ordering and Paying Invoices

5.11 ~~Officers shall follow the following a~~ Approval limits for all orders and ~~contracts payments of invoices (providing adequate budget is available).~~ contracts payments of invoices

<u>Officer</u>	<u>Financial Approval Limit</u>	
<u>Chief Executive</u> <u>Director of Resources</u> <u>Monitoring Officer</u>	<u>Over £100,000</u>	<u>Key Decision may be required.</u>
<u>Corporate Leadership Team</u>	<u>Up to £100,000</u>	

<u>Authorised Signatory Level</u>	<u>Up to £120,000</u>	<u>As agreed by relevant member of CLT</u>
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5.145.12 Limits to be applied within Civica Financial System are shown below;

<b>Officer</b>	<b>Financial Approval Limit</b>	
Chief Executive Director of Resources <del>Monitoring Officer</del> <u>Director of Place</u>	Over £100,000	<del>Key Decision may be required.</del>
<del>Corporate Management Team</del> <u>Corporate Leadership Team</u>	Up to £100,000	
Authorised Signatory Level	Up to £20,000	As agreed by relevant member of <u>CLMT</u>

5.125.13 The Director of Resources shall;

- a. ensure that all the Council's financial systems and procedures are sound and properly administered.
- b. approve any changes to existing financial systems and to approve any new systems before they are introduced.
- c. make payments from the Council's funds on the Manager's (or duly authorised officer acting with delegated authority) authorisation that the expenditure has been duly incurred in accordance with Financial and Contract Procedure Rules.
- d. 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.
- e. make payments to contractors on the certificate of the appropriate Manager, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.

5.135.14 Members of ~~Corporate Management Team~~ Corporate Leadership Team shall 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 service.
- 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. to ensure that invoices are passed for payment as promptly as possible
- i. where 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.
- j. maintain a list of staff approved to authorise invoices and limits (as defined by the Director of Resources).
- k. payments made by direct debit have the prior approval of the Director of Resources.

- l. ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Director of Resources.
- m. notify the Director of Resources of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Director of Resources as part of the closedown of the Council's accounts.
- n. notify the Director of Resources immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.

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5.145.15 With regard to contracts for construction and alterations to buildings and for civil engineering works. Managers shall document and agree with the Director of Resources 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.

### Payments to Employees & Councillors

5.155.16 Staff costs form the largest item of expenditure for most Council services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Council 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 Councillors' Allowances are authorised in accordance with the scheme adopted by the full Council.

5.165.17 The key controls for payments to Employees 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 approved 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 HM Revenue and Customs regulations are complied with.

5.175.18 The Human Resources Manager (Liberata UK Ltd)/Assistant Director HR and Organisational Change is responsible for;

- a. all payments of salaries and wages to all staff, including payments for overtime, and for deductions of income tax.
- b. arranging and controlling 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.
- c. recording and making arrangements for the accurate and timely payment of tax, superannuation and other deductions.
- d. making arrangements for payment of all travel and subsistence claims that have been properly completed and authorised by the appropriate officer.
- e. ensuring that there are adequate arrangements for administering pension matters on a day to day basis.

5.185.19 Members of Corporate Management Team/Corporate Leadership Team shall;

- a. ensure appointments are made in accordance with the regulations of the Council and approved establishments, grades and scale of pay and that adequate budget provision is available.
- b. notify the Assistant Director HR and Organisational Change/ Human Resources Manager (Liberata UK Ltd) 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 laid down by the [Assistant Director HR and Organisational Change Human Resources Manager \(Liberata UK Ltd\)](#).

- c. ensure that payments are only authorised to bona fide employees.
- d. Ensure that payments are only made where there is a valid entitlement.
- e. ensure that conditions and contracts of employment are correctly applied.
- f. employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- g. ensure that payroll transactions (including those accruing taxable benefits to employees of the Council) are processed only through the payroll system. [Managers should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. HMRC applies a tight definition for employee status, and in cases of doubt, advice should be sought from the [Assistant Director HR and Organisational Change Human Resources Manager \(Liberata UK Ltd\)](#).]
- h. certify travel and subsistence claims and other allowances.
- i. ensure that the [Assistant Director HR and Organisational Change Human Resources Manager \(Liberata UK Ltd\)](#) is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
- j. ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

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[5.195.20](#) Councillors must submit claims for travel and subsistence and children / dependent carer allowances (where these form part of the approved scheme of allowances) to the Chief Executive on a monthly basis and, in any event, within one month of the year end.

## Taxation

[5.205.21](#) Like all organisations, the Council 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.

[5.215.22](#) The key controls for taxation are:

- a. budget managers are provided with relevant information and kept up to date on tax issues.
- b. budget 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 (e.g. HMRC) within the stipulated timescale.

[5.225.23](#) The Director of Resources is responsible for advising, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council.

[5.235.24](#) The Director of Resources will consult with external tax specialist as required in order to properly account for any transaction.

[5.245.25](#) Members of [Corporate Management Team](#) [Corporate Leadership Team](#) shall;

- a. ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Revenue and Customs regulations.
- b. ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.

- c. ensure that all persons employed by the Council are added to the Council'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.

## Trading Accounts & Business Units

~~5.255.26~~ Trading accounts and business units have become more important as local authorities have developed a more commercial culture. Under current rules authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost.

- ~~5.265.27~~ Member of ~~Corporate Management Team~~Corporate Leadership Team shall;
- a. consult with the Director of Resources where a business/trading 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 Council. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.
  - b. observe any statutory requirements in relation to trading/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.
  - c. ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units.
  - d. ensure that each trading/business unit prepares an annual budget and associated service/business plan.

## 6 Section 6 – External Arrangements

6.1 Partnerships play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities work 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.

~~6.2~~ Local authorities can mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations.

6.3 The Council provides a leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

6.4 The Council is responsible for approving delegations, including frameworks for partnerships. The Executive is the focus for forming partnerships with other local public, private, voluntary, faith and community sector organisations to address local needs. Functions including those relating to partnerships can be delegated to officers by the Executive. These are set out in the Scheme of Delegation that forms part of the Council's Constitution. Where functions are delegated, the Executive remains accountable for them to the full Council.

6.5 The key controls for the Council's partners are:

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- a. if appropriate, to be aware of and to comply with their responsibilities under these Financial Procedure Rules and Contract Procedure Rules.
- 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.
- e. to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

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6.6 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.

6.7 A partner is defined as either:

- a. an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project, or
- b. a body whose nature or status give it a right or obligation to support the project.

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6.8 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.

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6.9 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.

6.10 The Director of Place and appointed Councillors represent the Council on a range of partnerships and external bodies.

6.11 The Director of Resources must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. ~~He or she~~ They must also consider;

- a. the overall corporate governance arrangements and legal issues in conjunction with the Head of Legal & Democratic Services.
- b. ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- c. advise on the key elements of funding a project.
- d. undertake a scheme appraisal for financial viability in both the current and future years.
- e. risk appraisal and risk management.

- f. resourcing, including taxation issues.
- g. audit, security and control requirements.
- h. carry-forward arrangements.

- 6.12 Members of ~~Corporate Management Team~~Corporate Leadership Team shall;
- a. ensure that appropriate approvals from the Executive are obtained before any negotiations are concluded in relation to work with external bodies.
  - b. maintain a record of all contracts entered into with external bodies in accordance with procedures specified by the Director of Resources.
  - c. ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Director of Resources as appropriate.
  - d. ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council.
  - e. ensure that all agreements and arrangements are properly documented.
  - f. provide appropriate information to the Director of Resources to enable a note to be entered into the Council's Statement of Accounts concerning material items.

6.13 To ensure that the accounting arrangements are satisfactory and that both Internal Audit and External Audit have access to the Council's records relating to partnerships.

~~6.13~~

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#### Accountable Body Status

6.14 There will be occasions when the Council may be required to act in the capacity of Accountable Body. This may be as a result of a request by an external organisation to act on its behalf as the Accountable Body for a particular partnership or project.

6.15 Accountable Body status in this instance is defined as:

~~6.15~~

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'The Council having responsibility for the overall financial management, accountability and legal responsibility for the income, expenditure and governance arrangements of a specific project or partnership (whether formally constituted or not)'

6.16 The Director of Resources has delegated authority to give approval to the Council acting as Accountable Body for specific projects provided that the estimate of combined income/expenditure does not exceed £100,000. In all other circumstances, the approval of the Executive is required.

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6.17 Member of ~~Corporate Management Team~~Corporate Leadership Team are responsible for obtaining appropriate approvals from the Executive for the Council to act as Accountable Body and/or before any negotiations are concluded in relation to work with external bodies.

6.18 The Director of Resources shall;

- a. maintain a register of bodies for which the Council acts as Accountable Body.
- b. establish and maintain proper accounting records;

#### External funding

6.19 External funding is an important source of income. However, funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from Government and external agencies provide additional resources to enable the Council 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 Council's overall plan.

- 6.20 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
- 6.21 The Chief Executive, Director of Place and ~~Corporate Management Team~~Corporate Leadership Team are responsible for notifying the Director of Resources of **all** potential sources of external funding and consult them on any applications proposed to be submitted in the name of the Council. The Director of Resources is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts in accordance with any specific requirements that may apply to it as the "accountable body" where the Council has agreed to operate as such.
- 6.22 The Director of Resources shall;
- a. advise on the financial implications of bids for funding.
  - b. ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts.
  - c. ensure that the match-funding requirements and any revenue implications are considered prior to entering into the agreements.
  - d. ensure that audit requirements are met.
- 6.23 Members of ~~Corporate Management Team~~Corporate Leadership Team shall;
- a. notify the Director of Resources of all proposed bids for external funding
  - b. ensure that all claims for funds are made by the due date.
  - c. ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.

### Work for third parties

- 6.24 The Executive is responsible for approving the contractual arrangements for any work for third parties or external bodies. Current legislation enables the Council 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 (i.e. within the Council's legal powers to do it).
- 6.25 The key controls for working with third parties are:
- a. ensure that proposals are costed properly in accordance with guidance provided by the Director of Resources.
  - b. ensure that contracts are drawn up and that the formal approvals process is adhered to.
  - c. issue guidance with regard to the financial aspects of third party contracts.
- 6.26 The Director of Resources shall issue guidance with regard to the financial aspects including insurance of third party contracts and the maintenance of the contract register.
- 6.27 Members of ~~Corporate Management Team~~Corporate Leadership Team shall;

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- a. ensure that the approval of the Executive is obtained before any negotiations are concluded to work for third parties.
- b. maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Director of Resources.
- c. ensure that appropriate insurance arrangements are made.
- d. ensure that the Council is not put at risk from any bad debts.
- e. ensure that no contract is subsidised by the Council (without the prior approval of the Executive).
- f. ensure that, wherever possible, payment is received in advance of the delivery of the service.
- g. ensure that the service area has the appropriate expertise to undertake the contract.
- h. ensure that such contracts do not impact adversely upon the services provided for the Council.
- i. ensure that all contracts are properly documented.
- j. provide appropriate information to the Director of Resources to enable a note to be entered into the Statement of Accounts.

**APPENDIX A**

**Pendle Borough Council - Capital Programme Appraisal Form**

**1.0 Summary**

<b>Scheme Name</b>
<b>High Level Description (include outputs and funding summary)</b>
<b>Directorate – Section - Lead Officer</b>

**2.0 Key Risks**

<b>Project Risks – Set out the key Legal, Financial, Procurement, Land, Staffing risks associated with the scheme and any mitigating factors (further details can be given in Section 3.0).</b>

**3.0 Scheme Details**

<b>Appraisal</b>	<b>Comment</b>
How does the scheme fit in to the Council's Corporate Plan or wider priorities?	
Is the scheme being delivered by a Council Joint Venture Company?	
Does the scheme create a new Council asset or enhance an existing asset?	
Is the scheme above de minimis for Capital Scheme (£10k or greater)?	
Are there any on going revenue costs? If so how will these be funded?	
Funding mechanism for the scheme. i.e. external grant funding, capital receipt, S106, other third party contribution, prudential borrowing, revenue contribution.	
Could the scheme be funded through Invest to Save?	
If external funded, is there a requirement to match funding from the Authority? Can the grant be used to fund internal staff costs?	
Does the scheme involve a transfer of Council assets to a third party?	
Will the scheme generate a capital receipt?	

Appraisal	Comment
If Yes, what is the estimated value and how has this been calculated?	
Set out the Procurement process for the scheme?	
Is the scheme required under health and safety guidance?	
Who will deliver the scheme?	
What are the expected outputs for the scheme? Are these linked to external funding?	
Explain the Governance arrangements for the scheme.	

#### **4.0 Summary of Estimated Cost & Funding Required (update as required)**

£'m / £'000	Year 1 202x/2x	Year 2 202x/2x	Year 3 202x/2x	Year 4 202x/2x	Total
Land Purchase					
Construction Cost					
Professional Fees					
Capital Salaries					
Other					
<b>Gross Expenditure (A)</b>					
Grant Funding					
Capital Receipt					
Revenue Contribution					
S106					
<b>Gross Income (B)</b>					
<b>Net Capital Funding Required (A – B)</b>					

#### **5.0 Project Plan and Key Milestones (update as required)**

Milestone	Expected Date
Approval by Council	
Grant Award	
Planning Permission (if required)	
Tender process and Award	
Construction Start	
Construction Completion	

**6.0 Completion and Submission**

<b>Officer Name</b>
<b>Date</b>

*Send completed forms to Laina Donnelly, Technical Accountant  
([laina.donnelly@pendle.gov.uk](mailto:laina.donnelly@pendle.gov.uk))*

**7.0 Review & Approval Process**

Approved by Director of Place	
Approved by Director of Resources	
Approval by CLMT	
Capital Project Code	

**PART 5**

**CODES AND PROTOCOLS**

## **CODES AND PROTOCOLS**

1. CODE OF CONDUCT FOR MEMBERS
2. CODE OF CONDUCT FOR EMPLOYEES
3. STAFF EMPLOYMENT PROCEDURE RULES
4. PROTOCOL ON MEMBER/EMPLOYEE RELATIONSHIPS
5. ROLE OF A COUNCILLOR – GUIDELINES
6. ROLE OF COMMITTEE MEMBERS - GUIDELINES
7. COUNCILLOR CALL FOR ACTION – GUIDELINES
8. ROLE OF MAYOR AND DEPUTY MAYOR - GUIDELINES
9. PETITIONS SCHEME
10. PROTOCOL FOR RECORDING OF COUNCIL MEETINGS
11. PROTOCOL BETWEEN THE EXECUTIVE AND OVERVIEW AND SCRUTINY COMMITTEE

## CODE OF CONDUCT FOR MEMBERS

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

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As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

### Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All Councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit- for purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

### Definitions

For the purposes of this Code of Conduct, a "councillor" means a member or co-opted member of a local authority or a directly elected mayor. A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint subcommittee of the authority;

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and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

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For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

### **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

### **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles. Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

### **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

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The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

### **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

##### **As a councillor:**

**1.1 I treat other councillors and members of the public with respect.**

**1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

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Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

#### **2. Bullying, harassment and discrimination**

**As a councillor:**

**2.1 I do not bully any person**

**2.2 I do not harass any person**

**2.3 I promote equalities and do not discriminate unlawfully against any person**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

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The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

**3. Impartiality of officers of the council**

**As a councillor:**

**3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

**4. Confidentiality and access to information**

**As a councillor:**

**4.1 I do not disclose information:**

- a. given to me in confidence by anyone
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless:
  - i. I have received the consent of a person authorised to give it;
  - ii. I am 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:
    - 1. reasonable and in the public interest; and
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and
    - 3. I have consulted the Monitoring Officer prior to its release.

**4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

**4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

**5. Disrepute**

**As a councillor:**

**5.1 I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

**6. Use of position**

**As a councillor:**

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**6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others.

However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

**7. Use of local authority resources and facilities**

**As a councillor:**

**7.67.1 I do not misuse council resources.**

**7.67.2 I will, when using the resources of the local authority or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

**8. Complying with the Code of Conduct**

**As a Councillor:**

- 8.1 I undertake Code of Conduct training provided by my local authority.**
- 8.2 I cooperate with any Code of Conduct investigation and/or determination.**
- 8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- 8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

### **Protecting your reputation and the reputation of the local authority**

#### **9. Interests**

##### **As a councillor:**

##### **9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

#### **10. Gifts and hospitality**

##### **As a councillor:**

- | **10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- | **10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- | **10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

| In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

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## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

### **Selflessness**

Holders of public office should act solely in terms of the public interest.

### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### **Openness**

Holders of public office should act and take decisions in an open and transparent manner.

Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **Honesty**

Holders of public office should be truthful.

### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## **Appendix B Registering interests**

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"**Disclosable Pecuniary Interest**" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"**Partner**" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

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2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

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#### **Non-participation in case of disclosable pecuniary interest**

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in Table 1, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest.

Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

#### **Disclosure of Other Registerable Interests**

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

#### **Disclosure of Non-Registerable Interests**

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
  - (a) your own financial interest or well-being;
  - (b) a financial interest or well-being of a relative or close associate; or

(c) a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or wellbeing:

(a) to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;

(b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

#### Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

<b>Subject</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 council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses.</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 made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income</p>
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.

Corporate tenancies	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and  (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**Table 2: Other Registrable Interests**

You must register as an Other Registrable Interest :
--

- a) any unpaid directorships
- b ) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
- (i) exercising functions of a public nature
  - (ii) directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
- of which you are a member or in a position of general control or management

### Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on Local Government Ethical Standards. If the Government chooses to implement any of the recommendations, this could require a change to this Code.

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The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

**Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

**Best practice 2:** Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

**Best practice 3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

**Best practice 4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

**Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

**Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Best practice 11:** Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Best practice 14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

**Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.

## Standards Hearing Committee - Hearing Procedure

1. The Chairman may agree to vary this procedure in any particular instance where they are of the opinion that such variation is necessary in the interests of fairness.

2. The Subject Councillor may be legally represented, or with the permission of the Committee, by another person. It is the responsibility of the Subject Councillor to arrange any representation.
3. The Committee may take legal advice from its Legal Adviser at any time during the hearing or during its deliberations. The substance of any advice given to the Committee will be shared with the Subject Councillor and Investigating Officer (IO) if they are present at the hearing.
4. At the start of the hearing, the Chairman shall introduce each of the members of the Committee, the Subject Councillor (if present), the IO (if present), and the Legal Adviser, and shall then explain the procedure which the Committee will follow.
5. The Committee shall then deal with any disclosures of interests.
6. If the Subject Councillor is not present at the start of the hearing:
  - The Chairman will ask the Legal Adviser whether the Subject Councillor has indicated their intention not to attend the hearing
  - The Committee shall then consider any reasons which the Subject Councillor has provided for not attending the hearing
  - If it is not satisfied with such reasons, or if the Subject Councillor has not given any such reasons, the Committee shall decide whether to consider the matter and make a determination in the absence of the Subject Councillor, or to adjourn the hearing to another date.

#### **Investigating Officer**

7. The IO will present their report, including any documentary evidence or other material. They may also provide witness statements. No new points shall be introduced unless agreed by the Committee. There is a requirement for the IO to attend the hearing and present their report. Since the report and any witness statements will have been circulated to the Independent Person, Committee and to the Subject Councillor in advance of the hearing, the IO's presentation should briefly summarise the report and other material, amend errors, provide updates and clarify the written report.
8. After the IO has presented the report and after any witnesses have given their evidence, the Subject Councillor or their representative may question the IO and any witnesses called by the IO about any matter in the IO's report or witness statement.
9. After the IO has presented the report and after any witnesses have given their evidence, members of the Committee may ask questions of the IO and any witnesses whose statements have been provided by the IO.
10. Any person who does not participate after being invited by the IO to submit a witness statement will be excluded from participating in the Hearing.
11. The Subject Councillor retains the right to address the Hearing.

#### **Subject Councillor**

12. The Subject Councillor or their representative (the latter only with the agreement of the Committee) may then present their case and call witnesses. They must provide a written summary of their case no less than 5 days in advance of the hearing. No new points or evidence should be introduced unless agreed by the Committee.
13. The IO may question the Subject Councillor and any witnesses called by the IO.
14. Members of the Committee may ask questions of the Subject Councillor and any witnesses called by the Subject Councillor.

### **Summing Up**

15. The IO will sum up the complaint.
16. The Subject Councillor will sum up their case.
17. The Committee will consider in private all the evidence which it has heard in order to establish its findings of fact, and to reach a conclusion as to whether there has been a failure to comply with the Code of Conduct.
18. At any stage in the consideration of the matter, the Committee may return to ask further questions of the IO or the Subject Councillor or seek further information. The other party will be given an opportunity to comment upon the questions asked or the responses made.
19. At the conclusion of the Committee's deliberations, the Chairman will announce its findings and the decision of the Committee. Written notice of the findings of the Committee will be given as soon as is reasonably practicable to the Subject Councillor, the Standards Committee of any other authority concerned, any parish council concerned, and any person who made an allegation that gave rise to the investigation.

## **CODE OF CONDUCT FOR EMPLOYEES POLICY STATEMENT**

### **1. Introduction**

This Code of Conduct applies to all employees of Pendle Borough Council. It sets out the minimum standards of behaviour that are expected by the Council, how

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employees can improve standards and it aims to protect you from misunderstanding or criticism. This Code should be read in conjunction with the Council's Disciplinary Policy.

The Code has been agreed by the Council and the relevant trade unions and is incorporated into individual contracts of employment. Copies of the Code can be found on the Council's Intranet under the Employee Handbook.

The provision of this Code also applies to Contractors, Temporary, Casual and Agency staff as if they were employed on a permanent basis.

Any breaches of this Code will be dealt with under the Council's Disciplinary Procedure.

## **2. Purpose**

The public is entitled to expect the highest standards of conduct from all local government employees. The role of all employees is to provide advice, implementing its policies and delivering services to the local community. In performing your duties, you must act with integrity, honesty, impartiality and professionalism. The values which underpin everything you do are:

- Pride – Take pride in all you do.
- Enterprising – Be open to doing things differently.
- No blame culture – Don't be afraid to fail. Together we achieve more.
- Determined – Face challenges in a positive way.
- Listen – Listen to and support others.
- Equality – Value differences and celebrate diversity.

As a Pendle Borough Council employee, you are accountable to and owe a duty to the Council. You must act in accordance with the Principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.

## **POLICY PROCEDURE**

### **1. Political Neutrality**

As an employee, you will follow every lawfully expressed policy of the Council and must not allow your own personal or political opinions to interfere with your work. You will serve all Councillors and not just those of the administration and ensure that the individual rights of all Councillors are respected. If you are asked to advise individual political groups, you will do so in a way that does not compromise your political neutrality. If your post is politically restricted, you must comply with any statutory restrictions on political activities.

### **2. Relationships with:**

#### **2.1. Councillors**

Mutual respect between employees and Councillors is essential to good local government and working relationships and should be kept on a professional basis. The Council has a Protocol on Councillor/Employee relations which is available on the [Our Constitution | Pendle Borough Council](#) .

You should avoid over familiarity with individual Councillors as this could damage working relationships and cause embarrassment for yourself, colleagues or members of the public.

#### **2.2. Members of the public**

You are responsible to the Pendle community, and you should at all times ensure that you give efficient, courteous, respectful and impartial service. You are expected to present a professional image of the Council and meet the Council's Customer Service Standards.

This includes making sure that your personal appearance is appropriate to the nature of your duties and responsibilities.

Occasionally a member of the public or Councillor complains about a member of staff. This can be upsetting but it has to be investigated and you will be given every opportunity to state your side of things. Very rarely, you may be subjected to behaviour by a complainant that is unacceptable and unreasonable. In these circumstances the Council will follow the policy laid down by the Ombudsman on the management of unreasonable complainant behaviour.

### **2.3. Fellow Employees**

You must treat your colleagues with respect, dignity and fairness whilst challenging inappropriate behaviour. You should create a working environment that is free of the risk of harassment or bullying. Under the Equality Act 2010 harassment occurs where an individual engages in unwanted conduct related to a protected characteristic, such as sexual orientation, that has the purpose or effect of violating another person's dignity, or creating an intimidating, degrading, humiliating or offensive environment. You should be aware that negative or discriminatory comments posted on social networking sites or other external websites could be in breach of the Council's policies and would be subject to disciplinary action.

### **2.4. Contractors**

You must inform your manager of any business or private relationships with external contractors or potential contractors. If you engage or supervise contractors or deal with suppliers on behalf of the Council, you must record any past or present business or private relationship in the register held in your Service. You must also follow the Contract Procedure Rules which can be found on elsewhere within the Constitution.

### **2.5. The Press and Media**

You should not in the normal course of your work deal direct with the press or media. The Communications Team is the usual channel for these enquiries and will respond to them in consultation with relevant managers and councillors. Sometimes you may be asked for information and occasionally to give an interview. You must be particularly careful about communications and publicity in the weeks prior to elections – specific advice will be issued at appropriate times.

### **2.6. Social Media**

As an employee of the Council, you need to be aware that the Council has a policy on use of social media and you need to be mindful of the information you post and share even on personal accounts. No information should be posted on behalf of the Council unless you have been given prior permission from your Head of Service and the Communications Team.

## **3. Equality**

You must ensure that you comply with the Council's Equal Opportunities Policy and with all legal requirements. The Council is committed to eliminating unlawful discrimination, harassment, and victimisation, advancing equality of opportunity as an employer and service provider and fostering good relationships. Our Policy seeks to:

- Address inequality.
- Recognise and value difference.
- Promote a skilled and diverse workforce.
- Enable the Council to meet the needs of an increasingly diverse population; and
- Ensure that the Council acts in accordance with legislation.

This means making sure that no person or group of people living in, working in or visiting the Borough will be directly or indirectly discriminated. Copies of this policy are available on the Intranet.

**4. Dress and Appearance**

Employees at work represent the Council and should dress appropriately. Where uniform or personal protective clothing is provided this must be worn in the correct manner and kept in a reasonable condition.

**5. Use of financial and other Council resources**

The Council has Financial Procedures to safeguard its assets and the use of its resources. You must ensure that you use any public funds entrusted to you in a responsible and lawful manner and try to ensure value for money for the local community and to avoid legal challenge to the Council. You have a duty to report to your Manager any concerns that a system or procedure is not operating in accordance with Financial Procedure Rules, where errors are being made or where you suspect that fraud is taking place.

You must also be aware that it is a serious criminal offence for you to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in your official capacity.

Under the Bribery Act 2011 it can be an offence for the Council to fail to prevent bribery by its employees and there are offences of offering or accepting a bribe and bribing an official. The Council has an Anti-Bribery Policy which can be found on the Intranet.

You must not use any property, vehicles or other facilities of the Council or let anyone else use them unless you are authorised to do so.

In all personal financial dealings with the Council you must not deliberately evade any debts owed to the Council or seek to obtain monies from the Council to which you are not legally entitled. Financial dealings may include payments relating to Council Tax, benefits, fines, compensation etc.

It is your responsibility to be familiar with these rules which are contained in the suite of anti- fraud, corruption and whistleblowing policies and other financial policies which are available on the Council's Intranet under the Employee Handbook.

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6. **Tendering and Letting Council Contracts**

If you are involved in the tendering and letting of Council contracts for work, goods and services you must comply with the Contract Procedure Rules. Orders and contracts must be awarded on merit, by fair competition against other tenders and in accordance with the Rules. You must be clear on the separation of client and contractor roles within the Council and you must be aware of the need for accountability and openness. You must exercise fairness and impartiality when dealing with customers, suppliers, other contractors, and sub- contractors. If you see confidential information on tenders or costs for either internal or external contractors, you must not disclose that information to any unauthorised person or organisation. You must not treat current or former employees or their partners, relatives, friends or associates more or less favourably than other people when awarding contracts to businesses run by them or employing them.

7. **Personal Interests**

You must not allow your personal interests or beliefs to conflict with your professional duty to the Council. You must not misuse your official position or information obtained in the course of your work, to further your personal interest or the interests of others. If you have any non- financial interests that you consider could conflict with the Council's interests, you must inform your Manager.

8. **Gifts and Hospitality**

You must not give the impression that you have been or may be influenced by any gift, hospitality or other consideration to show favour or disfavour to any person or organization while acting in an official capacity. You must avoid even the suspicion of a conflict of interest.

You must think carefully before accepting any gift and hospitality and inform your line manager if you are offered an expensive gift or significant hospitality. The Council wishes to remain open to scrutiny on this issue and therefore has agreed the following process for identifying which types of gifts and hospitality need to be recorded and what approval is required.

Gifts and Hospitality Registers are maintained in each Service Area and the Directorate. These are used to record details of offers of gifts and hospitality and whether they have been accepted or not.

**Gifts which may be accepted without being recorded in the Register**

You may accept isolated and inexpensive gifts that are openly distributed by suppliers and / or contractors. These will usually incorporate the supplier's / contractor's logo and include items such as:

Calendars, diaries, key-rings, desk organisers, mugs, mouse-mats, badges, ties / scarves, pens, coasters, umbrellas, commemorative books, and other items of work related stationery and equipment to be kept within the office.

If you receive a large quantity of such inexpensive gifts, you should consider refusing them or alternatively sharing them with colleagues.

**Gifts which may be accepted without prior approval from the Manager but which must be recorded in the Register.**

You may accept other small value items (box of chocolates or a bottle) of a seasonal nature (e.g. at Christmas or Eid) if it is made clear to the offeror that it is accepted on behalf of the Section or Service Area (and indeed, it is shared with other colleagues of that Section or Service Area) or is to be donated to the Mayor/Mayoress's Charity Appeal Fund or some other charity or good cause. You should declare the receipt of the item to your Manager who will enter receipt of it and its ultimate recipient in the Gifts and Hospitality Register. Where the gift has been donated to a charity or good cause details of the chosen recipient should be recorded.

**Types of Hospitality which may be accepted and must be recorded in the Register**

You may accept the offer of hospitality (e.g., lunch) from a contractor or supplier if you can show that there is a genuine need to discuss business, impart information or for the Council to be represented. You must report the offer of such hospitality as soon as possible to your Manager who must complete an entry in the Register of all acceptances.

You can accept offers to attend purely social or sporting functions only where these form part of the community or where the Council should be seen to be represented. They must be properly authorised and recorded in advance by your Manager.

**Types of gifts and hospitality which must be refused but should still be recorded in the Register**

You should courteously but firmly refuse expensive gifts and significant hospitality. Expensive gifts received should be returned. Your Manager must be informed of the offer and refusal and an entry made in the Gifts and Hospitality Register.

**Failure to comply with this process.**

Any employee or Manager failing to comply with this process may be subject to disciplinary action.

**Review of this process**

Gifts and Hospitality Registers are maintained by each Head of Service and the Directorate. The Council's Monitoring Officer is responsible for monitoring and reviewing information in the Gifts and Hospitality Register and providing advice on the appropriateness of accepting expensive gifts and significant hospitality.

**9. Sponsorship – giving and receiving**

The rules governing the acceptance of gifts and hospitality apply to situations where an outside organisation wishes to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily. You must take particular care when dealing with contractors or potential contractors.

If the Council wishes to sponsor an event or service, no employee or their partner, spouse, relative or close friend can benefit in a direct way without there being full disclosure to an appropriate manager. Similarly, where the Council gives sponsorship, grant aid, financial assistance or other help, you must ensure that impartial advice is given and that there is no conflict of interest involved.

**10. Whistleblowing**

As an employee you may be the first to realise that there is something wrong within the Council but you may be wary of speaking up because you feel it would be disloyal to your colleagues or to the Council. You might also be worried about harassment or victimisation.

If you become aware of activities which you believe to be illegal, improper, unethical, or otherwise inconsistent with this Code of Conduct, you should report the matter using the Confidential Reporting (Whistleblowing) Policy. This can be found on the Council's Intranet under the Employee Handbook.

The Policy aims to:

- Provide a means for you to raise concerns and receive feedback on action taken.
- Allow you to take the matter further if you are not satisfied with the Council's response; and
- Reassure you that you will be protected from reprisals or victimisation for whistleblowing in good faith.

**11. Appointment of staff and other employment matters**

If you are involved in the recruitment and appointment of staff, you must ensure that appointments are made on the basis of merit. It is unlawful for you to make an appointment based on anything other than the ability of the candidate to undertake the duties of the post. These principles and the Council's procedures can be found in the Recruitment and Selection Procedure which supplements the training provided to all employees involved in the Recruitment and Selection process. These Guidelines can be found on the Council's Intranet under the Employee Handbook.

In order to avoid any possible accusation of bias you should not be involved in any appointment if you are related to or have a close personal relationship outside work with any prospective employee.

Similarly, you should not be involved in decisions relating to discipline, promotion, pay adjustments or other conditions of service if you are related to or have a close personal relationship outside work with an employee.

## **12. Employees engaging in employment/business outside the Council**

What you do outside your working hours is your own concern, but any private interests must not conflict with your employment with the Council. The Council will not prevent you taking up additional employment providing that this does not conflict with the Council's interests, weaken the public's confidence in the Council or adversely affect your ability to safely carry out your role with the council.

All employees must not engage in any other business or take on additional employment without the express consent of the Council. You must formally apply to the Council by writing to the Human Resources Manager in order to obtain written consent, having first discussed your intentions with your Manager.

Even if permission is granted it is your responsibility to ensure that no conflict arises. You must not act in any way that may give rise to the suspicion that you are using your office or knowledge of Council work for private financial gain. External work should not be undertaken in the office and use of facilities and equipment such as telephones, stationery, photocopiers, computers, typing etc is not allowed. The following notes are offered as guidance:

- You should consider your position most carefully before accepting any work, paid or unpaid, inside or outside the Borough. The surest way of avoiding difficulties is to seek consent before accepting any work.
- Plans, surveys, valuations etc must not be prepared in respect of any development, work or proposals involving consideration or decision by the Council or any officer of the Council.
- There are potential difficulties in undertaking work on any property or land in the Borough or in undertaking work for developers or property owners who may have business with the Council.
- You must not act as an advisor or assist companies or organisations whose business interests may be in competition or against the interest of the Council.
- You have a duty to ensure that any work undertaken, when aggregated with your Council job, does not exceed the limits on the number of hours to be worked per

week as set out in the Working Time Directive, unless you have signed an opt out declaration. Advice can be obtained from your line manager/Human Resources.

The Council encourages participation in public duties and involvement in voluntary/community work. You must notify your manager of any formal roles you hold especially if these may impact on your role within the Council i.e., need to attend meetings during normal working hours. You must be mindful of the provisions of this Code and the impact that outside commitments can have on your employment with the Council.

### **13. Disclosure of Information**

The Council is committed to the principles of open government and recognises the role of information rights legislation in promoting increased transparency and participation in the Council's decision-making processes. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public.

Committee agendas and most reports and background papers are required by law to be available for public inspection. Obstruction of a member of the public who wishes to exercise these rights is a criminal offence. Detailed guidance is available from the Monitoring Officer.

Members of the public are specifically excluded from certain proceedings of Committees or meetings associated with the business of any Committee. You must not communicate to the public the content of such proceedings or any Council document unless required by law or authorised by the Monitoring Officer. If you make unauthorised communications, you could be liable for disciplinary action.

Certain information may relate to individuals, be confidential, sensitive, or commercially sensitive and must only be disclosed lawfully and with appropriate authorisation. You must ensure that the Council's information assets are managed securely and protected against accidental loss and damage. You must not disclose any of the following information:

- Personal data about an individual, including employees, protected by the Data Protection Act 2018.
- Information given in confidence where there is a legitimate expectation that confidentiality will be respected.
- Commercially sensitive information about the Council and / or any third party.

It is essential that the confidentiality and integrity of information is protected whether this information is printed or written on paper, stored electronically or transmitted electronically or by post or spoken in conversation. Further information about your responsibilities can be found in the Computer Usage Policies and Data Protection section which can be found in the Employee Handbook on the Intranet.

The above paragraph does not limit your rights under the Council's Confidential Reporting (Whistleblowing) Policy.

**14. Intellectual Property**

Intellectual property is a generic term which includes literature, artwork, computer programmes, inventions, drawings, and other materials. The Council owns and will retain its rights to ownership of all intellectual property created by you in the course of your work and using Council resources.

You are not entitled to use, sell or otherwise exploit the rights to any such intellectual property without written permission from the Council. Any such infringement may also be a criminal offence.

The Council's ownership of these intellectual property rights made during your employment will also continue after you have left the Council's employment.

**15. Information Technology and Data Security**

The Council has policies which outline the basic responsibilities of all users of computer- based systems. These include all corporate and service area systems, email, intranet, internet, telephone, mobile phone and any other portable communication systems. You must ensure that you comply with the policies which relate to the use, storage of information and proper management of electronic information which can be found on the Intranet in the Employee Handbook.

**16. Health Safety and Wellbeing**

You have a personal and legal responsibility under the Health and Safety at Work Act 1974 for yourself, colleagues and visitors to the Council's buildings and premises. You are required to comply with the Council's Health and Safety Policy. Personal Protective Equipment and uniforms must be worn where required.

Working Safely – any activity that presents a significant risk to the health, safety or wellbeing of you or any other person must have been subject to a written risk assessment.

## **STAFF EMPLOYMENT PROCEDURE RULES**

### **1. Relationship to councillor or employee and canvassing**

- (a) Declarations
  - (i) The Council will require any candidate for appointment as an employee to state, in writing, whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or employee of the Council; or of the partner of such persons.
  - (ii) No candidate so related to a councillor or an employee will be appointed without the authority of the Head of Paid Service.
- (b) 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 or express 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 if named as a referee by an applicant for appointment.

### **2. Recruitment of staff**

Where the Council proposes to appoint to a post and it is not proposed that the appointment be made exclusively from among its existing employees, it will:

- (a) Draw up a job description and person specification setting out:
  - (i) The duties of the post 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.
- (c) Make the job description and person specification available to any person on request.

### **3. Appointments of Head of Paid Service or Directors**

- (a) Subject to paragraph (b) below, a committee of the Council will appoint to these posts.
- (b) Where the sub-committee referred to at paragraph 3(a) above is discharging, on behalf of the Council, the function of the appointment of an officer designated as the Council's Head of Paid Service, the Full Council must approve that appointment before an offer of appointment is made to that person.

### **4. Directors**

Director appointments will be made by a committee of the Council.

### **5. Other Appointments**

Appointments of all other employees are the responsibility of the Chief Executive and the Directors and may not be made by councillors.

### **6. Possible dismissal of the Head of Paid Service, Chief Officers (Directors) or Monitoring Officer**

Any consideration by the Council of the possible dismissal of the Head of Paid Service, or Chief Officer (including s151 Officer) and Monitoring Officer must be dealt with in accordance with the provisions of Schedule 3 to the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (S.1 2015 No. 881).

1. In the following paragraphs –

“the 2011 Act” means the Localism Act 2011;

“Chief Officers”, “disciplinary action”, “Head of the authority’s Paid Service”

and “Monitoring Officer” have the same meaning as in Regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;

“independent person” means a person appointed under Section 28(7) of the 2011 Act;

“local government elector” means a person registered as a local government elector in the register of electors in the Council's area in accordance with the Representation of the People Act;

“the Panel” means a committee appointed by the Council under Section 102(4) of the Local Government Act 1972 for the purposes of advising the Council on matters relating to the dismissal of relevant officers of the authority.

“relevant meeting” means a meeting of the Council to consider whether or not to approve a proposal to dismiss a relevant officer; and

“relevant officer” means the Chief Finance Officer, Head of the authority's Paid Service or Monitoring Officer, as the case may be.

2. A relevant officer may not be dismissed by the Council unless the procedure set out in the following paragraphs is complied with.

3. The Council must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

4. In paragraph 3 “relevant independent person” means any independent person who has been appointed by the Council, or where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate.
5. Subject to paragraph 6, the Council must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 3 in accordance with the following priority order –
  - (a) a relevant independent person who has been appointed by the Council and who is a local government elector;
  - (b) any other relevant independent person who has been appointed by the Council;
  - (c) a relevant independent person who has been appointed by another authority or authorities.
6. A Council is not required to appoint more than two relevant independent persons in accordance with paragraph 5 but may do so.
7. The Council must appoint the Panel at least 20 working days before the relevant meeting.
8. Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular:-
  - (a) any advice, views or recommendations of the Panel.
  - (b) the conclusions of any investigation into the proposed dismissal; and
  - (c) any representations from the relevant officer.
9. Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person’s role as independent person under the 2011 Act.
10. Suspension

The holders of the statutory offices of Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst on full pay and last no longer than two months.
11. Notice of Dismissal

Where an issue arises as to whether the Council’s Head of Paid Service, Monitoring Officer or Chief Finance Officer should be dismissed, that function shall be discharged by a committee or sub-committee of the Council. Where that committee or sub-committee of the Council decides that an officer designated as the Council’s Head of Paid Service, the Council’s Monitoring Officer or as the Council’s Chief Finance Officer should be dismissed, the Full Council must approve that dismissal before notice of dismissal is given to that person.

## PROTOCOL ON MEMBER/EMPLOYEE RELATIONSHIPS

### Introduction

1. The purpose of this Protocol is to guide Members and employees of the Council in their relationships with one another in such a way as to ensure the smooth running of the Council. An effective working relationship between Members and employees is vital to the successful operation of the Council's business and to the achievement of its objectives.
2. This protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. It also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and employees. The shared object of these codes is to enhance and maintain the integrity of local government and therefore, demands high standards of personal conduct.

### Nature of Relationship

3. Members are responsible to the Electorate as a whole and for which employees are employed and responsible to the Council. The job of employees is to give advice and support to Councillors to help them carry out their duties effectively and to carry out work under the direction of the Council and its committees. Council business will be conducted more effectively if there is mutual respect and courtesy in all meetings and contacts, both formal and informal, between Members and employees.

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### Members Concerns about Employees

4. Where Members have concerns relating to individual employees, these should be pursued with the Chief Executive, Directors, the Monitoring Officer or appropriate Senior Manager. Employees are bound by the Code of Conduct for employees and other policies in the Employee Handbook.
5. Where a Member receives a complaint about an employee (e.g. from a member of the public) he/she should ask the complainant to put it in writing to the Chief Executive or the Monitoring Officer.
6. Where a complaint is made directly or indirectly about an employee at a meeting attended by Members and members of the public, Members should:
  - (a) Inform the complainant that the Council supports its employees in the work they undertake; and
  - (b) Ask the complainant to pursue the matter in writing with the Chief Executive or the Monitoring Officer.
7. Members should avoid making direct, personal criticisms of employees in public, certainly until their concerns have been looked into by the Chief Executive, Directors, the Monitoring Officer or other Senior Manager.

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### **Employee Concerns about Members**

8. Where employees have concerns relating to individual Members, these can be raised through the Council's adopted Whistleblowing Policy or, where this is not appropriate, by raising it with the Chief Executive or the Monitoring Officer who will discuss it with the Members Group Leader.

### **Members/Employee Communications and Contact**

9. Members should communicate formally with employees at the appropriate level, which normally involves the Chief Executive, Directors, the Monitoring Officer or appropriate Senior Manager.
10. It is recognised as desirable, that contact can also be made between Members and employees at levels other than at a senior level to facilitate the satisfactory administration of Council business. However, the following points should be borne in mind during such contact:-
  - (a) A Member has no authority to give instruction to an employee.
  - (b) The political neutrality of employees must be maintained at all times.
  - (c) The employee is fully entitled to ask the Member to approach a more senior officer.
11. Members should normally address correspondence to the Chief Executive, Directors, the Monitoring Officer or appropriate Senior Manager. The use of email is encouraged wherever possible.
12. Correspondence between an individual Member and an employee should not normally be copied by the employee to any other Member. Where exceptionally it is necessary to do this, it should be made clear to the original Member.
13. Members do not have a right to access offices (or other working areas not open to the public) which are occupied by employees. There is, of course, no objection to Members visiting offices etc., by arrangement with the employee(s) concerned.

### **Members Rights to Information**

14. Members have a right to see Council papers relating to any business transacted at meetings, other than those containing certain exempt information. Members also have a right to see other papers including confidential or exempt information if they 'need to know' in order to perform properly their duties as Councillors and this need is not outweighed by a need to protect the public interest through non-disclosure. They also have a right to see the Council's accounts and may take advantage of the more general right to see all books, deeds, contracts, bills, vouchers and receipts relating to the accounts.

15. If there is any question as to whether a Member is entitled to particular information, the matter will be referred to the Monitoring Officer who's decision on a Member's entitlement to information shall be final.
16. Directors and Senior Managers will generally ensure that relevant information is supplied to Members in order that they can carry out their obligations. They will have particular regard to the information needs of Members as ward representatives.
17. All reasonable requests for information from Members will be dealt with within five working days.
18. Requests for information from a Member marked "confidential" will be dealt with on that basis.
19. If an employee considered that meeting a request for information would involve committing an unreasonable level of resource, he/she shall refer the matter to the Chief Executive or the Monitoring Officer who will discuss it with the Member's Group Leader. In the event of failure to agree on the matter the final decision shall rest with the Chief Executive or the Monitoring Officer (i.e. the person to whom the matter has been referred).

#### **Reports**

20. Reports to the Council and Committees will be submitted in the name of the Chief Executive, Directors or Senior Managers, but will bear the name of the author.
21. Except as regards statutory reports of the Monitoring Officer and the Chief Finance Officer, the ultimate decision as to the need for, content of, or timing of a report shall rest with the Chief Executive or the Directors. In most cases this will be exercised through Corporate leadership team. If he/she considers it appropriate, the Chief Executive or Director, will consult with the Leader or with Group Leaders.

#### **Action on Council Decisions**

22. Employees are expected to carry out decisions of the Council and Committees. They will do this as expeditiously as possible and are entitled to rely on those decisions, even if there has been a change of political control.
23. Where following a decision, circumstances arise which make it desirable not to take or defer that action, the employee concerned shall report back as appropriate.
24. The Council's Constitution sets out the Scheme of Delegation to Officers. In the vast

majority of cases the delegation will be to the Chief Executive, a Director or a Senior Manager. The Scheme of Delegation also provides that the Chief Executive, a Director or the relevant Service Manager may then authorise another Council Officer, in writing, to exercise a specific delegation in their name. In addition there may be ad hoc delegations to ensure the smooth carrying out of Council business.

25. In some cases the delegation will include a requirement to report back on the action taken. Employees will ensure that they fulfil this requirement.
26. In some cases the delegation will include a requirement to consult with one or more Members. The employee will ensure that this is carried out. It should be emphasised that legally the decision is that of the employee. Where there is a clear difference of view between the employee and the Member(s) consulted, the most appropriate action will normally be to refer the matter to the Executive or the relevant Committee for determination.

#### **Political Groups**

27. Employees will not attend a meeting or provide advice to a Political Group unless the Group Leader has agreed with the Chief Executive and/or Directors for this to be done. In such cases the Chief Executive or the Directors will offer a similar facility to the other Groups.
28. In no circumstances will an officer attend a Group meeting where there are persons present who are not elected Members.

#### **Committee Agenda Briefings**

29. Arrangements will be made on request and taking into account available staffing resources, for employees to provide separate briefings on committee agendas to the Chairman and Group Spokespersons.

#### **Official Correspondence**

30. Letters on behalf of the Council should normally be sent out in the name of the appropriate employee rather than in a Member's name. Exceptionally (e.g., representations to Government Ministers or correspondence with other local authority leaders) a letter may be issued in the name of the Leader or Group Leaders.

#### **Publicity and the Media**

31. Official contact with the media on Council business will be handled through the Council's Communications Team.
32. Press releases may include quotes from Members, normally leading Members of the

administration or Group Leaders or Chairmen, but not so as to appear to affect support for any political party. The content of such quotes will be cleared in advance with the Member(s) concerned.

33. Individual Members may approach the media on any matter but should not purport to speak on behalf of the Council.

#### **Personal Relationships**

34. No Member(s) or employee should allow any personal connection or relationship with any other Member(s) or employee to affect the performance of his or her official responsibilities or the taking of any action or decision by or on behalf of the Council. This includes, for example, any family relationship, membership of the same household or any business connection. Members and employees should always consider how such a relationship or connection would be likely to be regarded by anyone outside the Council, or by any other Member or employee and avoid creating an impression of bias or unfairness.
35. An employee who is personally connected or related to any Member should notify the Monitoring Officer in writing.
36. Members should take into account any personal relationship or connection with any other Member or employee in considering the need to register or declare an interest whenever appropriate.

#### **Chief Executive/Directors/Senior Managers/Political Administration/Political Groups**

37. The Chief Executive is the Head of Paid Services and is an employee of the Council as a whole and his/her political neutrality should be respected at all times.
38. All Members have a right of access to the Chief Executive and the Directors.
39. The Chief Executive and the Directors are expected to work closely with the political administration and to give them information, assistance and advice. Subject to maintaining their position of political neutrality they may develop a special relationship with the administration leadership and will not, without consent, disclose information on any confidential matters discussed with that leadership to the minority groups.
40. It is proper for the Chief Executive and the Directors to develop a working relationship with minority groups but will not advise as to policy which they should pursue. The Chief Executive and the Directors will not reveal to other Groups the content of confidential discussions with any Group.

#### **Further Advice**

41. Any Member(s) who needs further advice on any aspect of this protocol should contact the Chief Executive or the Directors. Any employee needing further advice should contact his/her Senior Manager who will consult as appropriate with the Chief Executive or the Directors.

## THE ROLE OF A COUNCILLOR

### Guidelines

Councillors are elected by and accountable to the public they represent both inside the Council and outside the Council in the community. The following describes the role of a Councillor. It is reasonable to expect that, while a Councillor may specialise in certain aspects of the role, all Councillors will perform a broad spectrum of duties. A Member should aim to undertake the majority of, if not all, the duties listed below.

Political groups play a crucial role in the selection of candidates and in the organisation of Members. Political groups should monitor the performance of all their Members.

### The Role

As an elected Councillor, you will participate constructively in the good governance of the Borough and will specifically:-

1. Contribute actively to the formulation of the Council's policies, budget strategies and service delivery by attending and participating in meetings of the full Council;
2. Represent the interests of your ward and deal with constituents' enquiries and representations. You should be visible in and recognisable to the people living in your ward;
3. Act as community advocate and champion causes both within and outside the Council, with particular emphasis on those issues that will improve the quality of life for people living and working in Pendle;
4. Represent the Council on any outside bodies and governing bodies, as appointed, providing two-way communications between the organisation and the Council; and to this end, develop and maintain a working knowledge of the Council's policies and practices in relation to that body;
5. Attend and participate in any committee, panel or working group to which you are appointed and for any related responsibilities associated with such, including chairmanship if so appointed;
6. Seek out membership or involvement in community based initiatives/groups in your own ward, and where necessary, provide guidance and leadership;
7. Develop and maintain a good working knowledge of the Council's services, management arrangements, powers/duties and constraints sufficient to be able to answer and deal with queries from members of the public;
8. Develop and maintain good working relations with relevant officers of the Council, in accordance with the Employee/Member Code of

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Conduct;

9. Attend and participate in any training courses, workshops and other sessions either internally or externally provided, to enable you to fulfil your role as a Councillor;
10. Contribute constructively to open government and democratic renewal through actively encouraging the community to participate in the Council's decision making processes; and, to this end, seek to involve the community in decisions that affect them by ensuring they have full information and then by helping them make their views known; and
11. Comply in all respects with the Member Code of Conduct.

## **ROLE OF COMMITTEE MEMBERS**

### **Guidelines**

These guidelines apply to Councillors in their capacity as members of committees and therefore cover the Executive, Area Committees, Accounts and Audit Committee, Development Management, Overview and Scrutiny Committee, Standards Hearing Committee, Taxi Licensing Committee and Licensing Committee.

### **The Role**

As a member of a committee you will participate constructively in the work of the committee and will specifically:-

1. familiarise yourself with the terms of reference of the committee;
2. attend and participate in meetings of the committee, including any site visits;
3. as regards planning matters, comply in all respects with the planning procedure guides;
4. as regards planning, licensing and certain standards matters, understand and abide by the quasi-judicial nature of your role.

### **Chair**

In addition to the above, the Committee Chair will:-

1. ensure the committee operates within approved Council policy and procedure;
2. attend agenda briefings and liaise closely with relevant officers;
3. in the case of planning and licensing matters, ensure the satisfactory operation of the Scheme of Delegation to Officers;
4. act as a spokesperson for the committee in accordance with the Media Guidelines.

## BRIEFING NOTES COUNCILLOR CALL FOR ACTION

### Councillor Call for Action (CCfA) Procedure

- Stage 1** A Councillor decides to champion a CCfA and submits to the Head of Legal and Democratic Services details of the issue on the prescribed form (Appendix A) including an indication of what he/she would consider to be a satisfactory resolution. The Councillor should have first referred to the Council's guidance and worked through the checklist (Appendix B).
- Stage 2** The Head of Legal and Democratic Services consults with the Chairman and Group Spokespersons of the Overview and Scrutiny Committee to decide whether the CCfA is valid.
- Stage 3** Where other mechanisms have not been pursued which could resolve the issue the Head of Legal and Democratic Services advises the Councillor accordingly.
- Where it is agreed that the issue is an appropriate issue for scrutiny the matter is placed on the agenda for next meeting of the Overview and Scrutiny Committee.
- Stage 4** The Councillor addresses the Overview and Scrutiny Committee which agrees whether or not to pursue the issue through the Overview and Scrutiny process. At this stage the Committee can challenge the expected outcomes if it feels they are unreasonable. Where the Committee declines to pursue the matter, reasons are given for the decision.
- Where it is agreed to pursue the CCfA the Overview and Scrutiny Committee decides that the issue should be reviewed either by the full Committee or by a task and finish panel.
- Stage 5** The Committee or Panel investigates the issue, gathering evidence and interviewing witnesses as necessary. It focuses on the expected outcomes as set out in the CCfA. (There is potential here for meeting(s) to be held in a locality setting). It draws its conclusions and makes recommendations.
- Stage 6** The results of the review are fed back to the Councillor and recommendations approved by the Overview and Scrutiny Committee are submitted to the Executive, Council or partner organisation as appropriate.
- Stage 7** The response to the recommendations is fed back to the Councillor and community.
- Stage 8** Implementation of agreed actions is monitored.

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**COUNCILLOR CALL FOR ACTION**

**REQUISITION FORM**

**Request by Councillor:**

**Date:**

Details of the Issue

What would you consider to be a satisfactory resolution.

What have you already done to try to resolve this issue.

**BOROUGH OF PENDLE COUNCILLOR  
CALL FOR ACTION CHECKLIST**

APPENDIX B

The following matters are excluded by law from the Councillor Call for Action (CCfA):

- Any matter relating to a planning or licensing decision.
- Any matter where there is a right of recourse to review or right of appeal.
- Any matter which is vexatious and persistent; discriminatory; or is not reasonable to be included in the Overview and Scrutiny Committee.

The following are potential reasons why your CCfA may not be accepted:

- The issue is an individual case.
- The issue is not specific to a particular locality.
- You have not explored the issue fully and exhausted all avenues.
- A review into the general issue is included on the Overview and Scrutiny Work Programme.
- A petition is being submitted to the Council or one of its committees.
- An FOI request is being or has been made and the outcome is awaited.
- Scrutiny can not add value?
- The issue cannot go any further.
- The issue is a wider policy matter.
- The issue has been the subject of Executive call-in.
- The issue is urgent and could be more speedily resolved by other means.

Potential means of pursuing an issue before resorting to the CCfA:

- Discuss issue with appropriate officer from council service or agency.
- Discuss issue with appropriate Executive Member.
- Raise the issue with partnerships or partner agencies such as Police, East Lancs CCG and Community Safety Partnership.
- Write formal letters on behalf of constituents.
- Involve local MP.
- Advise use of official complaints procedure or other official recourse.
- Request agenda item on an appropriate committee e.g., Area Committee/Executive.
- Advise use of petitions/deputations.
- Pursue the issue with the Policy and Commissioning Team.
- Pursue the issue with the MPS team.
- Submit a notice of motion to Full Council.
- Constituents raise the issue at 'Public Question Time' at appropriate Committee meetings.
- Convene public meeting(s).
- Questions at appropriate Committee/Council.

## ROLE OF THE MAYOR AND DEPUTY MAYOR

### Guidelines

The Mayor is elected by the Council annually. The Mayor and, in his/her absence, the Deputy Mayor, have the following responsibilities:-

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 hold the Executive to account;
4. to promote public involvement in the Council's activities;
5. to attend such civic and ceremonial functions as the Council and/or he/she determines appropriate; and
6. to represent the Council at a range of functions/events both inside and outside the Borough with the aim of promoting civic and democratic engagement.

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## PETITIONS SCHEME

### Petitions

The Council welcomes petitions and recognises that they are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement within 10 working days of receipt.

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This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

Paper petitions should be sent to:

Democratic Services  
Town Hall  
Market Street Nelson  
Lancs.  
BB9 7LG

or emailed to [committee@pendle.gov.uk](mailto:committee@pendle.gov.uk)

Petitions can also be presented in person to a meeting of the Council or one of our committees. The dates, times and venues can be found on our website [www.pendle.gov.uk](http://www.pendle.gov.uk)

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If you would like to present your petition to a meeting, or would like your Councillor or someone else to present it on your behalf, please contact Committee Services on [committee@pendle.gov.uk](mailto:committee@pendle.gov.uk) or (01282) 661648 at least 10 working days before the meeting and they will talk you through the process.

### What are the guidelines for submitting a petition?

Petitions submitted to the Council should include:

- a clear and concise statement covering the subject of the petition; it should state what action the petitioners wish the Council to take;
- the name and address and signature of any person supporting the petition.

Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. If the petition does not identify a petition organiser, we will contact the first three signatories to the petition to agree who should act as the petition organiser.

### **What will the Council do when it receives my petition?**

We will send an acknowledgement to the petition organiser within 10 working days of receiving the petition. This will let them know what we plan to do with the petition and when they can expect to hear from us again.

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. Alternatively, if the petition needs more investigation, we will tell you the steps we plan to take.

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor) or is on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures will apply. We will explain these in our acknowledgement.

We will not take any action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

In the period immediately before an election we may need to deal with your petition differently. If this is the case we will explain the reasons and discuss the revised timescale which will apply.

If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

### **How will the Council respond to petitions?**

Our response to a petition will depend on what a petition asks for but it will include one or more of the following:

- taking the action requested in the petition
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- conducting a consultation exercise
- holding a meeting with petitioners
- referring the petition for consideration by an area committee or another committee
- writing to the petition organiser setting out our views about the request in the petition

In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition. These will largely depend on whether the Council is directly responsible for the service in question. You can find more information on the services for which the Council is responsible on our website [www.pendle.gov.uk](http://www.pendle.gov.uk)

If your petition is about something over which the Council has no direct control (for example the local railway or hospital) we will consider making representations on behalf

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of the community to the relevant body. The Council works with a large number of local partners and where possible will work with these partners to respond fully to your petition. If we are not able to do this for any reason, then we will set out the reasons for this to you.

If your petition is about something that a different council is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other council but could involve other steps. In any event we will always notify you of the action we have taken.

**What can I do if I feel my petition has not been dealt with properly?**

The Monitoring Officer has overall responsibility for the administration of this petition scheme. You can contact him via email [howard.culshaw@pendle.gov.uk](mailto:howard.culshaw@pendle.gov.uk).

## PROTOCOL FOR RECORDING OF COUNCIL MEETINGS

### General

1. The Council supports the principle of transparency and encourages the filming, recording, photographing of meetings open to the public. [In accordance with the Openness of Local Government Bodies Regulations 2014 \(SI2014/2095\) where a member of the public is entitled to attend a meeting of the Council, or of any of its Committees or Sub-Committees or Executive, that person may also 'report on the meeting' by which it means: -](#)

[\(a\) Filming, photographing or making an audio recording of the meeting](#)

[\(b\) Relaying that video or audio recording to enable others not present at the meeting to see or hear it at the same time as the meeting; and](#)

[\(c\) Subject to 2\(b\) below, reporting or providing oral or written commentary on the meeting, so that others not present at the meeting may hear it at the same time as the meeting.](#)

2. In order to balance the wishes of those who want to record the meeting and those attending, the following principles will apply:

- (a) Any filming/recording/photography must take place from positions in the meeting room agreed by the Chairman to ensure the view of councillors, officers, public and media representatives is not obstructed. Those intending to bring large equipment, or wishing to discuss any special requirements, are advised to contact Committee Services (01282 661648/661654) in advance of the meeting to seek advice and guidance.
- (b) If the Chairman feels the filming/recording/photography is disrupting the conduct of the meeting in any way (for example through the use of flash photography, or intrusive camera equipment [or commentary](#)) the operator of the equipment will be required to stop. Anyone undertaking filming/recording/photography must comply with any requests made by the Chairman of the meeting.
- (c) The person recording proceedings are requested to ensure the film/record/photographs will not be edited in a way that could lead to misinterpretation of the proceedings.
- (d) The responsibility for how any film/recording/photography is used rests with the person doing it, not the Council. Those filming proceedings should make themselves aware of their responsibilities under current legislation, particularly in the area of publication and seeking consent.
- (e) All the provisions within this protocol also refer to the use of mobile phones in meetings and any other equipment that could be used for the purposes of filming, recording or taking photographs.

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- | ~~2-3.~~ The Committee Administrator will ensure signs are put in place before the meeting starts to remind attendees that filming/recording/photography may take place. Meeting agendas will also carry this message and this will also be added to the Council's Agenda Meetings web page.

#### **During the meeting**

- | ~~3-4.~~ The Chairman shall announce, at the commencement of the meeting, that filming, recording or the taking of photographs shall be taking place. Anyone seated in the public area or anyone attending the meeting to speak will have the opportunity to express his or her wish not to be filmed/recorded/photographed and to be guided to seating areas away from the area being filmed/recorded/photographed. If a member of the public is intending to speak at the meeting and prefers not to be filmed/recorded/photographed their wish will take precedence.
- | ~~4-5.~~ If someone refuses to stop recording when requested to do so, the Chairman will ask the person to leave the meeting. If the person recording refuses to leave then the Chairman may adjourn the meeting or make other appropriate arrangements for the meeting to continue without disruption. These will be in line with disorderly conduct procedures set out in the Constitution.
- | ~~5-6.~~ If a meeting passes a motion to exclude the press and public, then all rights to record the meeting are removed.

Agreed by Council 18.07.2024

## **BOROUGH OF PENDLE**

### **PROTOCOL BETWEEN THE EXECUTIVE AND THE OVERVIEW AND SCRUTINY COMMITTEE**

This protocol sets out a broad agreement about the relationship between the Executive and the Overview and Scrutiny Committee. It is designed to ensure mutual respect, openness and constructive discussion in the interests of service improvement.

#### **SCRUTINY RESPONSIBILITIES**

Members of the Overview and Scrutiny Committee will carry out overview and scrutiny functions on behalf of the Council as set out at Article 8 and in Part 3 of the Council's Constitution.

The key responsibilities of overview and scrutiny at the Council are to –

- Hold the Executive to account for their decisions;
- Review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- Make reports and recommendations to the full Council and/or the Executive and/or any Committee in connection with the discharge of any functions;
- 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;
- In accordance with the procedures for Call-In, exercise the right to Call-in for reconsideration of decisions falling within their remit which have been made but not yet implemented by the Executive, or on behalf of the Executive.

#### **Work Programming**

The Overview and Scrutiny Committee will be responsible for setting its own work programme.

In doing so it will ensure that a strategic approach is taken and that it contains items which are -

- related to the Council's priorities;
- a matter of concern to Members/the public;
- not currently under review by another body or been recently reviewed;
- issues where something can be done and a scrutiny review could make a difference;
- timely.

It will give due consideration to suggestions put forward by the Executive. However, it is not compelled to adopt them. It will also assist the Council and the Executive in the development of the budget and policy framework by analysis of policy issues facing the Council.

The Chair and Vice-Chairs of the Overview and Scrutiny Committee will meet regularly with senior managers to review the Forward Plan and identify upcoming decisions where scrutiny could add value.

#### **Relationship between Executive and Overview and Scrutiny Committee**

All Executive members will be notified of meetings of the Overview and Scrutiny Committee and will be invited as witnesses as appropriate. They need only attend those meetings where items that fall within the remit of their portfolio are being considered; to provide a Portfolio Holder update; or at the request of the Overview and Scrutiny Committee Chair.

Regular informal meetings between the Overview and Scrutiny Committee Chair and Council Leader, as Chair of the Executive, will be encouraged to enhance the relationship of the two functions.

Relations between the Executive and Overview and Scrutiny should not be confrontational, but a positive and constructive collaboration to secure improvements in Council and other public services for the borough and its people.

### **Scrutiny Panel Recommendations**

The Overview and Scrutiny Committee will ensure that all recommendations arising from scrutiny reviews and studies are evidence based and deliverable. They will also be made in such a way as to ensure that future monitoring of progress is possible.

The Overview and Scrutiny Committee Chair or Vice-Chair, or if unavailable, a representative of the Committee shall attend the Executive meeting to present the report and/or recommendations.

## **EXECUTIVE RESPONSIBILITIES**

### **Contributing to the Overview and Scrutiny Work Programme**

The Executive may put forward suggestions for potential topics to be included in the Overview and Scrutiny Work Programme. These will typically be strategic issues in which the Scrutiny Team's involvement will add value.

The Executive will also, when appropriate, seek the views of the Overview and Scrutiny Committee during policy development, service planning, objective and budget setting.

The Executive will not try to exercise control over the work of the scrutiny committee or try to influence any review.

### **Executive Forward Plan**

The Executive's Forward Plan will contain sufficient detail to enable scrutiny members to identify forthcoming issues in which they should have an input.

### **Responding to requests to attend**

Executive members will, wherever possible, attend appropriate meetings of the Overview and Scrutiny Committee and its task and finish groups on request to discuss matters relevant to their areas of responsibility.

### **Access to documents**

Subject to limitations below, an Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Executive or its committees and which contains material relating to any business transacted at a meeting of the Executive or its committees -

*Limit on rights* – An Overview and Scrutiny Committee will not be entitled to:

- (a) Any document that is in draft form; or
- (b) Any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising, or intend to scrutinise.

### **Receiving and responding to recommendations**

Overview and Scrutiny reports referred to the Executive shall be included on the agenda (unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda) within two months of the Overview and Scrutiny Committee completing its report/recommendations.

Where recommendations are made directly to the Executive these will be carefully considered and a formal response made to the Overview and Scrutiny Committee.

In the event that the Executive rejects scrutiny recommendations a clear explanation of the grounds for disagreement will be given. The relevant Executive Member may be asked to attend the meeting at which the response will be reported to provide an explanation of the reasons for that decision.

### **Ensuring compliance with the Protocol**

The Democratic Services Manager and the Monitoring Officer are the responsible officers for overseeing compliance with the Protocol and ensuring that it is used to support the wider aim of supporting and promoting a culture of scrutiny. The Scrutiny Annual Report will include an assessment of the effectiveness of the Protocol.

## **PART 6**

# **MEMBERS' ALLOWANCES SCHEME**

## PENDLE BOROUGH COUNCIL MEMBERS' ALLOWANCES SCHEME

1<sup>ST</sup> APRIL 2023 – 31<sup>ST</sup> MARCH 2025

### INTRODUCTION

As required by law, the Council established an Independent Panel to consider allowances for its members. The Council has had regard to the Independent Panel's report and recommendations in making this scheme which came into full effect on 19<sup>th</sup> May 2023.

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The levels of payments are those agreed by the Council at the Annual Council meeting in May 2023.

### 1. THE SCHEME

#### ❖ Basic Allowance

£3,500

This is an annual allowance paid to every Councillor. It is intended to recognise attendances at Council, committee, working groups, meetings and also meetings of outside organisations. It is also intended to cover the time devoted by Councillors to other work including such inevitable calls on their time as meetings with constituents, political group meetings and other incidental costs for which no other provision is made.

#### ❖ Special Responsibility Allowances

The following responsibility allowances will be paid : -

	£
Leader	4,000
Deputy Leader	1,200
Executive Member	1,200
Opposition Group Leader	1,200
Area Committee Chair	1,200
Overview and Scrutiny Committee Chair	1,200
Overview and Scrutiny Vice-Chair	500
Licensing Committee Chair	500
Accounts and Audit Chair	500
Taxi Licensing Chair	500
Development Management Chair	500

These Allowances are intended to cover such activities as: -

- Representing the Council and speaking to the media
- Chairing meetings
- Representing the political group at various internal meetings
- Agreeing consultation and other responses

Members can only receive one additional allowance. In the event that (due to numbers) a Member is asked to chair more than one committee, they would only receive an allowance equivalent to the greater of the two or more allowances for each committee chaired.

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#### ❖ **Dependent/Child Carer's Allowance**

£3.00 per hour towards the cost of such provision whilst attending meetings and other approved duties as defined in Regulation 8 of the Local Authorities (Members Allowances) Regulations 2001. For meetings or duties in the Borough the duration of the meeting or duty plus one hour's travelling time will be paid. For duties outside the Borough, the duration of the meeting of duty plus actual travelling time will be paid.

Payments will be made in respect of the following :-

- child(ren) under 15 living with the Member (N.B. only one payment irrespective of number of children)
- elderly dependent living with Member and requiring full time care
- disabled dependent living with Member and requiring full time care

Exclusions are:-

- in the case of a child(ren), where the care is provided by another parent or the Member's spouse or partner
- in the case of an elderly or disabled dependent, where the care is provided by another member of the Member's household
- where the Member is in receipt of a carer's allowance.

Payment will be made to the Member and not the carer, and only on submission of an authorised claim form to Committee Services. The cared for child(ren) or dependent has to be "registered" with Committee Services in advance of any claim being made.

#### ❖ **Travelling**

A Councillor may claim payment for travelling expenses to and from the meeting place. Where the Councillor uses his own private vehicle, mileage rates will apply. The rates for these are contained in statutory regulations which change from time to time. The current rate is 52.2p.

#### ❖ **FUEL RECEIPTS MUST BE ATTACHED TO ALL TRAVEL CLAIM FORMS**

Where public transport is used payment will be based on the ordinary fare or any available cheap fare.

## **2. PAYMENT OF ALLOWANCES**

### **Helpline**

A Member requiring assistance or clarification should contact Lynne Rowland in Committee Services (ext. 1649). Payments are made by the Payroll Section (contact Judy Williams on 298809).

In cases of uncertainty or ambiguity where a question of interpretation arises as to the payment of an allowance, the matter will be considered by the Head of Legal and Democratic Services, who will consult with the Group Leaders where necessary.

### **Payment**

All payments will be made monthly in arrears on the 15<sup>th</sup> of the month or the nearest working day by bank transfer to the Member's bank account. Such payments will include any travel claims made in time.

Where a Member has arrears of council tax, a voluntary agreement will be sought as to deductions from payments of allowance to clear these. Such agreement will not override the Council's legal procedure to recover council tax arrears.

### **Travel Claims and Dependent/Child Carer's Claims**

Travel claims and Dependent/Child Carer's claims should be submitted as soon as possible after each month end (a claim made after the 3<sup>rd</sup> of the month is unlikely to be paid in that month).

### **Attendance Record**

Members should ensure that they sign the official attendance record at meetings as this will support a claim for expenses and form part of the permanent record.

### **Record of Payments**

The Council is required to keep a record of all payments to Members indicating the amount paid to each Member in respect of each type of allowance. That record is open to inspection by any local government elector resident in the area of the Council. Furthermore, information as to payments made will be published each year on the Council's website.

## **3. TAXATION**

Basic allowance and special responsibility allowance are taxable. They will be taxed at the standard basic rate unless either an appropriate notification of tax coding has been forwarded or the Inland Revenue has given details of any tax free pay. It is up to each Member to contact the Inland Revenue direct in order to obtain such notifications. Mileage claims are tax free.

At the end of the year the allowances paid and tax deducted are notified to the Inspector of Taxes and included by him in the Members' Schedule "E" assessment. Also, a certificate

(P60) will be issued to each Member showing the total amount of taxable allowances paid and the total tax deducted in that year. The certificate should be retained to check any notice of assessment which the Tax Office may issue.

#### **4. NATIONAL INSURANCE CONTRIBUTIONS**

##### **General Liability**

As basic allowance and special responsibility allowance are taxable under Schedule "E" they are also liable for National Insurance contributions under the PAYE procedure.

Liability for contributions will only arise when the gross total of taxable allowances exceeds a lower earnings limit (LEL) and this will then be payable on all taxable allowances up to a maximum upper earnings limit (UEL). These limits are subject to annual adjustment and are available on request.

Members should notify their DWP local office and the Council's Housing and Council Tax benefit sections of any taxable allowances received if they are claiming or receiving benefits (including supplementary, housing or council tax benefit).

##### **Pensionable Age**

In general, Members who are of pensionable age are not liable for contributions. Such Members should apply to the DWP local office for a Certificate of Earner's Non- Liability (CF381), or a Certificate of Age Exemption (CF384), as appropriate, and hand this in.

##### **Married Women and Widows**

There is now no right to "opt out" of paying the full rate; however, those Members who currently hold a reduced rate certificate, and have paid some contributions over any two-year period, can retain the right to pay reduced rate.

##### **Dual Employment**

Each employment or office is considered separately for contribution purposes and no account is taken for the fact that a Member may be employed or the holder of another office under another employer or self-employed.

However, in situations where the taxable emoluments received, either in total or in one particular employment exceed the Upper Earnings Limit, Members should contact their DWP local office in order to limit contributions payable (by use of Form RD950) or obtain an appropriate refund of contributions paid.

#### **5. INSURANCE ARRANGEMENTS**

### **Liability Insurance**

The Council's liability insurance arrangements provide appropriate cover in respect of its legal liabilities towards and for the actions of Members whilst acting on Council business.

### **Personal Accident Insurance**

The Council has a Personal Accident Insurance Policy which provides financial benefits regardless of legal liability for Members who are accidentally killed or injured while attending a Council or committee meeting or any other function or engagement which forms part of their duties as Member of the Council, or whilst travelling to and from such meetings or functions, including travel abroad on Council business.

Full details are available on request.

### **Motor Vehicle Insurance**

The use of motor vehicles is subject to compulsory insurance cover and where Members use private motor vehicles on Council business, it is the responsibility of individual Members to ensure that their own motor vehicle insurance policies provide appropriate cover for such use.

May, 2023

# Corporate Leadership Team

## CHIEF EXECUTIVE

(Head of Paid Service and Returning Officer)



**Dean Langton**

- Overall responsibility for running the Council on a day-to-day basis
- Responsible for staff and performance
- Main link between councillors & staff
- Principal policy adviser to the Council and Executive
- Represents the Council's interests externally
- Lead on the development of effective partnerships
- Leisure Client Management

## DIRECTOR OF PLACE



**Phillip Spurr**

- Economic Development
- Regeneration
- Inward Investment
- Housing Strategy and Delivery
- JV Oversight

## DIRECTOR OF RESOURCES (s.151)



**Karen Spencer**

- Strategic Finance
- Governance
- Climate Change



**Asst. Director OPERATIONAL SERVICES**  
David Walker

**Head of ECONOMIC GROWTH**  
Iftikhar Bokhari

**Head of HOUSING & ENVIRONMENTAL HEALTH**  
Sarah Whitwell

**Asst. Director PLANNING, BUILDING CONTROL & REGULATORY SERVICES**  
Neil Watson

**Head of POLICY & PARTNERSHIPS**  
Sarah Astin-Wood

**Asst. Director HR & ORGANISATIONAL CHANGE**  
Jane McDonnell

**Head of PROPERTY & ENGINEERING**  
Phil Kirby

**Head of FINANCE**  
Gemma-Louise Wells

**Head of LEGAL & DEMOCRATIC SERVICES**  
(Monitoring Officer)  
Howard Culshaw

- Waste Management
- Street Cleansing
- Refuse Collection & Recycling
- Landscape Maintenance
- Bereavement Services
- Environmental Crime
- Parks, Sports & Green Spaces
- Countryside Access
- Emergency Planning
- Health and Safety

- Economic Development
- Regeneration
- Tourism
- Nelson Town Deal
- Nelson Pride in Place

- Housing Strategy
- Housing Needs
- Environmental Health (Housing)
- Environmental Health (Commercial)
- Town Hall Service Support

- Planning Policy
- Development Management
- Building Control
- Conservation
- Tree Preservation
- Planning Enforcement
- Licensing (Taxi and Legal)

- Policy
- Communications
- Contract Management (Liberata client)
- Performance
- Community Safety

- Human Resources
- Learning & Development
- Organisational change
- LGR Lead
- Programme Support
- Leisure Client Management

- Corporate Property
- Facilities Management
- Office Cleaning
- Estates & Asset Management
- Markets
- Climate Change
- Engineering

- Financial Services
- Procurement
- Revenues & Benefits

- Legal Services
- Land Charges
- Democratic Services
- Caretaking
- Mayoralty
- Elections
- Governance