

SOUTH LAKELAND DISTRICT COUNCIL

CONSTITUTION OF THE COUNCIL

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PART 1

SUMMARY AND EXPLANATION

SUMMARY AND EXPLANATION

The Council's Constitution

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

The Constitution is divided into 16 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

What's in the Constitution?

Article 1 of the Constitution commits the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations. Articles 2 - 16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- The Council meeting (Article 4).
- Chairing the Council (Article 5).
- Overview and scrutiny of decisions (Article 6).
- The Cabinet (Article 7).
- Regulatory and other committees (Article 8).
- The Standards Committee (Article 9).
- Area committees (Article 10).
- Joint arrangements (Article 11).
- Officers (Article 12).
- Decision making (Article 13).
- Finance, contracts and legal matters (Article 14).
- Review and revision of the Constitution (Article 15).
- Suspension, interpretation and publication of the Constitution (Article 16).

How the Council operates

The Council is composed of 51 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. The Standards Committee ensures that appropriate training is available and advises them on the code of conduct.

All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here councillors decide the Council's overall policies and set the budget each year. The Council appoints the Leader of the Council, and the Leader of the Council shall advise the Council of his/her deputy and of the other members of the Cabinet and their individual areas of responsibility. The Council will also appoint the Regulatory and Other Committees, the Overview and Scrutiny Committee and the Standards Committee. The Council will hold the Cabinet and all Committees to account.

How decisions are made

The Cabinet is the part of the Council which is responsible for most day-to-day decisions. The Cabinet is made up of councillors. The Council will appoint the Leader of the Council. The Deputy and other members

of the Cabinet will be appointed by the Leader of the Council and he/she will report those appointments at the annual meeting of the Council.

When major decisions are to be discussed or made, these are published in a Key Decision Notice in so far as they can be anticipated. If these major decisions are to be discussed with Council officers at a meeting of the Cabinet, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The Cabinet must 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 be referred to the Council as a whole to decide.

Subject to certain exceptions Council, Cabinet and Committee Meetings must be held in public. There are exceptions for various prescribed classes of confidential or exempt information which allow such meetings or parts of such meetings to be held in private (without the public and press) "Confidential" and "exempt" information are defined in the Access to Information Procedure Rules in Part 4 of this Constitution.

Where it is intended to hold a Cabinet meeting (or part of a meeting) in private a notice of this intention must be published at least 28 days before the proposed date of the meeting. This notice must set out the reasons why it is being held in private. It also invites representations from the public about the intention to hold the meeting, or part of it, private.

Those decisions which deal with issues governed by regulations (ie. of a quasi-judicial nature) will be made by the appropriate committees of the Council, and cannot be made by Cabinet (e.g. matters dealing with planning applications, licences, etc).

Overview and Scrutiny

There is one main Overview and Scrutiny Committee which supports the work of the Cabinet and the Council as a whole. It allows citizens to have a greater say in Council matters by holding inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. The Overview and Scrutiny Committee also monitors the decisions of the Cabinet. It can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables it to consider whether the decision is appropriate. It may recommend that the Cabinet reconsider the decision. It may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

Area Committees

The Council has decided not to create area committees at present. However, it co-ordinates a group of Local Area Partnerships (LAPs). These are made up of elected representatives from the three tiers of local government, being town and parish councils and parish meetings. South Lakeland District Council and Cumbria County Council.

They are based on groups or clusters of parishes who have agreed to work together on common interests. Amongst other things, LAPs influence decision making about the way services are delivered in their area. LAPs do not have any delegated decision making power.

The Council's Staff

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. Protocols govern the relationships between officers and members of the Council and these can be found in the Constitution.

Citizens' Rights

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

The local Citizens' Advice Bureau can advise on individuals' legal rights.

Where members of the public use specific Council services, they have additional rights. These are not covered in this Constitution.

PART 2

ARTICLES OF THE CONSTITUTION

ARTICLE 1 – THE CONSTITUTION

1.01 Powers of the Council

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

1.02 The Constitution

This Constitution, and all its appendices, is the Constitution of the South Lakeland District Council.

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 local authority decision-making;
- help councillors represent their constituents more effectively;
- enable decisions to be taken efficiently and 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 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 taking into account the overriding aims and objectives of the Council.

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 51 members, otherwise called councillors. Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State.

(b) **Eligibility.** Only registered electors of the district or those living or working or owning property 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 will be held on the first Thursday in May in each year beginning in 2002, except that in 2005 and every fourth year after 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:

- collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- 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 the ward and represent the ward as a whole;
- be involved in decision-making;
- 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/ Officer Relations set out in Part 5 of this Constitution.

2.05 Allowances

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

ARTICLE 3 – CITIZENS AND THE COUNCIL

3.01 Citizens' rights

Citizens of the District have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

- (a) **Voting and petitions.** Citizens on the electoral register for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Petitions Scheme.** Citizens on the electoral register for the area have the right to request a petition in accordance with the Council's Petitions Scheme as set out in Part 4 of the Constitution.
- (c) **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 Cabinet when key decisions are being considered;
 - find out from the Key Decision Notice what Key Decisions will be taken by the Cabinet and when;
 - see reports and background papers, and any records of decisions made by the Council and the Cabinet;
 - inspect the Council's accounts and make their views known to the external auditor; and
 - access copies of the Constitution.
- (d) **Participation.** Citizens have the right to take part in the Council's public participation scheme and contribute to investigations by the overview and scrutiny committee.
- (e) **Complaints.** Citizens have the right to complain or comment to:
- the Council itself under its complaints scheme;
 - the Ombudsman after using the Council's own complaints scheme;
 - the Monitoring Officer about a breach of the Councillor's Code of Conduct.

3.02 Citizens' responsibilities

Citizens must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the council, councillors or officers.

ARTICLE 4 – THE FULL COUNCIL

4.01 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:
- 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;
 - South Lakeland Housing Strategy;
 - Choice Based Lettings Allocation Policy;
 - Local Lettings Policy;
 - Licensing Policy;
 - Statement of Gambling Licensing Policy;
 - Economic Growth Strategy;
 - Cumbria Joint Public Health Strategy.
- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure, the Procurement Schedule and the setting of virement limits.
- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.02 Functions of the full 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 decision maker 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 and deciding on their composition;
- (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 or conferring the title of honorary alderman;
- (i) confirming the appointment and dismissal of the Head of Paid Service;
- (j) designating an officer as Head of the Paid Service under section 4 of the Local Government and Housing Act 1989;
- (k) designating an officer as Monitoring Officer under section 5 of the Local Government and Housing Act 1989;
- (l) designating an officer as Chief Financial Officer under section 151 of the Local Government Act 1972;
- (m) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills;
- (n) Resolutions not to pass a Casino Licence; and
- (o) all other matters which, by law, must be reserved to Council.

4.03 Further functions of the Council

Subject to the delegation arrangements determined by the Council, only the Council will exercise the following functions:

- (a) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet;
- (b) those functions relating to elections set out in Part 3 of this Constitution;
- (c) functions in respect of single-member electoral areas and resolutions for schemes of elections; and
- (d) functions with regard to proposals for a change in governance arrangements.

4.04 Council meetings

There are three types of Council meeting:

- the annual meeting;
- ordinary meetings; and
- extraordinary meetings.

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

4.05 Responsibility for functions

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

ARTICLE 5 – CHAIRING THE COUNCIL

5.01 Responsibilities of the Chairman

The Chairman will be elected by the Council annually. The Chairman and in his/her absence the Vice-Chairman will have the following responsibilities:

- 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.;
- 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;
- 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 Cabinet or hold committee chairs are able to hold the Cabinet and committee chairmen to account;
- to promote public involvement in the Council's activities;
- to be the conscience of the Council;
- to attend such civic and ceremonial functions as the Council and/or he/ she determines appropriate; and
- to represent the Council at a range of functions/events both inside and outside the District, with the aim of promoting civic and democratic engagement.

ARTICLE 6 – OVERVIEW AND SCRUTINY

6.01 Introduction

The Council is required by Law to discharge certain overview and scrutiny functions. These functions are an essential component of local democracy. The Overview and Scrutiny Committee should be a powerful committee that can contribute to the development of Council policies and also hold the Cabinet to account for its decisions. Another key part of the overview and scrutiny role is to review existing policies, consider proposals for new policies and suggest new policies.

Overview and Scrutiny should be carried out in a constructive way and should aim to contribute to the delivery of efficient and effective services that meet the needs and aspirations of local inhabitants. The Overview and Scrutiny Committee should not shy away from the need to challenge and question decisions and make constructive criticism.

6.02 Overview and Scrutiny Committee

In order to achieve this, the Council has appointed an Overview and Scrutiny Committee.

The Overview and Scrutiny Committee has the power to:

- review or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions whether by the Cabinet or another part of the Council or any of its Committees;
- make reports or recommendations to the Council or the Cabinet in connection with the discharge of any functions;
- consider any matters which affects the Council's area or its communities; and
- exercise the right to call in for re-consideration of decisions made but not yet implemented by the Cabinet and Officers;
- determine requests for Councillor Calls for Action; and

The Council or the Cabinet or the Overview and Scrutiny Committee may from time to time establish such other committees as it sees fit.

6.03 Role, Scope and Membership

The role, scope and membership of the Overview and Scrutiny Committee is described in the table below:-

Committee and Membership	Role and Scope
Overview and Scrutiny Committee of 12 Elected Members	<ul style="list-style-type: none">• to act as the Council's Overview and Scrutiny Committee for all purposes within the District Council's remit (including crime and disorder, call-in, councillor call for action);• to determine and prioritise an annual Work Programme for scrutiny, with built-in flexibility to deal with urgent issues;• to determine how scrutiny reviews, through time-limited task and finish groups;• to provide positive challenge of the Executive, including portfolio performance;• to scrutinise quarterly performance management reports;• to scrutinise the management of risks contained within performance reports; and• to receive questions from the public (with notice, in accordance with procedure) on services and issues within the remit of Overview and Scrutiny.

The Overview and Scrutiny Committee will comprise 12 elected members. Members of the Cabinet may not be members of the Overview and Scrutiny Committee and its Sub-Committees.

6.04 Specific Functions

Policy Development and Review

The Overview and Scrutiny Committee, if appropriate, may:

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

Scrutiny

The Overview and Scrutiny Committee, if appropriate, may:-

- (a) review and scrutinise the decisions made by and performance of the Cabinet and/or committees and Council officers both in relation to individual decisions and over time;
- (b) review and scrutinise the performance of the Council in relation to its policy issues and possible options;
- (c) question members of the Cabinet, and/or committees and officers (Assistant Directors and above) about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (d) make recommendations to the Cabinet and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
- (e) review and 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 and local communities about their activities and performance; and
- (f) question and gather evidence from any person (with their consent).

Councillor Call for Action

The Overview and Scrutiny Committee may:-

- (a) consider any Councillor Call for Action case referred to it;
- (b) conduct research in considering the issue;
- (c) question and gather evidence from any person (with their consent); and
- (d) make recommendations or report to Cabinet.

Task and Finish Groups

It is anticipated that the bulk of the work of Overview and Scrutiny will be carried out using appropriate Task and Finish Groups, set up with agreed Terms of Reference. Membership of these groups will be open to all elected Members (with the exception of Executive Members) and may call upon evidence from witnesses to help inform the issue under review. These witnesses could include, for example, expert witnesses, parish representatives and other community or stakeholder representatives.

Each Task and Finish Group will report its recommendations to the Overview and Scrutiny Committee.

Finance

The Overview and Scrutiny Committee may exercise overall responsibility for the finances made available to it.

Annual Report

The Overview and Scrutiny Committee must report annually to the full Council on its work with recommendations for its future work programme and amended working methods if appropriate.

Officers

The Overview and Scrutiny Committee may exercise overall responsibility for the work programme. Officer(s) will promote the role of the Council's Overview and Scrutiny Committee and Sub-Committees, to provide support to them and their Members and provide support and guidance to Council Members and Officers generally about the functions of the Overview and Scrutiny Committee and Sub-Committees.

Proceedings of the Overview and Scrutiny Committee and Sub-Committees

The Overview and Scrutiny Committee and its Sub-Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedural Rules.

ARTICLE 7 – THE CABINET

7.01 Role

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

7.02 Form and composition

The Cabinet will consist of the Leader, together with the Deputy and at least one but no more than eight other Councillors (up to a maximum of ten Councillors in total), all appointed to the Cabinet by the Leader of the Council and will be considered to be properly constituted, even if not all places are taken up.

7.03 The Leader of the Council

In accordance with the decision of the Council on 28 September 2010, from May 2011 the Leader of the Council, being a Member of the Council, must be appointed by the Council for a four year term (or for up to the end of his/her term of office as a Member, whichever is the shorter).

The Leader of the Council will hold office until he/she:

- resigns from office; or
- ceases to be or is disqualified from being a Councillor; or
- is removed from office by resolution of the Council.

7.04 Appointment of the Cabinet (Executive) and Scheme of Delegation

The Leader:

- (a) will determine the size of and appointment of between 2 and 9 members of the Cabinet (Executive) in addition to himself/herself;
- (b) will allocate any areas of responsibility (Portfolios) to them;
- (c) may remove one or more of them from the Cabinet (Executive) at any time;
- (d) will determine the scheme of delegation for the discharge of the executive functions of the Council; and
- (e) will report to Council on all appointments and changes to the Cabinet.

Such decisions will only take effect from the day of receipt by the Proper Officer of such decisions in writing.

Cabinet Members may not include the Chairman or Vice Chairman of Council, or Members of any Overview and Scrutiny arrangements.

7.05 Appointment of Deputy Leader

The Leader will appoint one of the Members of the Cabinet (Executive) as Deputy Leader to hold office until the end of the term of office as 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 he/she thinks fit, remove the Deputy Leader from office, but must then appoint another person in his/her place.

Such decisions will only take effect from the day of receipt by the Proper Officer of such decisions in writing.

7.06 Absent Leader

If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in his/her place. If the Deputy Leader is unable to act or the office is vacant, the Cabinet (Executive) must act in the Leader's place or arrange for a member of the Cabinet (Executive) to do so.

7.07 Removal of the Leader

Subject to Part 4, paragraph 11.2 of the Constitution, Full Council may decide, by way of resolution by a simple majority, to remove the Leader from office and for a new Leader to be elected:-

- At the meeting at which the Leader is removed from office; or
- At a subsequent meeting

7.08 Interim and/or replacement Leader arrangements/term of office

Where the Leader is removed or departs from office mid-term, his/her appointment of Cabinet Members and Deputy Leader survive his/her departure.

The Deputy Leader will take over the functions of Leader until such time as a new Leader is elected, and the Cabinet remains in post and continues to meet and function, until such time as the Leader appoints a new Cabinet.

The newly elected Leader will automatically hold office, once elected, for the balance of his/her term of office as a Councillor.

7.09 Other Cabinet members

Other Cabinet members shall hold office until:

- they resign from office or if they are dismissed, either collectively or individually, by the Leader of the Council; or
- they cease to be, or are disqualified from being, a Councillor; or
- on expiry of the fixed term of one year save that the Leader may remove them from office, either individually or collectively, at an earlier date or in the event of a change in political balance of the Council.

7.10 Proceedings of the Cabinet

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

7.11 Responsibility for functions

The Leader will maintain a list in Part 3 of this Constitution setting out which individual members of the Cabinet, committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular executive functions.

ARTICLE 8 – REGULATORY AND OTHER COMMITTEES

8.01 Regulatory and other committees

The Council will appoint the committees set out in the left hand column of the table in *Responsibility for Council Functions* in Part 3 of this Constitution to discharge the functions described in column 3 of that table.

ARTICLE 9 – THE STANDARDS COMMITTEE

9.01 Standards Committee

The Council meeting will establish a Standards Committee.

9.02 Composition

- (a) **Membership.** The Standards Committee will be composed of:
- seven councillors [other than the leader] (appointed annually); and
 - a maximum of two co-opted members of a parish council wholly or mainly in the Council's area (Parish Members) (appointed for a four year term); an invitation will be extended to the Chairman of the Cumbria Association of Local Councils to take up one of the these positions.
- (b) **Independent Person.** The Independent Person may attend and advise the Committee but will not be entitled to vote at meetings;
- (c) **Parish members.** If Parish Members are co-opted on to the Committee, at least one parish member must be present when matters relating to parish councils or their members are being considered. Parish members are not entitled to vote at meetings.

9.03 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members;
- (b) assisting the councillors and co-opted members to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train councillors and co-opted members on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to councillors and co-opted members from requirements relating to interests where not otherwise delegated to the Monitoring Officer;
- (g) the exercise of (a) to (e) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils;
- (h) overview of complaints handling and Ombudsman investigations;
- (i) overview of Employee Register of Interests and Gifts and Hospitality;
- (j) overview of Member/Officer protocol, Monitoring Officer Protocol and Independent Person Protocol;
- (k) overview of Leader/Chief Executive protocol;
- (l) power to shortlist and interview candidates and make recommendations to Council regarding appointment of Independent Persons; and
- (m) power to co-opt up to two non-voting Parish Representatives onto the Committee.

ARTICLE 10 – AREA COMMITTEES AND FORUMS

10.01 Area Committees

The Council may appoint area committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making. The Council has decided not to introduce area committees at this time.

The Council will consult with relevant parish and town councils and the chairmen of relevant parish meetings when considering whether and how to establish area committees in the future.

10.02 Local Area Partnerships

The authority has agreed the establishment of eight local area partnerships (LAPs) to implement area-based working. These are:

- Central Lakes;
- Grange and Cartmel;
- High Furness;
- Kendal;
- Sedbergh and Kirkby Lonsdale;
- South Westmorland;
- Ulverston; and
- Upper Kent.

Core membership of the local area partnerships will reflect the membership of County, District and Parish Councils, with other members co-opted on to the partnership or advising it as appropriate. Each individual LAP may appoint local service providers with the responsibility for procedural issues vested in the Council.

10.03 Form and Composition

For all LAPs, Members are all from the relevant area. Each LAP can include core partner bodies e.g. PCT, Fire and Rescue Service, and Third Sector Partnership as it sees fit. The operation of LAPs shall be in accordance with each of their Terms of Reference.

ARTICLE 11 – JOINT ARRANGEMENTS

11.01 Arrangements to promote well being

The Council or the Cabinet, in order to promote the economic, social or environmental well-being of its 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; and
- exercise on behalf of that person or body any functions of that person or body.

11.02 Joint arrangements

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

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

(c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.

(d) The Cabinet may appoint members to a joint committee from outside the Cabinet in the following circumstances: the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area; in this case the political balance requirements do not apply to such appointments.

(e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

11.03 Access to information

(a) The Access to Information Procedure Rules in Part 4 of this Constitution apply.

(b) If all the members of a joint committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.

(c) If the joint committee contains members who are not on the Cabinet of any participating authority then the Access to Information Rules in Part VA of the Local Government Act 1972 will apply.

11.04 Delegation to and from other local authorities

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

(b) The Cabinet may delegate executive functions to another local authority or the Cabinet of another local authority in certain circumstances.

(c) 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, for functions which are not executive functions, or the Cabinet for executive functions, may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

ARTICLE 12 – OFFICERS

12.01

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The Council will engage persons for the following posts, who will be designated chief officers:

Post	Functions and areas of Responsibility
Chief Executive (Head of Paid Service)	Overall corporate management and operational responsibility, including overall management responsibility for all officers, and corporate health and safety matters. Responsibility for corporate governance and the provision of professional advice to all parties in the decision making process. Representing the Council on partnership and external bodies as required.
Director of Strategy, Innovation and Resources	To lead the corporate direction of the Council through strategic leadership and influence, taking the principal role in the development of Strategy, Innovation and Council Priorities and ensuring these are delivered in conjunction with Council Members, through the Council's services, projects and partnerships. Responsibility for the following lead specialists – Strategy, Performance and Innovation and Commissioning, Human Resources, Legal, Governance and Democracy/ Monitoring Officer, Finance, Digital Operational Lead and Support Services.
Director of Customer and Commercial Services	To lead the corporate direction of the Council through strategic leadership, taking the principal role of delivering efficient, effective, professional and commercial services to customers that are aligned to the Council's ambitions. Responsible for the operational leads of – Customer Services and Locality, Specialist Services, Case Management, Delivery and Commercial Services.

- (c) **Head of Paid Service, Monitoring Officer and Chief Financial Officer.** The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Legal, Governance and Democracy Lead Specialist	Monitoring Officer
Finance Lead Specialist	Chief Finance Officer (Section 151 Officer)

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

- (d) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental 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

- (a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

(b) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer, if a qualified accountant.

12.03 Functions of the Monitoring Officer

(a) **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.

(b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

(d) **Duties in respect of Parish Councils** – Providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority

(e) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred through Standards arrangements and make reports or recommendations in respect of them to the Standards Committee.

(f) **Proper Officer for access to information.** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

(g) **Advising whether Cabinet decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.

(h) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors

(i) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

12.04 Functions of the Chief Finance Officer

(a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Cabinet in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

(b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

(c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.

(e) **Give financial information.** The Chief Finance 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 Chief Finance Officer

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

12.06 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/ Member Relations set out in Part 5 of this Constitution.

12.07 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 4 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:

- To take into account all relevant considerations and to ignore irrelevant considerations.
- A realistic evaluation of alternatives and consultation through access by the public to decision-making and decision-makers.
- Proportionality (i.e. the action must be proportionate to the desired outcome).
- Due consultation and the taking of professional advice from officers.
- Respect for human rights (see below at Article 13.08).
- A presumption in favour of openness.
- Clarification of aims and desired outcomes.
- An explanation of the options that were considered and the 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.**

A key decision means an executive decision which, in relation to an executive function, has a significant effect on communities in two or more Wards of the Council and/or is likely to result in the Authority incurring expenditure or making savings above £100,000.

All Strategic commissioning decisions will be treated as Key decisions and the requirements of Executive Key decision making will be followed and the decision will be made by the Cabinet.

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

13.04 Decision making by the full Council

Subject to Article 13.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.05 Decision making by the Cabinet

Subject to Article 13.08, the Cabinet will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.06 Decision making by the Overview and Scrutiny Committee

The Overview and Scrutiny Committee, and its Sub-Committees 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 and sub-committees established by the Council

Subject to Article 13.08, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

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.

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 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 Monitoring Officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where he/she either considers 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 Monitoring Officer or other person authorised by him/ her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £25,000 entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the Authority or made under the common seal of the council attested by at least one officer.

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 Monitoring Officer. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. All contracts of £60,000 in value or above will be under seal unless considered not expedient to do so in the opinion of the Monitoring Officer. It will also be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by the Monitoring Officer, the Chief Executive or any Director, or the Chief Finance Officer.

ARTICLE 15 – REVIEW AND REVISION 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.

Protocol for Monitoring and Review of the Constitution by Monitoring Officer

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:

- observe meetings of different parts of the Member and officer structure;
- undertake an audit trail of a sample of decisions;
- record and analyse issues raised with him/ her by Members, officers, the public and other relevant stakeholders; and
- compare practices in this authority with those in other comparable authorities, or national examples of best practice.

15.02 Changes to the Constitution

(a) **Approval.** Changes to the constitution will only be approved by the full Council after consideration of the proposal by the Monitoring Officer.

(b) **Exceptions.** Textual and factual amendments, including those resulting from changes in legislation, required to keep the Constitution up to date, or consequential amendments as a result of a Council, Cabinet or Committee decision may be implemented by the Monitoring Officer. All Members will be notified of changes made.

(c) **Change from a Leader and Cabinet form of executive to a mayoral form of executive.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals, and must hold a binding referendum.

(d) **Proposals for changes.** Any committee of the Council or the Cabinet may submit proposals for changes to the constitution to the Monitoring Officer, who will submit a report on those proposals to the full Council.

ARTICLE 16 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

16.01 Suspension of the Constitution

(a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.

(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 are 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.

(c) **Rules capable of suspension.** The following Rules may be suspended in accordance with Article 16.01(b):

- Council Procedure Rules, except Rules 15.7 and 16.2.

16.02 Interpretation

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

16.03 Publication

The Monitoring Officer will ensure that copies of this Constitution (and any amendments to the Constitution) are available for public inspection at Council Offices and on the Council's website. Physical copies can also be purchased by members of the local press and the public on payment of a reasonable fee.

SCHEDULE 1 – DESCRIPTION OF EXECUTIVE ARRANGEMENTS

The following parts of this Constitution constitute the executive arrangements:

1. Article 6 (Overview and Scrutiny committee) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Cabinet) and the Cabinet Procedure Rules;
3. Article 10 (Area Committees and Forums);
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

Allocation of Cabinet Portfolios, specific powers of individual Cabinet Members and approval of the scheme of delegation of executive powers to Officers

The Leader is responsible for approving the:

- allocation of Cabinet Portfolios;
- specific powers of individual Cabinet Members; and
- Scheme of Delegation of executive powers to Officers.

1. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

No.	Function	Decision making body	Membership	Delegation of functions
1	Any function under a Local Act other than the functions set out in 2 to 4 below.	Cabinet	Between two and ten members of the Council	As determined by the Leader
2	Cumbria Act 1982, Sections 18 & 19.	Council	All members	-
3	Cumbria Act 1982, Sections 20 & 21.	Planning Committee	Eighteen members of the Council	Onward delegation to officers as detailed in Section 3 of this Part of the Constitution
4	Cumbria Act 1982, Sections 48 & 49.	Lake Administration Committee	24 members (16 District Councillors, five Parish Councillors from Windermere Town Council and three Parish Councillors from Lakes Parish Council)	-

No.	Function	Decision making body	Membership	Delegation of functions
5	The determination of an appeal against any decision made by or on behalf of the authority.	Council	All Members	Full delegation to Chief Executive and Directors
6	Any function relating to contaminated land.	Cabinet	Between two and ten members of the Council	Full delegation to the Director of Customer and Commercial Services as determined by the Leader
7	The discharge of any function relating to the control of pollution or the management of air quality.	Cabinet	Between two and ten members of the Council	Full delegation to the Director of Customer and Commercial Services as determined by the Leader
8	The service of an abatement notice in respect of a statutory nuisance.	Cabinet	Between two and ten members of the Council	Full delegation to the Director of Customer and Commercial Services as determined by the Leader
9	The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	Cabinet	Between two and ten members of the Council	As determined by the Leader -

No.	Function	Decision making body	Membership	Delegation of functions
10	The inspection of the authority's area to detect any statutory nuisance.	Cabinet	Between two and ten members of the Council	Full delegation to the Director of Customer and Commercial Services as determined by the Leader
11	The investigation of any complaint as to the existence of a statutory nuisance.	Cabinet	Between two and ten members of the Council	Full delegation to the Director of Customer and Commercial Services as determined by the Leader
12	The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.	Planning Committee	Eighteen members of the Council	Full delegation to the Director of Customer and Commercial Services as determined by the Leader
13	The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Cabinet	Between two and ten members of the Council	Full delegation to the Chief Executive and all Directors as determined by the Leader

No.	Function	Decision making body	Membership	Delegation of functions
14	The appointment of any individual: (a) to any office other than an office in which he is employed by the authority; (b) to any body other than the authority, a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body, and the revocation of any such appointment.	Human Resources Committee	Nine members of the Council	-
15	The making of agreements with other local authorities for the placing of staff at the disposal of those authorities.	Cabinet	Between two and ten members of the Council	Onward delegation to Chief Executive and all Directors as determined by the Leader
16	Functions under Sections 106, 110, 111 and 113 of the 2007 Act relating to local area agreements.	Cabinet	Between two and ten members of the Council	As determined by the Leader-

2. RESPONSIBILITY FOR COUNCIL FUNCTIONS

2.1 PLANNING COMMITTEE (14 MEMBERS OF THE COUNCIL)

Functions	Delegation of Functions
<p><u>Planning and Conservation</u></p> <p>Functions relating to town and country planning and development control as specified in Part (a) Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations) (a copy of that schedule is reproduced as Schedule 1 to this part of the Constitution).</p> <p>The functions of imposing any condition, limitation or other restriction on an approval, consent, licence, permission or registration granted, which is the responsibility of the Committee, and to determine any other terms to which such approval, consent, licence, permission or registration is subject.</p> <p>The function of determining whether, and in what manner, to enforce any failure to comply with an approval, consent, licence, permission or registration which is the responsibility of the Committee, or any condition.</p> <p>The function to amend, vary, modify or revoke any approval, consent, licence, permission or registration which is the responsibility of the Committee, or any condition, limitation or term thereof.</p>	<p>Onward delegation to officers as detailed in Section 3 to this Part of the Constitution</p>
<p><u>Other Functions</u></p> <p>Those miscellaneous functions relating to the public rights of way exercisable by a District Council as specified in Part (I) Schedule 1 of the Functions Regulations</p>	<p><i>No onward delegation</i></p>
<p>Power to make limestone pavement orders</p>	<p><i>No onward delegation</i></p>
<p>Powers relating to the protection of important hedgerows</p>	<p><i>No onward delegation</i></p>
<p>Powers relating to the preservation of trees</p>	<p>Full delegation to the Director of Customer and Commercial Services</p>
<p>Powers relating to complaints about High Hedges (Part 8 of the Anti-Social Behaviour Act 2003)</p>	<p>Full delegation to the Director of Customer and Commercial Services</p>

2.2a LICENSING REGULATORY COMMITTEE (15 MEMBERS OF THE COUNCIL)

Functions	Delegation of Functions
Taxi, gaming, entertainment, and miscellaneous licensing functions exercisable by a District Council relating to licensing and registration as set out in Part (b) Schedule 1 of the Functions Regulations.	Onward delegation to officers as detailed in Section 3 to this Part of the Constitution
The functions of imposing any condition, limitation or other restriction on an approval, consent, licence, permission or registration granted, which is the responsibility of the Committee, and to determine any other terms to which such approval, consent, licence, permission or registration is subject.	Onward delegation to a three member Sub-Committee of Licensing Regulatory Committee and to officers as set out in Section 3 to this Part of the Constitution.
The function of determining whether, and in what manner, to enforce any failure to comply with an approval, consent, licence, permission or registration which is the responsibility of the Committee, or any condition.	Onward delegation to a three member Sub-Committee of Licensing Regulatory Committee and to officers as set out in Section 3 to this Part of the Constitution.
The function to amend, vary, modify or revoke any approval, consent, licence, permission or registration which is the responsibility of the Committee, or any condition, limitation or term thereof.	Onward delegation to a three member Sub-Committee of Licensing Regulatory Committee and to officers as set out in Section 3 to this Part of the Constitution.

Functions	Delegation of Functions
<u>Health and Safety</u> Functions relating to health and safety under any relevant statutory provision within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as employer	Onward delegation to officers as detailed in Section 3 to this Part of the Constitution.
<u>Other Functions</u> Power to close food businesses.	Onward delegation to officers as detailed in Section 3 to this Part of the Constitution.
In respect of all the functions listed in Parts B & C of Schedule 1 of the Functions Regulations to hear and determine any matter where an applicant for a licence or permit or an existing licence/permit holder has a right to appear before and be heard by the Committee	Onward delegation to a three member Sub-Committee of Licensing Regulatory Committee
To determine whether a complaint or representation is irrelevant, frivolous, vexatious, etc	Onward delegation to officers as detailed in Section 3 to this Part of the Constitution
To determine applications for permits for more than four gaming machines in premises licensed under the Licensing Act 2003	<i>No onward delegation</i>
Functions under Part 8 of the Gambling Act 2005	Onward delegation to a three-Member Sub-Committee established under the provisions set out in the Gambling Act 2005 and to Officers as set out in the Council's Statement of Gambling Licensing Policy
The responsibility for setting of the licence fees under Section 212 of the Gambling Act 2005	<i>No onward delegation</i>

Functions	Delegation of Functions
<p>Consideration of new applications under Section 34 of the Gaming Act 1968 which, if granted, would result in there being more than two machines per premises</p> <p>Consideration of new applications under Section 16 of the Lotteries and Amusements Act 1976</p> <p>Consideration of applications under Section 6 of the Gaming Act 1968</p>	<p>Onward delegation to a three member Sub-Committee established under the provisions set out in the 2003 Act.</p>
<p>Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption (Section 13(2) of the Criminal Justice and Police Act 2001.</p>	<p><i>No onward delegation</i></p>
<p>Power to determine Sexual Entertainment policy, fees, terms and conditions made under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.</p>	<p>This function is not subject to onward delegation.</p>
<p>Power to determine applications grant, renewal, transfer or variation of Sexual Entertainment licences made under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.</p>	<p>Onward delegation to a three Member Sub-Committee of Licensing Regulatory Committee and to officers as set out in Section 3 to this Part of the Constitution.</p>

2.2b LICENSING COMMITTEE (SAME MEMBERSHIP AS THE LICENSING REGULATORY COMMITTEE (15 MEMBERS OF THE COUNCIL))

Functions	Delegation of Functions
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Functions	Delegation of Functions
The functions allocated to a Licensing Committee under the Licensing Act 2003, including those listed below	Onward Delegation to a three Member Sub-Committee established under the provisions set out in the 2003 Act.
Application for personal licence where an objection is made	Onward Delegation to a three Member Sub-Committee established under the provisions set out in the 2003 Act.
All applications for personal licences where there are unspent convictions	Onward Delegation to a three Member Sub-Committee established under the provisions set out in the 2003 Act.
Application for premises licence or club premises certificate where a representation is made	Onward Delegation to a three Member Sub-Committee established under the provisions set out in the 2003 Act.
Application for provisional statement where a representation is made	Onward Delegation to a three Member Sub-Committee established under the provisions set out in the 2003 Act.
Application to vary a designated premises licence or a club registration certificate where a representation is made	Onward Delegation to a three Member Sub-Committee established under the provisions set out in the 2003 Act.

Functions	Delegation of Functions
Application to vary a designated premises supervisor where there is a police objection	Onward Delegation to a three Member Sub-Committee established under the provisions set out in the 2003 Act.
Application for transfer of a premises licence where there is police representation	Onward Delegation to a three Member Sub-Committee established under the provisions set out in the 2003 Act.
Application for an interim Authority where there is police representation	Onward Delegation to a three Member Sub-Committee established under the provisions set out in the 2003 Act.
All applications to review a premises licence or club premises certificate	Onward Delegation to a three Member Sub-Committee established under the provisions set out in the 2003 Act.
All determinations of a police or Environmental Health objection to a temporary event notice	Onward Delegation to a three Member Sub-Committee established under the provisions set out in the 2003 Act.
All other applications for a personal licence, premises licence or club premises certificate or variation or transfer of such a licence	Onward delegation to officers as detailed in Section 3 to this part of the Constitution

Functions	Delegation of Functions
All requests to be removed as a designated premises supervisor	Onward delegation to officers as detailed in Section 3 to this part of the Constitution

2.3 HUMAN RESOURCES COMMITTEE (9 MEMBERS OF THE COUNCIL)

Functions	Delegation of Functions
To deal with the discharge of duties under Paragraph 4.4 of the Officer Employment Procedure rules	Onward delegation to a 5 member sub-committee drawn from the Human Resources Committee (to include at least one Cabinet Member)
To deal with the discharge of duties under Paragraph 5 of the Officer Employment Procedure Rules (disciplinary cases involving the Head of Paid Service, Monitoring Officer and Chief Finance Officers).	Onward delegation to a 5 member sub-committee as detailed above. If the sub-committee considers dismissal might be a sanction, an Independent Persons Panel will consider matters and report back to the sub-committee. The Panel will be made up of two/three Independent Persons (one of which will be the Council's Independent Person appointed through the standards process).

Functions	Delegation of Functions
To consider any appeals against the decision of the sub-committee in relation to the discharge of duties under Paragraph 5 of the Officer Employment Procedure Rules (disciplinary cases involving the Head of Paid Service, Monitoring Officer and Chief Finance Officers) where such decision is to impose a sanction that falls short of dismissal.	Onward delegation to a 5 member appeals panel drawn from HR Committee (if appropriate) and the wider Council membership if needed.
Power to appoint staff, and to determine their terms and conditions of service, including procedures for dismissal (other than matters covered by the Employment Procedure Rules in Part 4 of this Constitution).	Onward delegation to officers.
To consider appeals against grading, termination of probation periods and grievance by employees (subject to the below).	Onward delegation to the Chief Executive and Directors.
To consider any grievances in accordance with the statutory officer terms and conditions of service.	Onward delegation to a 5 member sub-committee drawn from the Human Resources Committee.
To consider any appeals against the decision of a grievance sub-committee in accordance with the statutory officer terms and conditions of service.	Onward delegation to a 5 member appeal panel drawn from the Human Resources Committee (if appropriate) and wider Council membership if necessary.
To make recommendations to the Council with regard to the overall manpower requirements of the Council.	Onward delegation to the Chief Executive.
To approve minor amendments to the staffing establishment of the Council provided that such changes do not have any significant financial impact and can be met from within existing budgets.	Onward delegation to the Chief Executive and Directors.

Functions	Delegation of Functions
<p>To formulate and implement uniform and equitable policies concerning all employees of the Council having regard, in particular, to:- the recruitment, training, promotion, grading, determination of wage and salary scales and conditions of service of employees and matters of a like nature; and the implementation of agreements, etc., concerning salaries, wages or conditions of service awarded or recommended by any of the appropriate wage negotiating bodies and the taking of any necessary consequential action in respect of employees not directly affected by an award or recommendation, subject to such delegation not exceeding a cost of £250,000.</p> <p>These restrictions do not apply in the case of approval of Human Resources Documents.</p>	<p>Onward delegation to the Chief Executive, Director of Strategy, Innovation and Resources and Chief Finance Officer</p>
<p>To implement all statutory superannuation, pension and compensation provisions.</p>	<p>Onward delegation to the Chief Executive and the Directors</p>
<p>To consider appeals against dismissal by established employees other than matters covered by the Employment Procedure Rules in Part 4 of this Constitution.</p>	<p>Onward delegation. A panel of 3 members drawn from the committee</p>

2.4 AUDIT COMMITTEE

Functions	Delegation of Functions
<p>To review and provide independent assurance of the adequacy of the Council's internal control environment and Risk Management arrangements</p> <p>To approve Internal Audit's strategy and plans, and to receive reports arising from its work programme.</p> <p>To monitor the performance of Internal Audit and to regularly review its effectiveness.</p> <p>To receive annual plans and reports from External Audit.</p> <p>To oversee the Financial Reporting Process</p>	<p><i>No onward delegation</i></p>

Functions	Delegation of Functions
Duty to approve the authority's statement of accounts	

2.5 LAKE ADMINISTRATION COMMITTEE

Functions	Delegation of Functions
The functions of the Council in relation to the management of land at Lake Windermere pursuant to an agreement dated 1 April 1975 between the Council, Windermere Parish Council and Lakes Parish Council as set out in Regulations 2(10) of the Functions Regulations	-

2.6 OVERVIEW AND SCRUTINY COMMITTEE (13 MEMBERS OF THE COUNCIL)

Functions	Delegation of Functions
To act as the Council's Overview and Scrutiny Committee for all purposes within the District Council's remit (including crime and disorder, call-in, councillor call for action);	<i>No onward delegation.</i>
To determine and prioritise an annual Work Programme for scrutiny, with built-in flexibility to deal with urgent issues;	<i>No onward delegation.</i>
To determine how scrutiny reviews should be undertaken – e.g. as 'one day' reviews, through time-limited task and finish groups;	<i>No onward delegation.</i>
To provide positive challenge of the Executive, including portfolio performance;	<i>No onward delegation.</i>

Functions	Delegation of Functions
To receive questions from the public (with notice, in accordance with procedure) on services and issues within the remit of Overview and Scrutiny;	A Councillor Call for Action Sub-Committee of the Overview and Scrutiny Committee of 3 members will carry out the following function - To consider each CCfA request within ten working days of its receipt and decide whether the request is valid ie. onwards referral to the Overview and Scrutiny Committee for consideration, or whether the issue may be better resolved through other means.
To appoint any such Sub-Committees as it considers appropriate	<i>No onward delegation.</i>

2.7 STANDARDS COMMITTEE (SEVEN DISTRICT MEMBERS - SEE ARTICLE 9 OF THE CONSTITUTION)

Functions	Delegation of Functions
The promotion and maintenance of high standards of conduct for elected and co-opted members of the Council	<i>No onward delegation.</i>
To advise the council on the adoption or revision of its Code of Conduct and additional roles and functions as detailed in Article 9.03	<i>No onward delegation.</i>
To monitor and advise the council about the operation of the Code of Conduct in the light of best practice, changes in the law, relevant guidance.	<i>No onward delegation.</i>
Assistance to members and co-opted members of the authority	<i>No onward delegation.</i>
To ensure that all members of the Council have access to training in all aspects of the member Code of Conduct, that this training is actively promoted, and that members are aware of the standards expected from local councillors under the Code	<i>No onward delegation.</i>

Functions	Delegation of Functions
<p>In consultation with the Independent Person, to grant dispensations up to a maximum of 4 years in the following circumstances –</p> <ol style="list-style-type: none"> 1. That he/she considers that without the dispensation the number of persons prohibited from participating in any particular matter would be so great a proportion of the body transacting the business as to impede the transaction of the business. 2. That, without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business. 3. That, without a dispensation, no member of the Cabinet would be able to participate on this matter. 4. That the authority considers that the dispensation is in the interests of persons living in the authority's area 5. That the authority considers that it is otherwise appropriate to grant a dispensation. 	<p>The power to grant dispensations with regards to 1, 2 and 3 has been delegated to the Monitoring Officer, in consultation with the Independent Person, with an appeal to the Standards Committee</p>
<p><u>Other functions</u></p> <p>Functions relating to standards of conduct of members under any relevant provision of, or regulations made under the Council's Standards Arrangements.</p>	<p>The Monitoring Officer has delegated functions as set out in the Council's Standards Arrangements.</p> <p>A Sub-Committee/Hearing Panel of the Standards Committee of 3 members will, in consultation with the Independent Person, deal with functions in relation to hearings relating to Standards of conduct of Members and co-opted members</p>

Functions	Delegation of Functions
Power to recommend payments or the provision of other benefits in cases of maladministration, etc.	<i>No onward delegation.</i>
Power to shortlist and interview candidates and make recommendations to Council regarding appointment of Independent Persons.	An ad hoc sub-committee of three Members.

A TERMS OF REFERENCE OF THE STANDARDS SUB-COMMITTEE/HEARING PANEL

- (1) In the event that a hearing is required in accordance with the Council's Standards Arrangements, a Standards Sub-Committee/Hearing Panel shall be convened to hear and determine any allegations that a member or co-opted member of the Council or a Town/Parish Council has failed, or may have failed, to comply with the Council's Code of Conduct.
- (2) **Composition.** The Hearing Panel shall comprise three members of the Standards Committee.
- (3) **Quorum.** The quorum for a meeting shall be three members
- (4) **Frequency of Meetings.** The Standards Sub-Committee/Hearing Panel shall meet as and when required to hear and determine any allegation(s) against an elected member or co-opted member of the Council.

B TERMS OF REFERENCE FOR AN AUDIT COMMITTEE

- (1) **Statement of Purpose.** The purpose of the audit committee is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment, and to oversee the financial reporting process.
- (2) **Membership.** The Committee shall comprise a membership of (seven) members subject to the rules of political balance and will not comprise any member of the Executive. The Committee will be a standalone Committee of the Council appointed by Council annually. Changes can be made by Council during the course of the year.
- (3) **Quorum.** The quorum for the Audit Committee will be three.

All Audit Committee members will commit to receiving appropriate training and development necessary to fulfil their roles and will act in the interests of the Council and not on behalf of any political party, constituency, ward or interest group.

The Chairman of the Committee will present an Annual Report on the work of the Audit Committee to full Council.

(4) Audit Activity

- To approve (but not direct) the Internal Audit Charter, plan and performance.
- To make appropriate enquiries of both management and the Head of Internal Audit to determine if there are any inappropriate scope or resource limitations.
- To consider the Internal Auditor's annual report and opinion, and a summary of internal audit activity (actual and planned) 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.

- To consider reports from internal audit on agreed recommendations not implemented within a reasonable timescale.
- To consider reports dealing with the management and performance of the providers of internal audit services.
- To review annually the effectiveness of internal audit.
- To comment on the scope and depth of external audit work and to ensure it gives value for money
- To consider specific reports as agreed with the External Auditor.
- To liaise with Public Section Audit Appointments Ltd over the appointment of the Council's External Auditor.
- To ensure that there is effective liaison between Internal Audit and External Audit to make the best use of audit resources.
- To commission work from internal and external audit.
- To monitor the expenditure of funds transferred from the South Lakeland District Council Fund in Commemoration of the Wedding of His Royal Highness Prince Charles to Lady Diana Spencer to Leeds Children's Holiday Camp Association (otherwise known as the Leeds Children's Charity), Bendrigg Trust and Brathay Trust.

(5) **Regulatory Framework**

- To maintain an overview of the Council's constitution in respect of contract and financial procedural rules.
- To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- To review any issue referred to it by the Chief Executive or a Director, or any Council body.
- To monitor the effective development and operation of risk management and corporate governance in the Council.
- To monitor the effectiveness of the Code of Corporate Governance.
- To monitor Council policies on "Raising Concerns at Work" and the anti-fraud and anti-corruption strategy and the council's complaints process.
- To oversee the production of the authority's Annual Governance Statement and to recommend its adoption.
- To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.
- To consider the Council's compliance with its own and other published standards and controls, including Equality and Diversity requirements.

(6) **Accounts**

- To review the annual statement of accounts.
- To consider whether appropriate accounting policies have been followed.
- To approve the Council's Statement of Accounts.
- To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

- To consider whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.

(7) **Annual Audit Letter.** To receive the External Auditor's Annual Audit Letter.

(8) **Meetings**

Subject to there being sufficient business to transact, the Committee will meet at least four times a year. The External Auditor, Internal Auditor or Chief Finance Officer SLDC may request a meeting if they consider it necessary.

The Committee shall be able to meet privately and separately with the External Auditor and Internal Auditor as required.

(9) **Authority and Access**

- The Audit Committee has a right to request relevant information from Members/Officers and to seek their attendance at meetings.
- The Audit Committee will not be able to transact the powers, functions and duties reserved to the Council, the Cabinet, Overview and Scrutiny and other regulatory committees.
- the Audit Committee will have access to in-house legal and other professional advice.

Any Member, Officer or member of the public, who has any concern covered by the terms of reference of the Audit Committee may raise the matter with the Chairman of the Committee who will obtain, if necessary, relevant advice from the Monitoring Officer or Chief Finance Officer before taking any action with regard to the same.

SCHEDULE 1 FUNCTIONS NOT TO BE THE RESPONSIBILITY OF AN AUTHORITY'S EXECUTIVE

This is a copy of the detailed provisions contained in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

A. Functions relating to town and country planning and development control

Function	Provision of Act or Statutory Instrument
1. – 4. Revoked	<i>Not applicable</i>
5. Power to determine application for planning permission.	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990 (c.8).
6. Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990.
7. Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990.
8. Power to decline to determine application for planning permission.	Section 70A of the Town and Country Planning Act 1990.
9. Duties relating to the making of determinations of planning applications.	Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (SI 1995/419) and directions made thereunder.
10. Power to determine application for planning permission made by a local authority, alone or jointly with another person.	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (SI 1992/1492).
11. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	Parts 6, 7 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (SI 1995/418).

Function	Provision of Act or Statutory Instrument
12. Power to enter into agreement regulating development or use of land.	Section 106 of the Town and Country Planning Act 1990.
13. Power to issue a certificate of existing or proposed lawful use or development	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990.
14. Power to serve a completion notice.	Section 94(2) of the Town and Country Planning Act 1990.
15. Power to grant consent for the display of advertisements.	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992 (SI 1992/666).
16. Power to authorise entry onto land.	Section 196A of the Town and Country Planning Act 1990.
17. Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990.
18. Power to serve a planning contravention notice, breach of condition notice or stop notice.	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990.
18A. Power to issue a temporary stop notice.	Section 171E of the Town and Country Planning Act 1990.
19. Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990.
20. Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990.
21. Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990.
22. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites or mineral permissions relating to mining sites, as	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991 (c.34), paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c.25)

Function	Provision of Act or Statutory Instrument
the case may be, are to be subject.	and paragraph 6(5) of Schedule 14 to that Act.
23. Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990.
24. Power to determine to determine application for listed building consent, and related powers.	Sections 16(1) and (2), 17 and 33(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9).
25. Revoked	<i>Not applicable.</i>
26. Duties relating to applications for listed building consent.	Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9) and Regulations 3 to 6 and 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (SI 1990/1519) and paragraphs 8, 15 and 26 of Department of the Environment, Transport and the Regions Circular 01/01.
27. Power to serve a building preservation notice, and related powers.	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9).
28. Power to issue enforcement notice in relation to demolition of listed building in conservation area.	Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)..
29. Powers to acquire a listed building in need of repair and to serve a repairs notice.	Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)..
30. Power to apply for an injunction in relation to a listed building.	Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)..
31. Power to execute urgent works.	Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)..
32. Duty to enter land in Part 2 of the brownfield land register.	Regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017.

B. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)

Function	Provision of Act or Statutory Instrument
1. Power to issue licences authorising the use of land as a caravan site (“site licences”).	Section 3(3) of the Caravan Sites and Control of Development Act 1960 (c.62).
2. Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936 (c.49).
3. Power to license hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act 1847 (10 & 11 Vict. c.89), as extended by section 171 of the Public Health Act 1875 (38 & 39 Vict. c.55), and section 15 of the Transport Act 1985 (c.67); and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (c.57); (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
4. Power to license drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
5. Power to license operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
6. Power to register pool promoters.	Schedule 2 to the Betting, Gaming and Lotteries Act 1963 (c.2) as saved for certain purposes by article 3 (3) (c) of the Gambling Act Order.
7. Power to grant track-betting licences.	Schedule 3 to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3 (3) (d) and (4) of the Gambling Act Order.
8. Power to license inter-track betting schemes.	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3 (3) (e) of the Gambling Act Order.
9. Power to grant permits in respect of premises	Schedule 9 to the Gaming Act 1968 (c.65) as saved for certain purposes by article 4 (2) (l) and (m) of

Function	Provision of Act or Statutory Instrument
with amusement machines.	the Gambling Act Order.
10. Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976 (c.32) as saved for certain purposes by article 5 (2) (a) and (3) of the Gambling Act Order.
11. Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976 as saved for certain purposes by article 5 (2) (d) and (5) of the Gambling Act Order.
12. Power to issue cinema and cinema club licences.	Section 1 of the Cinema Act 1985 (c.13).
13. Power to issue theatre licences.	Sections 12 to 14 of the Theatres Act 1968 (c.54).
14. Power to issue entertainments licences.	Section 12 of the Children and Young Persons Act 1933 (c.12), section 79 of the Licensing Act 1964 (c.26), sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 (c.19) and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982 (c.30).
14A. Any function of a licensing authority.	Licensing Act 2003 (c. 17) and any regulations or orders made under that Act.
14AZA Powers and functions relating to late night levy requirements.	Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 (c. 13) and any regulations made under that Chapter.
14AA Duty to comply with requirement to provide information to Gambling Commission.	Section 29 of the 2005 Act.
14AB Functions relating to exchange of information.	Section 30 of the 2005 Act.
14AC Functions relating to occasional use notices.	Section 39 of the 2005 Act.

Function	Provision of Act or Statutory Instrument
14B Power to resolve not to issue a casino licence.	Section 166 of the Gambling Act 2005.
14C Power to designate officers of a licensing authority as an authorised person for the purpose relating to premises.	Section 304 of the 2005 Act.
14CA Power to make order disapplying section 279 or 282 (1) of the 2005 Act in relation to specified premises.	Section 284 of the 2005 Act.
14D Power to institute criminal proceedings.	Section 346 of the 2005 Act.
14E Power to exchange information.	Section 350 of the 2005 Act.
14F Functions relating to the determination of fees for premises licences.	The Gambling [Premises Licence Fees] [England and Wales] Regulations 2007 (SI 2007/479).
14G Functions relating to the registration and regulation of small society lotteries.	Part 5 of Schedule 11 to the 2005 Act.
15. Power to license sex shops and sex cinemas.	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.
16. Power to license performances of hypnotism.	The Hypnotism Act 1952 (c.46).
17. Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.
18. Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907 (c.53).
<i>19. Not applicable to SLDC.</i>	<i>Not applicable.</i>
20. Power to license market and street trading.	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982.
21. Power to license night cafes and take-away food shops.	Section 2 of the Late Night Refreshments Houses Act 1969 (c.53)(f).

Function	Provision of Act or Statutory Instrument
22. Revoked	<i>Not applicable.</i>
23. Power to license dealers in game and the killing and selling of game.	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831 (c.32); sections 2 to 16 of the Game Licensing Act 1860 (c.90), section 4 of the Customs and Inland Revenue Act 1883 (c.10), sections 12(3) and 27 of the Local Government Act 1874 (c.73), and section 213 of the Local Government Act 1972 (c.70).
24. Power to register and license premises for the preparation of food.	Section 19 of the Food Safety Act 1990(c.16).
25. Power to license scrap yards.	Section 1 of the Scrap Metal Dealers Act 1964 (c.69).
26. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.	The Safety of Sports Grounds Act 1975 (c. 52).
27. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Part III of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).
28. <i>Not applicable to SLDC.</i>	<i>Not applicable.</i>
29. Power to license premises for the breeding of dogs.	Section 1 of the Breeding of Dogs Act 1973 (c. 60) and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999 (c.11).
30. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business	Section 1 of the Pet Animals Act 1951 (c.35); section 1 of the Animal Boarding Establishments Act 1963 (c.43); the Riding Establishments Acts 1964 and 1970 (1964 c. 70 and 1970 c. 70); section 1 of the Breeding of Dogs Act 1973 (c. 60), and sections 1 and 8 of the Breeding and Sale of Dogs

Function	Provision of Act or Statutory Instrument
	(Welfare) Act 1999.
31. Power to register animal trainers and exhibitors.	Section 1 of the Performing Animals (Regulation) Act 1925 (c. 38).
32. Power to license zoos.	Section 1 of the Zoo Licensing Act 1981 (c.37).
33. Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976 (c.38).
34. Power to license knackers' yards.	Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999 (SI 1999/646).
<i>35 to 38. Not applicable to SLDC.</i>	<i>Not applicable.</i>
39. Power to license persons to collect for charitable and other causes.	Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 (c.31) and section 2 of the House-to-House Collections Act 1939 (c.44).
40. Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c.40).
41. Power to grant a street works licence.	Section 50 of the New Roads and Street Works Act 1991 (c.22).
<i>42. Not applicable to SLDC.</i>	<i>Not applicable.</i>
43. Power to issue licences for the movement of pigs.	Article 12 of the Pigs (Records, Identification and Movement) Order 1995 (SI 1995/11).
44. Power to license the sale of pigs.	Article 13 of the Pigs (Records, Identification and Movement) Order 1995.
45. Power to license collecting centres for the movement of pigs.	Article 14 of the Pigs (Records, Identification and Movement) Order 1995.

Function	Provision of Act or Statutory Instrument
46. <i>Not applicable to SLDC.</i>	Not applicable.
46A. Power to grant permission for provision etc of services, amenities, recreation and refreshment facilities on highway, and related powers	Sections 115E, 115F, and 115K of the Highways Act 1980.
47A. Duty to publish notice in respect of proposal to grant permission under Section 115E of the Highways Act 1980.	Section 115G of the Highways Act 1980.
47 to 55. <i>Not applicable to SLDC.</i>	<i>Not applicable.</i>
56. Power to sanction use of parts of buildings for storage of celluloid.	Section 1 of the Celluloid and Cinematograph Film Act 1922 (c.35).
57. Power to approve meat product premises.	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1944 (SI 1994/3082).
58. Power to approve premises for the production of minced meat or meat preparations.	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (SI 1995/3205).
59. Power to approve dairy establishments.	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995 (SI 1995/1086).
60. Power to approve egg product establishments.	Regulation 5 of the Egg Products Regulations 1993 (SI 1993/1520).
61. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (SI 1995/1763).
62. Power to approve fish products premises.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (SI 1998/994).
63. Power to approve dispatch or purification	Regulation 11 of the Food Safety (Fishery Products

Function	Provision of Act or Statutory Instrument
centres.	and Live Shellfish) (Hygiene) Regulations 1998.
64. Power to register fishing vessels on board which shrimps or molluscs are cooked.	Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
65. Power to approve factory vessels and fishery product establishments.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
66. Power to register auction and wholesale markets.	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
67. Duty to keep register of food business premises.	Regulation 5 of the Food Premises (Registration) Regulations 1991 (SI 1991/2828).
68. Power to register food business premises.	Regulation 9 of the Food Premises (Registration) Regulations 1991.
<i>69 to 70. Not applicable to SLDC.</i>	<i>Not applicable.</i>
71. Power to register motor salvage operators	Part 1 of the Vehicle (Crime) Act 2001 (c.3).
72. Functions relating to the registration of common land and town or village greens	Part 1 of the Commons Act 2006 (c 26) and the Commons Registration (England) Regulations 2008 (SI 2008/1961).

C. Functions relating to health and safety at work

Function	Provision of Act or Statutory Instrument
Functions under any of the “relevant statutory provisions” within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority’s capacity as an employer.	Part I of the Health and Safety at Work etc. Act 1974(c.37).

D. Functions relating to elections

Function	Provision of Act or Statutory Instrument
1. Duty to appoint an electoral registration officer.	Section 8(2) of the Representation of the People Act 1983 (c.2).
2. Power to assign officers in relation to requisitions of the registration officer.	Section 52(4) of the Representation of the People Act 1983.
3. Functions in relation to parishes and parish councils.	Part II of the Local Government and Rating Act 1997 (c.29) and subordinate legislation under that Part.
4. Power to dissolve small parish councils.	Section 10 of the Local Government Act 1972.
5. Power to make orders for grouping parishes dissolving groups and separating parishes from groups.	Section 11 of the Local Government Act 1972.
6. Duty to appoint returning officer for local government elections.	Section 35 of the Representation of the People Act 1983.
7. Duty to provide assistance at European Parliamentary Elections.	Section 6(7) and (8) of the European Parliamentary Elections Act 2002 (c.24).
8. Duty to divide constituency into polling districts.	Sections 18A to 18E of, and Schedule A1 to, the Representation of the People Act 1983.
9. Power to divide electoral divisions into polling districts at local government elections.	Section 31 of the Representation of the People Act 1983.
10. Powers in respect of holding of elections.	Section 39(4) of the Representation of the People Act 1983.
11. Power to pay expenses properly incurred by electoral registration officers.	Section 54 of the Representation of the People Act 1983.
12. Power to fill vacancies in the event of insufficient nominations.	Section 21 of the Representation of the People Act 1985.

Function	Provision of Act or Statutory Instrument
13. Duty to declare vacancy in office in certain cases.	Section 86 of the Local Government Act 1972.
14. Duty to give public notice of a casual vacancy.	Section 87 of the Local Government Act 1972.
15. Power to make temporary appointments to parish councils.	Section 91 of the Local Government Act 1972.
16. Revoked	<i>Not applicable.</i>
17. Power to submit proposals to the Secretary of State for an order under Section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.	Section 10 of the Representation of the People Act 2000 (c.2).
18. Duty to consult on change of scheme for elections.	Sections 33(2), 38(2) and 40(2) of the 2007 Act.
19. Duties relating to publicity.	Sections 35, 41 and 52 of the 2007 Act.
20. Duties relating to notice to Electoral Commission.	Sections 36 and 42 of the 2007 Act.
21. Powers to alter years of ordinary elections of Parish Councillors.	Section 53 of the 2007 Act.
22. Functions relating to change of name of electoral area.	Section 59 of the 2007 Act.

E. Functions relating to name and status of areas and individuals

Function	Provision of Act or Statutory Instrument
1. Power to change the name of a county, district or London borough.	Section 74 of the Local Government Act 1972.
2. Power to change the name of a parish.	Section 75 of the Local Government Act 1972.

Function	Provision of Act or Statutory Instrument
3. Power to confer title of honorary alderman or to admit to be an honorary freeman.	Section 249 of the Local Government Act 1972.
4. Power to petition for a charter to confer borough status.	Section 245b of the Local Government Act 1972.

EA. Revoked

EB. Functions relating to community governance

Function	Provision of Act or Statutory Instrument
1. Duties relating to community governance reviews.	Section 79 of the 2007 Act.
2. Functions relating to community governance petitions.	Sections 80, 83 to 85 of the 2007 Act.
3. Functions relating to terms of reference of review.	Sections 81(4) to (6).
4. Power to undertake a community governance review.	Section 82 of the 2007 Act.
5. Functions relating to making of recommendations.	Sections 87 to 92 of the 2007 Act.
6. Duties when undertaking review.	Section 93 to 95 of the 2007 Act.
7. Duty to publicise outcome of review.	Section 96 of the 2007 Act.
8. Duty to send two copies of order to Secretary of State and Electoral Commission.	Section 98(1) of the 2007 Act.
9. Power to make agreements about incidental matters.	Section 99 of the 2007 Act.

F. Power to make, amend, revoke, re-enact or enforce byelaw

Any provision of any enactment (including a local Act), whenever passed, and Section 14 of the Interpretation Act 1978 (c.30).

FA Functions relating to smoke-free premises, etc

Function	Provision of Act or Statutory Instrument
1. Duty to enforce Chapter 1 and regulations made under it.	Section 10(3) of the 2006 Act.
2. Power to authorise officers.	Section 10(5) of and paragraph 1 of Schedule 2 to the 2006 Act.
3. Functions relating to fixed penalty notices.	Paragraphs 13, 15 and 16 of Schedule 1 to the 2006 Act. Smoke-Free (Vehicle Operators and Penalty Notices) Regulations 2007 (SI 2006/760) .
4. Power to transfer enforcement functions to another enforcement authority.	Smoke-free (premises and enforcement) Regulations 2006 (SI 2006/3368).

G. Power to promote or oppose local or personal Bills

Section 239 of the Local Government Act 1972.

H. Not applicable to SLDC.

I. Miscellaneous functions

Function	Provision of Act or Statutory Instrument
<i>Part I</i>	<i>Functions relating to public rights of way</i>
1. Power to create footpath, bridleway or restricted byway by agreement.	Section 25 of the Highways Act 1980 (c.66).
2. Power to create footpaths, bridleways and	Section 26 of the Highways Act 1980.

Function	Provision of Act or Statutory Instrument
restricted byways.	
3. Duty to keep register of information with respect to maps, statements and declarations.	Section 31A of the Highways Act 1980.
4. Power to stop up footpaths, bridleways and restricted byways.	Section 118 of the Highways Act 1980.
5. Power to determine application for public path extinguishment order.	Sections 118ZA and 118C(2) of the Highways Act 1980.
6. Power to make a rail crossing extinguishment order.	Section 118A of the Highways Act 1980.
7. <i>Not applicable to SLDC.</i>	<i>Not applicable.</i>
8. Power to divert footpaths, bridleways and restricted byways.	Section 119 of the Highways Act 1980.
9. Power to make a public path diversion order.	Sections 119ZA and 119C(4) of the Highways Act 1980.
10. Power to make a rail crossing diversion order.	Section 119A of the Highways Act 1980.
11 to 13. <i>Not applicable to SLDC.</i>	<i>Not applicable.</i>
14. Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.	Section 121B of the Highways Act 1980.
15. Power to decline to determine certain applications.	Section 121C of the Highways Act 1980.
16. Duty to assert and protect the rights of the public to use and enjoyment of highways.	Section 130 of the Highways Act 1980.
17. Duty to serve notice of proposed action in relation to obstruction.	Section 130A of the Highways Act 1980.
18. Power to apply for variation of order under	Section 130B(7) of the Highways Act 1980.

Function	Provision of Act or Statutory Instrument
section 130B of the Highways Act 1980.	
19. Power to authorise temporary disturbance of surface of footpath, bridleway or restricted byway.	Section 135 of the Highways Act 1980.
<i>20 to 22. Not applicable to SLDC.</i>	<i>Not applicable.</i>
23. Power to extinguish certain public rights of way.	Section 32 of the Acquisition of Land Act 1981 (c.67).
<i>24 to 26. Not applicable to SLDC.</i>	<i>Not applicable.</i>
27. Revoked	<i>Not applicable.</i>
<i>28 to 29. Not applicable to SLDC.</i>	<i>Not applicable.</i>
30. Power to extinguish public right of way over land acquired for clearance.	Section 294 of the Housing Act 1981 (c.68).
30A. Power to authorise stopping up or diversion of highway	Section 247 of Town and Country Planning Act 1990 (c.8).
31. Power to authorise stopping up or diversion of footpath, bridleway or restricted byway.	Section 257 of the Town and Country Planning Act 1990.
32. Power to extinguish public rights of way over land held for planning purposes.	Section 258 of the Town and Country Planning Act 1990.
<i>33 – 34. Not applicable to SLDC</i>	<i>Not applicable.</i>
<i>Part II</i>	<i>Other miscellaneous functions</i>
35. Functions relating to sea fisheries.	Sections 1, 2, 10 and 19 of the Sea Fisheries Regulation Act 1966 (c.38).
36. Power to make standing orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972 (c.70).
37. Power to appoint staff, and to determine the terms and conditions on which they hold office	Section 112 of the Local Government Act 1972.

Function	Provision of Act or Statutory Instrument
(including procedures for their dismissal).	
38. Power to make standing orders as to contracts.	Section 135 of the Local Government Act 1972.
39. Duty to make arrangements for proper administration of financial affairs etc.	Section 151 of the Local Government Act 1972.
40. Power to appoint officers for particular purposes (appointment of “proper officers”).	Section 270(3) of the Local Government Act 1972.
<i>41. Not applicable to SLDC</i>	<i>Not applicable.</i>
42. Power to make closing order with respect to take-away food shops.	Section 4 of the Local Government (Miscellaneous Provisions) Act 1982 (c.30).
43. Duty to designate officer as the head of the authority’s paid service, and to provide staff, etc.	Section 4(1) of the Local Government and Housing Act 1989 (c.42).
44. Duty to designate officer as the monitoring officer and to provide staff, etc.	Section 5(1) of the Local Government and Housing Act 1989.
44A. Duty to provide staff etc to person nominated by Monitoring Officer.	Sections 82A(4) and (5) of the Local Government Association 2000.
44B. Powers relating to Overview and Scrutiny Committees (voting rights of co-opted Members).	Paragraphs 12 and 14 of Schedule 1 to the Local Government Act 2000.
45. Duty to approve authority’s statement of accounts, income and expenditure and balance sheet, or record of payments and receipts (as the case may be).	The Accounts and Audit Regulations 1996 (SI 1996/590).
46. Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997 (SI 1997/1160).
47. Powers relating to the preservation of trees.	Sections 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999 (SI 1999/1892).

Function	Provision of Act or Statutory Instrument
47A. Powers relating to complaints about high hedges.	Part 8 of the Anti Social Behaviour Act 2003.
48. Power to make payments or provide other benefits in cases of maladministration etc.	Section 92 of the Local Government Act 2000.
49. Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption.	Section 13 (2) of the Criminal Justice and Police Act 2001.
50. Power to make or revoke an order designating a locality as an alcohol disorder zone.	Section 16 of the Violent Crime Reduction Act 2006 (c 38).
51. Power to apply for an enforcement order against unlawful works on common land.	Section 41 of the Commons Land Act 2006.
52. Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference.	Section 45(2)(a) of the Commons Act 2006.
53. Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens.	Section 45(2)(b) of the Commons Act 2006.

3. SCHEME OF DELEGATION TO OFFICERS - COUNCIL, PLANNING, LICENSING, HUMAN RESOURCES AND LAKE ADMINISTRATION COMMITTEES

A GENERAL PRINCIPLES

With the exception of the power set out in B.1.1. below, the powers delegated to officers referred to in this part of the Constitution may only be exercised in accordance with the following general principles:

1. All decisions taken must be in accordance with the approved budget, policy framework, financial procedure rules, contract procedure rules, or any other procedure rules or requirements of this Constitution.

2. Where, in the opinion of the officer making a delegated decision, that decision is likely to be contentious, before taking that decision the officer will consult with the relevant Committee Chairman or a more senior officer, as the case may be.
3. An officer may, instead of exercising a delegated power, refer the matter to a more senior officer, a committee or the full Council, as appropriate.
4. An authorised officer may sub-delegate any individual power subject to each such sub-delegation being copied to the Monitoring Officer.
5. The Chief Executive may exercise any delegations of a Director in the absence or default of that Director.
6. A Director may exercise any delegations of an officer, for whom that Director is responsible, in the absence or default of that officer.

B GENERAL

1. To the Chief Executive

1.1 To take such action on behalf of the Council as appears to him/her necessary in circumstances that prevent obtaining the necessary authority from an appropriate committee following consultation with the Leader of the Council or the Chairman of the committee concerned. Where the Chief Executive is acting in an emergency and it involves spending outside any budgetary provision, then any expenditure must be reported to Full Council at the first available opportunity.

1.2 Further to Minute No. C/10 (2016/17), to appoint District Councillors to Parish Councils, in accordance with the Council's 'Procedure for Making Temporary Appointments to Town or Parish Councils'.

1.3 The most relevant Director, or the Chief Executive is authorised to act on any matter in the absence of another Director, unless prevented in law.

1.4 Other than where the law does not allow, any Director or Officer of the Corporate Management Team is authorised to act in the absence of the Chief Executive. That all powers delegated within the Constitution in Part 3 Scheme of Delegation to Officers permit those with the delegated power to sub delegate in writing. E.g. Chief Executive to Director, Director to Director, Director to Lead Specialists. Copies of such delegations will be maintained by the Monitoring Officer.

2. To the Chief Executive and Directors

2.1 To take all steps necessary to deliver the services for which they are responsible, subject to the incurring of expenditure up to a maximum of £50,000 on any one item identifiable within a specific budgetary provision or, to the extent that the Budget itself is not sufficiently specific, within the detailed estimates prepared for the purpose of the Budget.

In the case of Operational Commissioning decisions to make decisions on all matters up to a value of £60,000.

2.1 (a) In the case of contract awards relating to procurement decisions which have been authorised by Cabinet and Council on the Procurement Schedule to make all final contract award decisions.

2.1 (b) In the case of contract award decisions which are over the Key Decision Threshold to ensure that such final decisions are placed on the Forward Plan prior to the final decision being taken.

2.1 (c) To make decisions to apply for grant funding. To make decisions to enter into contracts and sign off Terms and Conditions relating to the same. Where such funding applications are successful and the amount to be received exceeds the Key Decision Threshold to ensure that such final decisions are placed on the Forward Plan prior to the final decision being taken.

NB: The rules relating to the thresholds for contracts/ agreements to be sealed by the Council apply.

2.2. In consultation with the relevant Portfolio Holder to make decisions on Service Commissioning decisions on all matters between the costs range of £60,000 to £100,000.

2.3. To serve all notices relevant to statutory responsibilities that come within their area of responsibility and to take appropriate enforcement action in the event of default by persons served with such notices.

2.4. To respond to government and other consultation documents following appropriate consultation.

2.5. To take all steps necessary to implement decisions of the Council or its Committees.

2.6. To hear and determine homelessness and discretionary rate relief appeals.

3. To the Finance Lead Specialist (Section 151 Officer)

3.1 To determine the Council Tax Base.

3.2 To determine the Non-Domestic Rate Base.

3.3 To administer the Members' Allowances Scheme.

4. To the Legal, Governance and Democracy Lead Specialist (Monitoring Officer)

- 4.1 To be responsible for the conduct of all legal and quasi-legal proceedings entered into by the Council including the appointment of Counsel and professional witnesses as appropriate.
- 4.2 In consultation with the relevant Director, to prosecute in respect of any breach of legislation for which the Council, or an officer of the Council, is the responsible enforcement authority and it is in the interest of the Council and in the public interest to do so.
- 4.3. In consultation with the relevant Director, to issue civil proceedings in any appropriate Court or Tribunal for the recovery of a financial payment, possession or repossession of property, or to seek any other appropriate remedy.
- 4.4 To respond to all proceedings of a legal or quasi-legal nature issued against the Council with power, in consultation with the s.151 Officer, to settle claims up to a maximum of £10,000 where there is a legal liability on the Council.
- 4.5 The preparation and completion of all documents required to give effect to decisions of the Council, its committees or sub-committees or officers acting under delegated authority.
- 4.6 To serve any notices required under contract not otherwise delegated to the Chief Executive or a Director and to take appropriate enforcement action in the event of default by persons served with such notices.
- 4.7 To give effect to the wishes of the Political Group Leaders in relation to the appointment of Members to Committees and Sub-Committees pursuant to Section 16, Local Government and Housing Act 1989.
- 4.8 Following consultation with the Chairman of the Council, alter the agreed starting times of Council meetings if the volume of business to be transacted appears to warrant a change.
- 4.9 To take all necessary administrative action in connection with the operation of elections and electoral administration.
- 4.10 To make such amendments as may be necessary from time to time to the South Lakeland Parliamentary Polling Districts Order 1999 and the South Lakeland District Polling Districts Order 1999.
- 4.11 To take such action as is delegated to him/her under the Council's Standards Arrangements
- 4.12 In consultation with the Independent Person, the power to grant dispensations up to a maximum of 4 years in the following circumstances:
 - That he/she considers that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of body transacting the business as to impede the transaction of the business.
 - That, without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business.
 - That, without a dispensation, no member of the Cabinet would be able to participate on this matter.

5. To the Director of Customer and Commercial Services

- 5.1 In accordance with Minute C/61 (20 December 2022) and the Environmental Protection Act 1990, Clean Neighbourhoods and Environment Act 2005, Anti-Social Behaviour, Crime and Policing Act 2014 and the Refuse Disposal (Amenity) Act 1978, the Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018 to issue Fixed Penalty Notices and delegate authority to authorised Officers to issue Fixed Penalty Notices on behalf of the Council under the relevant legislation in accordance with their designation as authorised Officer.
- 5.2 In accordance with Minute C/61 (20 December 2022), to serve notices and to act on behalf of the Council under any applicable environmental legislation (and any subordinate legislation, regulations or orders made under the primary acts), and to designate authorised Officers who may then act on behalf of the Council (whether under primary legislation, any subordinate legislation, regulations or orders made under the primary acts) in accordance with their designation as authorised Officer.
- 5.3 To delegate authority to issue Fixed Penalty Notices to persons engaged by the Council for the provision of litter services as authorised officers under section 88(10) of the Environmental Protection Act 1990, subject to satisfactory safeguards being set out in the contract to ensure notices are issued in accordance with the law and the Council is covered by a suitable indemnity.
- 5.4 Those functions relating to smoke-free premises, etc., as detailed under *FA, functions relating to smoke-free premises, etc.*, as described within Schedule 1 Part 3 of the Constitution being functions not to be the responsibility of the Executive.
- 5.5 Further to Minute No. C/42 (2020/2021) authority to amend the timetable for preparing documents identified in the Local Development Scheme, and to add or withdraw Supplemental Planning Documents in consultation with the relevant Portfolio Holder , with any such additions or withdrawals being reported to Council.

6. To Each Lead Specialist or Operational Lead

- 6.1 Authority to exercise any power delegated to his/her Director in this Section of Part 3 that relates to his/her area of responsibility.
- 6.2 In the case of Local and Operational Commissioning decisions to make decisions on all matters up to a value of £10,000 that relates to his/her area of responsibility.
- 6.3 In the case of contract awards relating to procurement decisions which have been authorised by Cabinet and Council on the Procurement Schedule to make all final contract award decisions on all matters up to the value of £10,000 that relates to his/her area of responsibility.
- 6.4 To the Operational Lead Specialist Services the authority to determine applications for pavement licences under the Business and Planning Act 2020.

C DELEGATION FROM THE PLANNING COMMITTEE

1. To the Director of Customer and Commercial Services

- 1.1 To exercise all powers or duties conferred or imposed upon the Council, under or by virtue of any enactment, as Local Planning Authority for the District except those delegated to the Legal, Governance and Democracy Lead Specialist (Monitoring Officer) in 2 below. This includes those

functions relating to town and country planning and development control as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, with the following specific exceptions, which will remain with the Planning Committee:

- (a) Any specific application requested in writing by a Member to be determined by the Committee. Such request should be made within 21 days of the publication of the application on the weekly list. Any such written request must include the reason(s), based on material planning considerations for that request. Any such request will be considered by the Chairman (or Vice Chairman in his/her absence) of the Planning Committee in conjunction with the Operational Lead Specialist Services.
 - (b) Any application contrary to the Development Plan, or other planning policies or guidance of the Council if the recommendation would be to approve the application, save in the circumstances set out in paragraph 1.8 below.
 - (c) Any application at the discretion of the Director where the views of Members are considered to be desirable or essential.
 - (d) Any specific action to be taken at the discretion of the Director where the views of Members are considered to be desirable or essential.
 - (e) Any specific items requested by a Member where consideration of enforcement action is involved.
 - (f) Applications by Members of the Council, Officers, and other parties for which probity rules indicate that a Committee decision is required.
- 1.2 To exercise the powers of entry set out in Sections 196A, 196B, 196C, 214B, 214C, 214D, 324 and 325 of the Town and Country Planning Act 1990 (as amended) and Sections 88, 88A and 88B of the Planning (Listed Building and Conservation Areas) Act 1990 (as amended) and section 74 of the Anti Social Behaviour Act 2003 and Regulation 12 of the Hedgerow Regulations 1997 and to authorise all other planning officers whose duties require such powers.
 - 1.3 To exercise all powers and duties conferred upon the Council relating to complaints about High Hedges (Part 8 of the Anti-Social Behaviour Act 2003).
 - 1.4 Following consultation with the appropriate Ward Member(s), to make observations on behalf of the District Council to the Lake District National Park Authority, the Yorkshire Dales National Park Authority and Cumbria County Council in respect of footpath and bridleway proposals under the Highways Acts.
 - 1.5 Following consultation with the appropriate Ward Member(s), to make observations on behalf of the District Council to the Lake District National Park Authority and the Yorkshire Dales National Park Authority in respect of footpath and bridleway proposals under the Town and Country Planning Acts.
 - 1.6 To make representations to the Secretary of State on draft Orders for the stopping-up or diversion of highways to enable development to be carried out in accordance with planning permission.
 - 1.7 To respond to consultations on proposed Modification Orders to the Definitive Footpath Map, providing no objections are raised to such proposals by the Ward Member(s).

- 1.8 The Director of Customer and Commercial Services may determine applications to vary planning conditions made under Section 73 of the Town and Country Planning Act 1990 relating to caravan sites seeking not to comply with a condition requiring them to close for 6 weeks when the Council's standard holiday conditions can be substituted.
- 1.9 Any application for a variation to a S106 agreement which is contrary to Council Policy and/ or the Director of Customer and Commercial Services and the Chairman of the Planning Committee consider the views of Members are considered to be desirable or essential.

2. To the Legal, Governance and Democracy Lead Specialist (Monitoring Officer)

- 2.1 To make and confirm orders authorising the stopping up or diversion of footpaths under the provisions of Section 257 of the Town and Country Planning Act 1990 and Sections 118 and 119 of the Highways Act 1980 where no objections or adverse comments are received from any interested consultee, member of the public, public utility or Ward Member.

D DELEGATION FROM THE LICENSING COMMITTEE

1. To the Director of Customer and Commercial Services from the Licensing Committee

- 1.1 In respect of all the functions listed in Parts B and C of Schedule 1 of the Functions Regulations to:-
- determine all applications for authorisation, registration, licensing, the granting of permits and any other approval except the determination of applications where objections have been received;
 - exercise the authorisation or appointment of officers to undertake specific powers in respect of any of the functions listed;
 - exercise relevant enforcement powers; and
 - enter on land and premises, for all statutory purposes in connection with their administration and enforcement.
- 1.2 To determine applications for a personal licence, premises licence or club premises certificate or variation or transfer of such a licence.
- 1.3 To determine all requests to be removed as a designated premises supervisor.
- 1.4 To determine whether a complaint is irrelevant, frivolous, vexatious, etc.
- 1.5 To appoint authorised persons for the purposes of the Licensing Act 2003.

2. To the Director of Customer and Commercial Services from the Licensing Regulatory Committee

- 2.1 In respect of all the functions listed in Parts B and C of Schedule 1 of the Functions Regulations to:-
- determine all applications for authorisation, registration, licensing, the granting of permits and any other approval except the determination of applications where objections have been received;

- exercise the authorisation or appointment of officers to undertake specific powers in respect of any of the functions listed;
 - exercise relevant enforcement powers; and
 - enter on land and premises, for all statutory purposes in connection with their administration and enforcement.
- 2.2 To determine whether a complaint is irrelevant, frivolous, vexatious, etc.
- 2.3 To serve Hygiene Emergency Prohibition Notice, to close a food business.
- 2.4 To revoke or suspend Drivers' and Operators' Licences (with immediate effect, as appropriate, where in interests of public safety to do so) under Sections 61 and 62 of the Local Government (Miscellaneous Provisions) Act 1976.
- 2.5 To suspend Hackney Carriage and Private Hire Vehicle Licences under Sections 60 and 68 of the Local Government (Miscellaneous Provisions) Act 1976.
- 2.6 To determine all applications under the Gambling Act 2005 in accordance with the provisions of the Act.
- 2.7 To deal with all functions relating to health and safety under any relevant statutory provision within the meaning of Part 1 of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as employer.
- 2.8 To consider any appeals and any necessary enforcement / revocation action arising from applications for pavement licences under the Business and Planning Act 2020 (such applications are delegated to the Operational Lead Specialist Services).

3. To the Director of Customer and Commercial Services and the Public Health and Licensing Manager from the Licensing and Licensing Regulatory Committees

- 3.1 To act as authorised persons for the purposes of Section 304 and Part 15 of the Gambling Act 2005.
- 3.2 To review existing permits under Section 34 of the Gaming Act 1968 and to grant new applications for permits up to two machines per premises.
- 3.3 To review existing permits under Section 16 of the Lotteries and Amusements Act 1976.
- 3.4 To determine applications for permits for three or four gaming machine permits in premises licensed under the Licensing Act 2003.
- 3.5 To determine applications for advertising on Hackney Carriage Vehicles in accordance with approved conditions.

4. Other Officers

- 4.1 The following Officers are designated as authorised persons for the purposes of the Licensing Act 2003:-
 Simon Rowley, Director of Customer and Commercial Services
 Sean Hall, Principal Environmental Protection Officer

Hilary Fawcett, Environmental Health Officer
John Blythe, Environmental Health Officer
Patricia Harris, Environmental Health Officer
Peter Adams, Environmental Health Officer
Diane Wright, Environmental Health Officer
Jane Latham, Environmental Health Officer
Graham Metcalfe, Environmental Health Officer
Shaun Senior, Environmental Health Officer
Anthony Houlihan, Licensing Officer
Patrick Cantley, Licensing Officer
Rachel Shaw, Environmental Protection Officer
Steven Richards, Environmental Protection Officer
Rachel Earnshaw, Public Protection Officer

E DELEGATIONS FROM THE HUMAN RESOURCES COMMITTEE

1. To the Chief Executive

- 1.1 To undertake on behalf of the Council negotiations and discussions with trade unions and other staff organisations concerned with employees of the Council.
- 1.2 To settle any claim arising from consequent excess charges or loss of no claims bonus following incidents of damage, etc, to Officers' cars whilst on official business and subject to all cases of doubt being referred to the Committee.
- 1.3 To approve payments in the case of damage to employees' clothing and equipment to a maximum of £400.

2. To the Chief Executive and the Directors

- 2.1 To manage and deal with all people, welfare, inclusivity and training issues below Chief Officer level including making changes within the establishment including changes to job titles, within Directorate areas, provided that all decisions are within Council policies and approved budgets and within any general human resource management policies and procedures approved by the Chief Executive.

- 2.2 For the avoidance of doubt, people, welfare, inclusivity and training issues include appointments, promotions, discipline, grievance, leave, additional duties, ex-gratia payments for examination success, and car allowances.
- 2.3 Any changes in post proposed under 2.1 must be evaluated under the Job Evaluation Scheme and the final decision taken must be in accordance with that Scheme.

F DELEGATION FROM LAKE ADMINISTRATION COMMITTEE

1. To the Director of Customer and Commercial Services

- 1.1 To allocate existing moorings on the bed of Lake Windermere.
- 1.2 To grant or renew pleasure boat and boatmen's licences.
- 1.3 To decide on the appropriate category of encroachment in the event of a change of ownership and to prepare all necessary encroachment agreements.
- 1.4 To settle suitable charges with prospective users of holiday moorings for longer period lettings on Windermere.
- 1.5 To authorise the Lake Wardens or any other appropriate officer to be duly authorised officers of South Lakeland District Council under the Lake Windermere Byelaws 1986, or any statutory modification thereof.
- 1.6 In consultation with the Chairman and Vice-Chairman of the Committee, to approve an extension of a jetty, by not more than 3.0 metres, on an otherwise straightforward "like for like" replacement; and report such approvals to the following meeting of the Committee.
- 1.7 To make minor amendments to Lake fees and charges during the year, as required, in consultation with the Chairman and Vice-Chairman of the Committee.
- 1.8 To determine all encroachment, mooring and dredging applications which are not retrospective and within the Council's existing policy, those decisions to be reported to the earliest possible meeting of the Committee.
- 1.9 To review (in conjunction with the Lead Specialist for Legal, Governance and Democracy and Lead Specialist for Finance) all encroachment applications and to consider them against the Council's Policy to determine which applications can be taken to Lake Administration Committee for consideration and in cases considered not to meet the policy requirements to reject them. Where applicants seek to replace an encroachment on a like for like basis and where there may be a dispute with the calculation of the encroachment fees, this is to be viewed differently to the above and a report will be brought forward to the Lake Administration Committee for consideration. A like for like basis is deemed to be an encroachment which replaces an existing encroachment, therefore one encroachment remains following completion of the new jetty or structure. Applicants will be allowed to increase the length of the jetty/ structure but the old encroachment must fall within the footprint of the new encroachment.

- 1.10 To determine and agree the length of encroachment lease terms of between ten and 25 years, based upon the professional advice of the Council's property services contractor and the Legal, Governance and Democracy Lead Specialist, those decisions to be reported at the earliest possible meeting of the Committee.

G DELEGATION FROM COUNCIL TO THE WESTMORLAND AND FURNESS JOINT COMMITTEE

In accordance C/99 the non-executive functions listed in 4 E below have been delegated to the Westmorland and Furness Joint Committee

4. RESPONSIBILITY FOR CABINET FUNCTIONS

The Cabinet will be responsible for all the functions and duties of the District Council which are specified in legislation, and which are not specifically reserved to the Council or any Committee elsewhere in this constitution.

The individual members of the Cabinet will have the following personal portfolios, as allocated by the Leader, and will exercise the powers and duties of the Cabinet within those areas, subject to the detailed rules on Access to Information Procedures (Part 4(2)) of this Constitution.

Any changes to the personal portfolios will be determined by the Leader. These will take effect from the date that the Proper Officer receives notification of such changes in writing. The Leader will also report any changes to the next appropriate meeting of Full Council.

A DELEGATION TO INDIVIDUAL MEMBERS OF THE CABINET

The functions of the Cabinet detailed below shall be the responsibility of the individual members of the Cabinet who hold the portfolios listed below. The individual members shall give guidance to officers regarding decisions to be made under section 5 of the delegation scheme.

Each of the Portfolios indicated will take primary responsibility in their individual areas and work with other Cabinet members, officers and partners to ensure that cross cutting themes are being communicated effectively in all policies and projects and across all services. In doing this, Cabinet Members may set up appropriate groups, but should ensure that Committee Services are aware that the group has been set up and the composition of its membership.

Each portfolio holder will contribute towards delivering the Corporate Plan Priorities of:

- Working across boundaries, delivering sustainable regional growth across Morecambe Bay, and
- Delivering a balanced community, a South Lakeland for all ages, and
- A fairer South Lakeland, a South Lakeland for everyone, and
- Addressing the climate emergency, a carbon neutral South Lakeland

Leader – Promoting South Lakeland and Innovation Portfolio

Working with partners and stakeholders in the public, private and voluntary sector, at national, regional and sub-regional level. To act as an ambassador and advocate for the Communities of South Lakeland.

To represent the Council on local, Regional, National and other strategic partnerships as appropriate.

Oversight and development of the Council Plan priorities in collaboration with Portfolio Holders and based on community need.

Leading on the Councils Public Service Reform agenda.

Leading on Devolution, Local Government Reform and working with Barrow Borough on all aspects of “ The Bay”, this requires co-operation on economic development, infrastructure, housing and employment growth as well as skills and knowledge.

To lead on community engagement.

Policies, Plans and Strategies

- Communications Strategy
- Council Plan
- IT/Information/E Government Strategy
- Performance Management

Key Areas

- Community strategy/area planning/development of recovery group
- Local and Cumbria Wide Strategic Partnerships
- Media and Communications
- Performance Management
- Relationships with Government Departments, and other relevant authorities at a sub-regional, regional

Deputy Leader – Finance and Assets Portfolio

The development of strategic policy to ensure that the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources, i.e. Value for Money.

To ensure that the Council has proper arrangements in place for securing financial resilience and the management of the Council's resources.

To support the Leader of the Council and to deputise in his/her absence.

Policies, Plans and Strategies

- Medium Term Financial Strategy
- Budget Framework
- Commissioning and Procurement Strategy
- Discretionary Benefit and Rate Relief Policies
- Council Tax Reduction Scheme
- Asset Management Strategy
- Commercial Strategy

Key Areas

- Strategic Finance
- Budget monitoring
- Treasury Management
- Capital Programme
- Value for money
- Procurement
- Savings programme
- Payments and Sundry Debtors
- Insurance and risk management
- Benefits Administration
- Council Tax Collection
- Resource Management

Housing Portfolio

Implementing of the Local Plan housing objectives.

Working in partnership to improve the standard, availability and affordability of housing in the District to meet local needs, championing these issues at national, regional and sub-regional level.

Looking at innovative ways of working.

To support the Leader of the Council and to deputise in his/her absence.

Policies, Plans and Strategies

- Local Plan (including Development Management Policies)
- Housing Strategy and Policy (including Choice Based Lettings Allocation Policy)

Key Areas

- Development Management and Building Control
- Housing Options and Homelessness Prevention
- Strategic Housing and delivery (including Housing Enabling and Housing Grants)

Economy, Culture and Leisure Portfolio

The Council Plan objectives as they relate to the Portfolio area of work, and cross-cutting work developed through the Local Plan and Economic Development Strategy, promoting Culture leisure activities and the arts and developing strategy for cultural assets.

To be the Council's nominated representative on the Cumbria Local Economic Partnership.

Working in partnership to ensure a thriving and prosperous District within the context of the wider sub-region, through effective economic development, regeneration and transport strategies.

Working in partnership to ensure thriving and prosperous town centres throughout the District.

Providing public realm infrastructure to promote the local economy.

Promoting small businesses in both towns and rural areas.

The Council plan objectives in relation to promoting culture, leisure activities and the arts.

To work with our cultural organisations to attract investment and to promote South Lakeland as a premier area for Arts and Events.

Leading on the response to the Levelling up requirements.

Leading on the economic response to Covid recovery.

Policies, Plans and Strategies

- Economic Development Strategy
- Arts and Events
- Grants Strategy
- Licensing and Statement of Gambling Policies

Key Areas

- Economic Inward Investment
- Business Support and Sector Development
- Visitor Economy
- Town Centre Planning, Car Parks and Transportation Strategies
- Markets
- Arts and Culture
- Grants
- Public Halls
- Use of community assets for the promotion of arts and culture
- Heritage and Events
- Heritage Listed Buildings and built environment
- Voluntary Sector Engagement in relation to Culture and Leisure
- Leisure and Recreation
- Licensing and Gambling
- Cross Authority Economic initiatives

Climate Action and Biodiversity Portfolio

To lead on the Council's policies around Climate change, climate reduction and sustainable growth, to develop a policy on bio-diversity, raising community awareness and working collaboratively on policy objectives.

Policies, Plans and Strategies

- Air Quality Strategy and action plan
- Active Travel Strategy and action plan
- Council Policy on Climate Change
- Parks and Open Spaces Strategy

Key Areas

- Community micro-energy schemes
- Leisure, Public Realm, (Parks and Open Spaces (Including cemeteries, trees, woodland and playground improvement)
- Carbon/Greenhouse gas Reduction
- Green agenda – Low carbon reduction
- Active Travel
- Bio-Diversity

Health, Wellbeing and Poverty Alleviation Portfolio

To work with other tiers of government, voluntary sector, community groups and other relevant partners to enhance the health and wellbeing of residents.

Alleviate the harmful effects of poverty in the District, looking at issues to address those who are disadvantaged, focusing on fairness and reducing disadvantage and inequalities.

Working with key partners with regards to welfare reforms.

Nominated representative on the Health and Wellbeing board as appropriate.

The relationship of the Council with its citizens; civic participation and the Council plan objectives around leisure, health and wellbeing and working with communities.

Leading on inequality, deprivation and population health.

Working with key partners with regards to public health and community safety.

Policies, plans and strategies

- Community Strategy

- Health and Wellbeing Strategy
- Cumbria Joint Public Health Strategy
- Community Safety Plan

Key Areas

- Public Health
- Community Development
- Crime and Disorder Reduction Strategy
- Voluntary Sector in relation to Public Health and Wellbeing Sector
- Health and Safety
- Poverty alleviation, financial resilience
- Young People/ projects
- Emerging community issues

Customer and Locality Services Portfolio

To work with all Members, the community and organisations in developing , case management, specialist services as part of the Council's Customer connect programme.

Delivery of the Council Plan objectives in relation to quality of service and high performance culture.

The organisation of the Authority relating to the Council's central services, including Employee relations.

Providing and maintaining parks infrastructure.

To take the lead on Strategic Waste Management/Recycling and relevant Council Plan measures under the environment objectives.

To drive our Localism agenda.

Policies, plans and strategies

- Waste Management Strategy (environmental impacts)
- Emergency Plan
- Equality, Diversity and Inclusion Strategy

- Customer Charter and Contact Strategy
- Member Development and Training Plan
- Workforce Plan (to be reviewed under customer connect programme)

Key Areas

- Customer services (operational)
- Emergency Planning
- Waste Management and Recycling Strategy
- Localism
- Water Quality
- Car Parking (operations)
- Waste Management (operations and service optimisation)
- Streetscene
- Member Services
- Member Training and Development
- Legal and Committee Services and HR Services
- Corporate Health and Safety

B DELEGATION TO THE DISCRETIONARY RATE RELIEF SUB-COMMITTEE

In accordance with CEX/128 (2016/17), in exceptional circumstances officers have the authority to refer a decision to a panel consisting of three Cabinet members or as a final point of appeal if considered appropriate.

C DELEGATION TO THE HERITAGE ASSET APPEALS SUB-COMMITTEE

In accordance with CEX/159 (2014/15), a Panel of three Cabinet Members be established to determine appeals made by the owners of buildings or structures against their inclusion on the list of locally important heritage assets for South Lakeland.

D DELEGATION TO LANCASTER AND SOUTH CUMBRIA JOINT COMMITTEE

In accordance with C11 (2020) the Joint Committee's remit will be to provide political and democratic accountability and in doing so:

- a) act as a key strategic forum for sustainable economic prosperity issues in the Lancaster and South Cumbria Region and to make representations and recommendations on sustainable economic development opportunities, programmes and investments to other bodies, to include Government, Local Government and the Cumbria and Lancashire Local Enterprise Partnerships (LEPs);
- b) act as a key strategic forum for meeting the climate emergency across the Lancaster and South Cumbria Region and to make representations and recommendations on sustainable economic development opportunities, programmes and investments to other bodies, to include Government, Local Government and the Cumbria and Lancashire Local Enterprise Partnerships (LEPs);
- c) act as the key strategic forum for reducing inequality across the Lancaster and South Cumbria Region and to make representations and recommendations on sustainable economic development opportunities, programmes and investments to other bodies, to include Government, Local Government and the Cumbria and Lancashire Local Enterprise Partnerships (LEPs);
- d) actively engage with a range of experts, community organisations, businesses and institutions in the Lancaster and South Cumbria Region in relation to economic, social and environmental wellbeing development decision making and to engage with other stakeholders where appropriate
- e) consider and advise on the appropriateness and viability of alternative, successor economic, social and environmental governance arrangements.
- f) to have direct and strategic oversight of key growth focused projects and initiatives that the Joint Committee has influence over the funding of and across the Lancaster and South Cumbria Economic Region

E DELEGATION TO THE WESTMORLAND AND FURNESS JOINT COMMITTEE

In accordance CEX/ 93 the following functions have been delegated to the Westmorland and Furness Joint Committee

0. The formation of an Implementation Team to assist the Joint Committee and if required the Shadow Authority in the discharge of its functions.
1. To prepare, keep under review, receive updates on progress and revise as necessary the Implementation Plan.
 - i. This to include such plans and timetables as are in the opinion of the Joint Committee necessary to secure the effective, efficient and timely discharge of such of its functions, property, rights and liabilities as relate to Westmorland and Furness and its inhabitants.
 - ii. To agree budgets and plans as are considered necessary or desirable to facilitate the economic, effective, efficient and timely discharge on and after the 1st April 2023 of the functions of the Westmorland and Furness Councils.
2. Preparing for an facilitating the economic, effective, efficient and timely transfer to the new Councils of functions, property, rights and liabilities.
3. To consider and recommend a Members Code of Conduct to be adopted by the Shadow Authority at its inaugural Full Council meeting.
4. To agree the process for an independent review of a scheme of Members Allowances for the Shadow Authority, including the setting up of an Independent Remuneration Panel and to recommend to the Shadow Authority a scheme of Members Allowances for adoption at its inaugural meeting.
5. To consider and recommend a Constitution and schemes of delegation to be adopted by the Shadow Authority at its inaugural full Council meeting.
6. To agree and undertake the recruitment process for the selection of the posts of Interim Head of Paid Service, Interim Chief Finance Officer (section 151 Officer) and Interim Monitoring Officer for the Shadow Authority and recommend to the Shadow Authority at its inaugural meeting nominations for the three interim statutory Officers
7. To establish and propose a Calendar of Meetings for the Shadow Council for adoption at its inaugural meeting
8. To Manage the transition to the Shadow Authority under the Structural Changes Order.
9. To oversee the smooth transition of all matters Civic and Ceremonial

5. DELEGATION TO OFFICERS FROM THE LEADER/CABINET

The delegation of executive powers to Officers is determined by the Leader/Cabinet and any changes will only take effect from the day the Proper Officer receives notification of any changes in writing.

A TO THE CHIEF EXECUTIVE AND ALL DIRECTORS

- 1.1 There is delegated to the Chief Executive and to the Directors (“the Officers”) all the powers and duties of the Council necessary for the discharge of the Council’s Cabinet functions carried out within the Officer’s Directorate or area of responsibility.
- 1.2 There is delegated by CEX/104 to the Chief Executive (or person authorised by them) any executive decision in this COVID 19 Global pandemic emergency or that is urgent or that would be necessary or expedient, or which would otherwise protect the Council’s interests, including key decisions (this to be in consultation with the Leader of the Council and Portfolio Holder , or other appointed person authorised by the Leader)

1.3 There is delegated by CEX /104 to the relevant Director (or appointed Deputy) the authority to award contract awards up to the value of £100,000 following consultation with relevant Portfolio Holder, Section 151 Officer and Monitoring Officer

1.4 **To the Legal, Governance and Democracy Lead Specialist**

(a) The conduct of all legal and quasi-legal proceedings entered into by the Council in respect of executive functions, including the appointment of Counsel and professional witnesses as appropriate.

(b) In consultation with the relevant Director to prosecute in respect of any breach of legislation for which the Council, or an officer of the Council is the responsible enforcement authority and it is in the interest of the Council and in the public interest to do so.

(c) In consultation with the relevant Director, to issue civil proceedings in any appropriate Court or Tribunal for the recovery of a financial payment, possession or repossession of property, or to seek any other appropriate remedy.

(d) To respond to all proceedings of a legal or quasi-legal nature issued against the Council with power, in consultation with the s.151 Officer, to settle claims up to a maximum of £10,000 where there is a legal liability on the Council.

(e) The preparation and completion of all documents required to give effect to decisions of the Cabinet, its committees or officers acting under delegated authority.

(f) To serve any notices pursuant to statute or required under contract not otherwise delegated to the Chief Executive or a Director and to take appropriate enforcement action in the event of default by persons served with such notice.

(g) To approve applications for anti-social behaviour orders either by the Police or by the Council. (This delegation is also with the Chief Executive).

(h) In consultation with the Finance Portfolio Holder, to undertake internal reviews of listing decisions and compensation decisions in relation to the Council's List of Assets of Community Value.

1.5 **To the Director of Customer and Commercial Services**

(a) In consultation with the Health and Wellbeing Portfolio Holder, to decide whether to reject a nomination or to recommend the approval of a nomination to the Council's List of Assets of Community Value.

(b) In accordance with CEX/127 (2012/13), in respect of proposals for "Locally Important Projects" and "Affordable Housing", the Director of Customer and Commercial Services be authorised to determine bids up to £50,000 by Delegated Executive Decision.

(c) In accordance with CEX/90 (2013/14), to exercise the powers and functions under the Scrap Metal Dealers Act 2013 (excluding the setting of fees).

(d) In accordance with CEX/126 (2014/15):-

(i) to negotiate Primary Authority Partnership agreements with eligible businesses; and

(ii) set the rate for the Council's charges, based upon cost recovery, for such agreements.

- (e) Duties in connection with Community Infrastructure Levy Liability under Regulations 31 to 34 and 36 to 39 of the Community Infrastructure Levy Regulations 2010.
- (f) Power to issue Apportionment of Liability Information Notices under Regulation 35 2010.
- (g) Power to calculate the chargeable amount under Regulation 40 of the Community Infrastructure Levy Regulations 2010.
- (h) Duties in connection with relief from the Community Infrastructure Levy under Regulations 41 to 45, 47, 49 to 53, 54A to 54 D, 55 and 57 of the Community Infrastructure Levy Regulations 2010.
- (i) Power to publish Discretionary Charitable Relief Information under Regulation 46 of the Community Infrastructure Levy Regulations 2010.
- (j) Power to withdraw charitable relief under Regulation 48 of the Community Infrastructure Levy Regulations 2010.
- (k) Power to serve Social Housing Information Notices under Regulation 54 of the Community Infrastructure Levy Regulations 2010.
- (l) Power to Publish Exceptional Circumstances Relief Information under Regulation 56 of the Community Infrastructure Levy Regulations 2010.
- (m) Duties in connection with the application of the Community Infrastructure Levy under Regulations 59 to 62 and 62A of the Community Infrastructure Levy Regulations 2010.
- (n) Duties and powers in connection with charging and collecting of the Community Infrastructure Levy under Regulations 64 to 79 of the Community Infrastructure Levy Regulations 2010.
- (o) Duties and powers in connection with Surcharges and late payment interest under Regulations 80 to 88 of the Community Infrastructure Levy Regulations 2010.
- (p) Duties and powers in connection with CIL stop notices and related enforcement under Regulations 89 to 94 of the Community Infrastructure Levy Regulations 2010.
- (q) Duties and Powers in connection with enforcing the collection of money under Regulations 95 to 111 of the Community Infrastructure Levy Regulations 2010.
- (r) To authorise council officers whose duties require the exercise of powers of entry under Regulation 109 of the Community Infrastructure Levy Regulations 2010.
- (s) Duties and powers in respect of reviews, appeals, stop notices and costs under Regulations 112 to 121 of the Community Infrastructure Levy Regulations 2010.
- (t) In accordance with CEX/23 (2015/16) and Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014 to:-
 - (i) serve Community Protection Notices;
 - (ii) make Public Spaces Protection Orders;

- (iii) authorise Police Community Support Officers to serve Community Protection Notices and Fixed Penalty Notices in the event of a breach; and
- (iv) authorise appropriate Register Social Landlords operating within South Lakeland to serve Community Protection Notices.
- (u) Power to designate persons pursuant to Section 53(c) of the Anti-social Behaviour, Crime and Policing Act 2014.
- (v) In accordance with CEX/45 (2017/18), to approve Empty Homes Grant applications in line with the Empty Homes Grant Management Scheme Policy.
- (w) In accordance with CEX/121 (2017/18), to consider and approve the offer of grant aid to property owners and the funding of public realm work identified within the Burton-in-Kendal Partnership Schemes in Conservation Areas.
- (x) To update the Councils Statement of Community Involvement

1.6 To the Director of Strategy, Innovation and Resources

- (a) In accordance with CEX/124 (2014/15), to approve applications for the designation of Neighbourhood areas in respect of parishes that are wholly or partly outside the Lake District National Park and Yorkshire Dale National Park only where:
 - (i) the applications relate to the designation of single whole parishes, excluding areas of any other parishes;
 - (ii) there being no requirement to consult on proposals which relate to the whole of a Parish Council's area.

1.7 To the Finance Lead Specialist

- (a) To administer, bill, collect and enforce levies arising under a Business Improvement District scheme.
- (b) To determine appeals in accordance with the Council's Discretionary Rate Relief Policy (in accordance with the Policy, the determination of applications are delegated to the Revenues Manager or other authorised officer).
- (c) The identification and determination of qualifying properties and ratepayers subject to the arrangements for appeal as set out in the guidelines for determining rate relief under the Localism Act 2011.
- (d) To determine applications for Discretionary Council Tax Reductions under Section 13A of the Local Government Finance Act 1992, as inserted by Section 76 of the Local Government Act 2003 subject to the arrangements for appeals as set out in the guidelines for rate relief under the Localism Act 2011.
- (e) In accordance with CEX/141 (2014/15), the identification and determination of qualifying properties and rate payers in respect of the Discretionary Rate Relief Scheme (Extension to Transitional Relief), subject to the arrangements for appeal as set out in the guidelines for determining applications for discretionary rate relief under the Localism Act 2011 agreed by Cabinet on 29 January 2014 (Minute CEX/123).

1.8 To the Operational Lead for Delivery and Commercial Service

In accordance with CEX/83 (2021/22):

- (a) To obtain particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- (b) To recommend for approval terms and conditions negotiated for the sale or purchase of land and property, the grant or acquisition of easements, wayleaves and licences and all statutory claims for compensation for Home Loss Payments, well-maintained Payments and disturbance and other statutory displacement costs.
- (c) To manage all the Council's property and to be responsible for all estate management matters (which includes all lettings (including licences), renewals, assignments, early terminations, surrenders, rent and service charge reviews, drafting notices under the Landlord and Tenant Act 1954, drafting other contractual and statutory notices, and the settlement of statutory and contractual compensation) in accordance with accepted best practice, the granting of consents and approvals including assignments, sub-lettings, terminations, alterations, extensions and other variations to agreements) under the terms of any covenant, lease, licence or tenancy .
- (d) Taking whatever action may be appropriate for the protection of the Council's land and property.
- (e) Whenever necessary, to instruct the District Valuer or other external valuer to negotiate on behalf of the Council and to recommend acceptance or rejection of the results of those negotiations.
- (f) To submit applications for outline planning permission for sites identified as suitable for affordable housing for locals and other projects, in consultation with the appropriate Director, or for land identified as surplus to requirements.
- (g) Following consultation with the appropriate Director to exercise estate management responsibilities set out in 3 above in respect of, land and sundry vacant property.
- (h) To process and certify for payment Energy bills and water bills relating to sites on the monitoring and target system for energy audit reduction and carbon reduction subject to the Contract Procedure Rules and Financial Procedure Rules.
- (i) To manage all identified maintenance funds on behalf of the Council in accordance with any priorities determined by the Council except where such funds are specifically controlled by another designated officer of the Council.
- (j) Irrespective of allocation, to apply maintenance funds to meet changing priorities, emergencies, efficiencies and targets as necessary and practical.
- (k) To issue works Orders and tenders for Contracts In accordance with the Contract and Financial Procedure Rule
- (l) To prepare and complete all deeds and documents required to give effect to decisions made under authority.
- (m) To sign statements of truth under the Civil Procedure Rules 1998.
- (n) To prepare and submit to Legal Services for approval and service Landlord and Tenant Act 1954 Business Tenancy Notices under sections 25, 26 and 27 and Agricultural Tenancy and Farm Business Tenancy Notices to quit.
- (o) To raise requests to raise Invoices.

- (p) To raise requests to issue Credit notes.
- (q) To raise cheque requisitions.
- (r) To authorise annual payments for software support costs under existing agreements.

Sales, acquisitions, leases (including statutory lease renewals) , surrenders, easements, options and licences shall be subject to the delegations outlined within the table.

Admin Decision : Operational Lead for Delivery and Commercial Services
<p>All matters listed below and which are between the value £0 - £25,000 (Excluding Vat) and Excluding less than best value transactions</p> <ul style="list-style-type: none"> • grant or renewal of a simple licence or way leave and easements, including the installation of statutory undertakers apparatus • Deed of Variation • Deed of release • Deed of Rectification • Sub station/ utilities • leases and renewals for a term of years up to 99 years (irrespective of value) • Leases for a term of 6 years or less excluding less than best value • all statutory lease renewals irrespective of term of years to be granted)but excluding statutory lease renewals at less than best value • Grazing Licences, • Garden Tenancies • Garage site agreements • Vehicle Access Licences • Miscellaneous licences and consents (eg licence to alter, licence to assign/underlet/sub-underlet) • Tenancies at Will • Options to purchase • Sales • Acquisitions • Surrenders

Delegated Executive Decision : Director

All matters listed below and which are between the value £25,001- £100,000
(Excluding Vat) and Excluding less than best value transactions

- leases, licences and renewal leases to be granted for a term of 7 years to 24 years (irrespective of value).
- Acquisitions
- Sales
- Sales of amenity land of any value to purchasers of former council property or their successors) (irrespective of value)
- Consents under conveyances where new dwellings are to be constructed(irrespective of value)
- Options to Purchase
- Easements
- Surrenders

Cabinet

All matters listed below and which are over £100,000
(Excluding Vat)

- lease, licence and renewal leases (excluding Statutory lease renewals) for a term of 25 years or more (irrespective of value),
- Sales
- Acquisitions
- Easements
- Options to purchase
- Surrenders
- All sales disposals, acquisitions, easements, options at less than best value including leases, licence and renewal leases
- All assets to be disposed of or acquired irrespective of value for either economic development purposes or for housing (irrespective of value).
- Any transactions considered to be significant (irrespective of value).

In accordance with C/14 2021/22 that Property Held on Trust by the Council will be subject to separate arrangements namely :

That a Corporate Trusteeship Board to determine matters related to the management of the lands held in trust which have a bearing on the purpose the benefactor established the trust will be established.

The terms of reference to consider the disposal of the land or any part of the land;
to consider extending or reducing the areas of the trust land used for particular purpose (e.g. play areas);
or the transfer of trusteeship to another body.

That Cabinet be given authority to appoint Councillors to the Board and that in practice, these appointments be made from within the current membership of the Cabinet. This would enable agenda meetings of the Board to be held on the rising of the Cabinet. The Board to adopt rules of procedure similar to the Cabinet unless the trust deed specifies otherwise.

2. There is not delegated to the Officers:

- Any matter reserved by law or by the Constitution to the Council or to a Committee or Sub-Committee of the Council; or
- Any matter which in law may not be delegated to an Officer

3. The Officers may only exercise delegated powers in accordance with:

- the Policy Framework approved by the Council;

- the Budget approved by the Council;
- the various Procedure Rules set out in Part 4 of the Constitution;
- any statutory restrictions, statutory guidance or statutory Code of Practice; and □ any professional standards or operational policies of the Council.

4. In exercising delegated powers, the Officers shall act only within the revenue and capital budgets as approved by the Council, subject to any variation thereof that is permitted by the Financial Procedure Rules.

5. There is delegated to each Lead Specialist or Operational Lead -authority to exercise any power delegated to his/her Director under this Part that relates to his/her area of responsibility. In addition each of the Officers may further delegate any function, which is delegated to that Officer under this Part, to other Officers. Every such sub-delegation shall be in writing, setting out the terms and conditions upon which that function is to be performed, and accountability for the performance of that sub-delegated function. The Officer making such sub-delegation shall copy the sub-delegation to the Monitoring Officer.

6. There are two types of decisions which may be taken by the Officers:-

- Executive Decisions; and
- Administrative Decisions

7. **Executive Decisions**

Consultation

7.1 Before taking an Executive Decision, the Officer shall prepare a report setting out:-

- The identity of the Officer proposing to take the decision under delegated authority.
- The issue to be decided.
- Any restriction upon the publication of the report as if the decision was a decision falling to be made by a Committee or Sub-Committee of the Council in accordance with Sections 100 and 100A to 100K of the Local Government Act 1972.
- Any facts upon which any decision must be based.
- Any legislative requirements.
- Any relevant Council policy.
- Any relevant national or regional guidance.
- The alternative options available to the Officer.
- Any staffing and financial implications resulting from the options.
- Any legal implications.
- Any consultations undertaken and the views of the consultees.
- Any implications for any other area of the Councils activities.
- The portfolio area within which the issue falls; and
- The Officers proposed decision and the reasons supporting that proposal.

7.2 The Officer shall send a copy of the report to:-

- The relevant Cabinet Member whose Portfolio includes the issue to be decided, or, if that person is unavailable through illness, holiday or some other reason, or has a prejudicial interest in the issue, to the Leader of the Council, or such other Cabinet Member as he/she may nominate; and
- The Chief Executive and all other Directors.

Objection

7.3 The Cabinet Member or any of the other consultees may object to the report within five working days of receiving the same, by notifying the Officer of the objection and requesting the matter be referred to the Cabinet for determination.

Determination

7.4 Where no objection has been received, the Officer may proceed to make his/her final decision as outlined in the report.

7.5 Where an objector has requested that the report be referred to the Cabinet, the Officer shall no longer have the power to take the final decision thereon. The report shall be included on the agenda for the next convenient meeting of the Cabinet and the Officer's proposed decision shall form the recommendation to the Cabinet.

7.6 In the absence of the Officer designated as the Decision Maker, the Chief Executive, Director of Customer and Commercial Services or Director of Strategy, Innovation and Resources, is authorised to make the final decision on their behalf.

Urgent Decisions

7.7 Where an Officer is of the opinion that an Executive Decision for which he/she is responsible should be made urgently in order to prevent or reduce the risk of damage to persons or property, or to the interests of the Council, and that the urgency of the decision is such that it is not practicable to complete the Executive Decision-making process set out above, the Officer shall use his/her best endeavours, as far as the urgency of the matter permits, to carry out the consultation exercise set out in paragraph 7.2, but have the full power to take that Executive Decision notwithstanding that the full procedure has not been followed.

7.8 As soon as practicable after taking a decision under paragraph 7.6, the Officer shall complete a report complying with Paragraph 7.1 and include the reasons for the urgency and the final decision that has been taken, and that report shall be circulated to the Cabinet Member and other consultees and shall be included on the agenda for the next convenient meeting of the Cabinet.

Recording of Executive Decisions

7.9 Upon making an Executive Decision, the Officer shall provide the Monitoring Officer with a written statement of the decision on the day that it is made.

7.10 Each Executive Decision shall be published, as far as practicable, on the next working day after it is made. The report on which the decision was made, subject to any requirement for confidentiality, shall also be published and made available for public inspection during normal office hours. The public shall have the right to copy, or be provided with a copy, of any part of that report upon payment of a reasonable copying and administrative charge in accordance with the Council's currently policy on such matters.

Call-In Mechanism

7.11 Any Executive Decision made by an Officer under this Part 3, Section 7 may be called-in in accordance with the provisions of Paragraph 15 of the Overview and Scrutiny Procedure Rules.

Accountability

7.12 Officers are accountable to the Council for any Executive Decision that they make and may be required, together with the relevant Cabinet Member, to report to, and attend and answer questions from, an Overview and Scrutiny Committee in respect of any such decision.

8. Administrative Decisions

8.1 Administrative Decisions are those decisions taken by Officers as part of the day-to-day management of their Directorate and the functions for which their Directorate is responsible.

8.2 Officers do not have to prepare or publish a formal written report in respect of an Administrative Decision, but are responsible for ensuring that consultation, where appropriate, is undertaken with relevant officers, and where the decision involves staffing, with the HR Lead Specialist.

8.3 There is no requirement to maintain a record of Administrative Decisions for the purpose of the Council or public access, or to report Administrative Decisions to a Committee or Sub-Committee, but Officers are responsible for retaining a record of Administrative Decisions which they take and the reasons for such decisions sufficient for audit and evidential purposes (for Judicial Review, Employment Tribunal, Ombudsman, District Audit, or other proceedings or investigation) and for ensuring that all those who need to know are promptly informed of the decision.

8.4 Officers are accountable to the Council for any Administrative Decision that they make and may be required to report to, and attend and answer questions from, an Overview and Scrutiny Committee in respect of any such decision.

B TO THE DIRECTOR OF PUBLIC HEALTH

To take action in accordance with the powers contained in:-

(a) Section 1, National Assistance (Amendment) Act 1951; and

- (b) Section 47 National Assistance Act 1948 (removal to suitable premises of persons in need of care and attention) as he/she considers appropriate and to appoint suitable qualified medical practitioners to act on his/her behalf.

C REGULATION OF INVESTIGATORY POWERS ACT 2000

The following Officers are empowered to authorise the use of covert surveillance in accordance with the provisions of the Act and the Council's Surveillance Policy:

- Chief Executive;
- Director Customer and Commercial Services;
- Legal, Governance and Democracy Lead Specialist); and
- Finance Lead Specialist (s.151 Officer)

D TO THE FINANCE LEAD SPECIALIST, REVENUES MANAGER AND LOCAL TAXATION TEAM LEADER

To issue complaints and represent the Council in Council Tax and Non-Domestic Rates Recovery proceedings in the Magistrates Court.

6. DESIGNATION OF PROPER OFFICERS

The following are the Proper Officers of the Council under the enactments shown below (incorporating any amendments made). The alternative Proper Officer is also authorised to act.

Section of the Local Government Act 1972 And Proper Officer's Functions	Proper Officer	Alternative Proper Officer
s.13(3) Parish Trustee	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Officer nominated by the Monitoring Officer as Deputy Monitoring Officer
83 (1) to (4) Witness and receipt of Declarations of Acceptance of Office	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Officer nominated by the Monitoring Officer as Deputy Monitoring Officer Director of Strategy, Innovation and Resources
84 Receipt of Declaration of Resignation of Office	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Officer nominated by the Monitoring Officer as Deputy Monitoring Officer
88 (2) Convening of meeting of Council to fill casual vacancy in the office of Chairman	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Officer nominated by the Monitoring Officer as Deputy Monitoring Officer
89 (1) (b) Receipt of notice of casual vacancy from two local government electors	Returning Officer	Such other persons as may be appointed from time to time
S.100B (2) Circulation of papers and reports	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Officer nominated by the Monitoring Officer as Deputy Monitoring Officer
S.100B (5) Withholding of reports containing	Legal, Governance and Democracy Leas Specialist	Officer nominated by the Monitoring Officer as Deputy

Section of the Local Government Act 1972 And Proper Officer's Functions	Proper Officer	Alternative Proper Officer
exempt information	(Monitoring Officer)	Monitoring Officer
S. 100B (7) (c) Supply of papers to press	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Officer nominated by the Monitoring Officer as Deputy Monitoring Officer
S. 100C (2) Summaries of minutes	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Officer nominated by the Monitoring Officer as Deputy Monitoring Officer
S. 100D Inspection of background papers	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Officer nominated by the Monitoring Officer as Deputy Monitoring Officer
S. 100F Members' right to papers	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Officer nominated by the Monitoring Officer as Deputy Monitoring Officer
115 (2) Receipt of money due from officers	Finance Lead Specialist (S.151 Officer)	Officer nominated as Deputy S.151 by the S.151 Officer
146 (1) (a) and (b) Declarations and service with regard to securities	Finance Lead Specialist (S.151 Officer)	Officer nominated as Deputy S.151 by the S.151 Officer
151 Responsibility for the proper administration of the Council's financial affairs	Finance Lead Specialist (S.151 Officer)	Officer nominated as Deputy S.151 by the S.151 Officer
191 Functions with respect to ordnance survey	Director of Strategy, Innovation and Resources	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)
210 (6) and (7) Charity functions of holders of offices with existing authorities transferred to holders of equivalent offices with new authorities or, if there is no such office, to Proper Officer	Director of Strategy, Innovation and Resources	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)
212 (1) Local Registrar for Land Charges	Director of Customer and Commercial Services	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)
225 (1) Proper Officer function - deposit of documents	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Officer nominated by the Monitoring Officer as Deputy Monitoring Officer
228 (3) Accounts of any Proper Officer to be open to inspection by any Member of the Authority	Finance Lead Specialist (S.151 Officer)	Officer nominated as Deputy S.151 Officer by the S.151 Officer
229 (5) Certification of Photographic	Legal, Governance and Democracy Lead Specialist	Officer nominated by the Monitoring Officer as Deputy

Section of the Local Government Act 1972 And Proper Officer's Functions	Proper Officer	Alternative Proper Officer
copies of Documents	(Monitoring Officer)	Monitoring Officer
234 Authentication of Documents	Officer authorised in that connection by a general delegation or otherwise, or the Legal, Governance and Democracy Lead Specialist (Monitoring Officer) in the absence of such authority	Officer nominated by the Monitoring Officer as Deputy Monitoring Officer
236 (9) To send copies of byelaws for Parish records	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Officer nominated by the Monitoring Officer as Deputy Monitoring Officer
236 (10) To send copies of byelaws to the County Council	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Officer nominated by the Monitoring Officer as Deputy Monitoring Officer
238 Certification of byelaws	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Officer nominated by the Monitoring Officer as Deputy Monitoring Officer
248 – Keeping of Roll of Freeman	Chief Executive	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)
Schedule 12, Para 4 (2) (b) Signature of summonses to Council Meetings	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Officer nominated by the Monitoring Officer as Deputy Monitoring Officer Director of Strategy, Innovation and Resources
Schedule 12, Para 4 (3) Receipt of notice regarding address to which summonses to meetings are to be sent	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Officer nominated by the Monitoring Officer as Deputy Monitoring Officer
Schedule 14 Para 25 (7) Certifying resolutions applying or disapplying provisions of Public Health Acts 1875-1961	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Officer nominated by the Monitoring Officer as Deputy Monitoring Officer
Local Government Act 1974 s.30 – to give public notice of reports by the Local Commissioner	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Officer nominated by the Monitoring Officer as Deputy Monitoring Officer

REGISTRATION OFFICER, RETURNING OFFICER AND PROPER OFFICER FUNCTIONS – REPRESENTATION OF THE PEOPLE ACT 1983

Representation of the People Acts and Regulations made thereunder and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
s.8 Electoral Registration Officer	Simon McVey	Electoral Services Specialist

Representation of the People Acts and Regulations made thereunder and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
s.35 Returning Officer	Simon McVey	Such other persons as may be appointed from time to time
s.81 to receive returns as to election expenses	Simon McVey	Such other persons as may be appointed from time to time
s.52(3) To act as deputy Electoral Registration Officer	Tom Benson	Such other persons as may be appointed from time to time

Section of the Local Government Finance Act 1988 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
Section 114 Duty to report etc.	Finance Lead Specialist (S.151 Officer)	Officer nominated as Deputy S.151 Officer by the S.151 Officer
Section 116 – to notify the Council's Auditor of a council meeting to be held under s.15 (meeting to consider any report of the CFO under 114)	Finance Lead Specialist (S.151 Officer)	Officer nominated as Deputy S.151 Officer by the S.151 Officer

Section of the Local Government and Housing Act 1989 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
Section 4 Head of Paid Service	Chief Executive	Such other persons as may be appointed from time to time
Section 5 Monitoring Officer	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Deputy Monitoring Officer as appointed by the Monitoring Officer
Section 19 and regulations made thereunder. Notices of Members' Interests	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Deputy Monitoring Officer as appointed by the Monitoring Officer
Section 2 and Section 3 Preparation and deposit of politically restricted posts and issue of certificate in respect of politically restricted posts	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Deputy Monitoring Officer as appointed by the Monitoring Officer

Section of the Party Wall Etc. Act 1996 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
Section 10(8) Appointing Officer	Director of Customer and Commercial Services	Such other persons as may be appointed from time to time

Public Health Legislation identified	Proper Officer	Alternative Proper Officer
Proper Officer is defined in section 74 of the Public Health (Control of Diseases) Act 1984 and in the Health Protection Legislation (England) Guidance 2010	Dr John Astbury	Mark McGivern Grainne Nixon Dr Nicola Schinaia And other appropriate persons from Public Health England as notified to the Legal, Governance and Democracy Lead Specialist (Monitoring Officer)
The Public Health Act 1936 , section 84 and 85 (Cleansing or destruction of filthy or verminous premises, clothing and articles);	As above	As above
The Public Health Act 1961 , Section 37 (Disinfection of verminous articles offered for sale);	As above	As above
Sections 48, 59 and 61-62 of the Public Health (Control of Disease) Act 1984 ;	As above	As above
The Health Protection (Notification) Regulations 2010 , Regulations 2 (Duty to notify suspected disease, infection or contamination in patients) and 3 and 6 (receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons) and	As above	As above
Legal responsibilities and duties of local authorities in connection with communicable disease control and the protection of public health are derived from the provisions of <ul style="list-style-type: none"> • The Public Health (Control of Disease) Act 1984 (as amended by the Health and Social Care Act 2008); • The Health and Social Care Act 2008; • The Health Protection (Local Authority Powers) Regulations 2010; and • The Health Protection (Part 2A Orders) Regulations 2010 to make 	As above	As above

Public Health Legislation identified	Proper Officer	Alternative Proper Officer
notification and apply controls as required		

Local Government Act 2000 and Regulations made thereunder and Proper Officer functions	Proper Officer	Alternative Proper Officer
Proper Officer functions	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Deputy Monitoring Officer as appointed by the Monitoring Officer

Freedom of Information Act 2000	Proper Officer	Alternative Proper Officer
Section 36 – the “qualified person”	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Chief Executive (in the absence of the Monitoring Officer)

Miscellaneous	Proper Officer	Alternative Proper Officer
Section 41 Local Government (Miscellaneous Provisions) Act 1976 – Certifying true copies of minutes	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Deputy Monitoring Officer as appointed by the Monitoring Officer
Section 606 Housing Act 1985 Representations and reports on unfit housing	Director of Customer and Commercial Services	Such other persons as may be appointed from time to time
Section 321 (3) Highways Act 1980. Certifying copies of approved plans	Director of Customer and Commercial Services	Such other persons as may be appointed from time to time
Section 2 Planning (Listed Buildings and Conservation Areas) Act 1990. Lists of protected buildings	Director of Customer and Commercial Services	Such other persons as may be appointed from time to time
Housing Grants Construction and Regeneration Act 1996. Financial assistance towards improvement works	Director of Customer and Commercial Services	Such other persons as may be appointed from time to time
Officer Employment Procedure Rules as set out within the Council constitution	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Such other persons as may be appointed from time to time
Officers authorised to issue authorisations to carry out directed surveillance or to use covert human intelligence sources under Part II of the Regulation of Investigatory Powers Act 2000	Director of Customer and Commercial Services Legal, Governance and Democracy Lead Specialist Finance Lead Specialist (S.151 Officer) Chief Executive (including Juvenile or Vulnerable Person CHIS or the acquisition of	Such other persons as may be appointed from time to time

Miscellaneous	Proper Officer	Alternative Proper Officer
	confidential Information) The Director of Strategy, Innovation and Resources is the RIPA Monitoring Officer	
Service of Improvement and Prohibition Notices under the Health and Safety at Work etc. Act 1974	Suitably qualified and experienced Officers to be appointed by the Director of Customer and Commercial Services having satisfied the Council as to their competence	Such other persons as may be appointed from time to time
Senior Information Risk Officer	Director of Strategy, Innovation and Resources	Such other persons as may be appointed from time to time
Regulation of Investigatory Powers Act 2000, Chapter II Designated Person (Access and Disclosure of Communications Data)	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)	Such other persons as may be appointed from time to time
The Money Laundering Regulations 2007	Finance Lead Specialist (S.151 Officer)	Such other persons as may be appointed from time to time
Anti-Social Behaviour, Crime and Policing Act 2014 – Section 104(3) Point of Contact	Director of Customer and Commercial Services	Such other persons as may be appointed from time to time
Data Protection – To act as the Council’s designated Data Protection Officer as required by the Data Protection Act 2018, S.69 to undertake the duties set out in Section 71 of the Data Protection Act 2018 and Article 39 of the General Data Protection Regulation (GDPR) EU 2016/679	Performance, Innovation and Commissioning Specialist (Level 3)	Such other persons as may be appointed from time to time

PART 4

RULES OF PROCEDURE

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 Chairman of Council is not present;
 - (b) elect the Chairman of Council;
 - (c) appoint the Vice Chairman of Council;
 - (d) approve the minutes of the last meeting;
 - (e) receive any announcements from the Chairman and/ or Head of the Paid Service;
 - (f) elect the Leader (in the year in which the current Leader's term of office expires);
 - (g) receive a report from the Leader on the Members to be appointed to the Cabinet and their portfolios;
 - (h) receive a report from the Leader of the Opposition Group on the Members to be appointed to the Shadow Cabinet and their portfolio holders;
 - (i) appoint at least one Overview and Scrutiny committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions as set out in Part 3, Table 1 of this Constitution;
 - (j) agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree as set out in Part 3 Table 3 of this Constitution);
 - (k) approve a programme of ordinary meetings of the Council for the forthcoming municipal year;
 - (l) consider any business set out in the notice convening the meeting; and
- receive any declarations of interest from Members.

1.2 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the Council meeting will:

- (a) decide which committees to establish for the municipal year;
- (b) decide the size and terms of reference for those committees;
- (c) decide the allocation of seats (and substitute seats) to political groups in accordance with the political balance rules;
- (d) receive nominations of councillors to serve on each committee and outside body; and
- (e) appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

1.3 Appointment of Committee and Sub-Committee Chairmen and Vice Chairmen

- (a) At the annual meeting, the Council will appoint the Chairmen and Vice Chairmen of standing committees and sub-committees from among the relevant voting members.
- (b) If Council does not appoint a Chairman of a Committee or a Sub-Committee, the appropriate Committee or Sub-Committee may make the appointment at its first meeting following the annual Council meeting.
- (c) If the appointed Chairman and Vice Chairman are absent from a meeting, the Committee, or Sub-Committee, shall appoint a person to preside at that meeting from among the voting members present.

- (d) If it is necessary for the Committee or Sub-committee to appoint a person to preside, the Proper Officer shall call on a member of the committee or sub-committee to move that a voting member of the Committee or Sub-committee shall take the Chair.
- (e) If a discussion arises, the proper officer shall exercise the powers of the person presiding to regulate that discussion, and to maintain order at the meeting.
- (f) The motion, and any amendments, shall be put to the meeting in accordance with the (Constitution's arrangements for voting on appointments).

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 Chairman and Vice Chairman are not present;
- (b) approve the minutes of the last meeting;
- (c) receive any declarations of interest from Members;
- (d) receive any announcements from the Chairman, Leader, members of the Cabinet or the Head of Paid Service;
- (e) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting, in accordance with the Council's Public Participation Scheme;
- (f) deal with any business from the last Council meeting;
- (g) receive a report from the Leader on any changes made to Cabinet appointments;
- (h) at least three times a year, normally July, December and March, receive a composite report from the Cabinet and receive questions and answers on any of those reports;
- (i) with the exception of the Annual Council meeting, to receive questions for Members of the Cabinet on matters relating to their portfolio areas, and provide answers to those questions;
- (j) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (k) consider motions; and
- (l) consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the overview and scrutiny committees for debate.

3. EXTRAORDINARY MEETINGS

3.1 Calling extraordinary meetings.

Those listed below may request the Proper Officer to call Council meetings in addition to ordinary meetings:

- (a) the Council by resolution;
- (b) the Chairman of the Council;
- (c) the Monitoring Officer; and
- (d) any five members of the Council if they have signed a requisition presented to the Chairman of the council and he/ she has refused to call a meeting or has failed to call a meeting within seven working days of the presentation of the requisition.

4. TIME AND PLACE OF MEETINGS

4.1* The time and place of meetings will be determined by the Legal, Governance and Democracy Specialist (Monitoring Officer) and notified in the summons.

4.2* If an evening meeting this will be set at 6.30 p.m. to 9.30 p.m. except for the annual meeting which will commence at 5.30 p.m.

5. NOTICE OF AND SUMMONS TO MEETINGS

The Legal, Governance and Democracy Lead Specialist (Monitoring Officer) 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 days before a meeting, the Director of Policy and Resources (Monitoring Officer) will send a summons signed by him or her by post, including email if appropriate, to every member of the Council or leave it at their usual place of residence. 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. CHAIRMAN OF THE MEETING

6.1 Election of Chairman of the Council

(a) The Chairman of the Council shall be elected from among the councillors as the first business transacted at the Annual Council Meeting.

(b) Where the Chairman of the Council is retiring, he/she should preside over the election of his/her successor.

(c) Where it is expected that he/she is to continue for a second year, the Chairman should leave the room for the duration of the election and the Vice-Chairman should preside in their absence unless they are also to be nominated for election when the Vice-Chairman should also leave the room.

(d) Where both the Chairman and Vice-Chairman are absent from the meeting, another Member of the Council (who is not a Member of the Cabinet) must be chosen by the Members of the Council present to preside over the item of election of Chairman.

6.2* Chairing Meetings

The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to committee and sub-committee meetings, references to the Chairman also include the Chairman of committees and sub-committees.

7.* QUORUM

Unless otherwise specified in the Terms of Reference, the quorum of a meeting will be one quarter of the whole number of Members. If no quorum is present 15 minutes after the start time of a committee or sub-committee meeting, or if during the course of any meeting if the Chairman 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 Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

8.* DURATION OF EVENING MEETINGS

Unless the majority of Members present vote for the meeting to continue, any evening meeting that has lasted for 3 hours will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next meeting.

9. QUESTIONS BY THE PUBLIC

9.1 General

Members of the public may ask questions of the Council and Cabinet Members at ordinary meetings of the Council, and may present petitions and deputations (see the appendices to this Part).

9.2 Order of questions

Questions will be asked in the order they were received, except that the Chairman may group together similar questions.

9.3 Submitting questions

A question may only be asked if it has been delivered in writing or by electronic mail to the Committee Services Team before the commencement of the meeting. Where the meeting is being held outside normal office hours, this should be by 5.00 p.m. on the day of the meeting.

Each question must give the name and address of the questioner and must name the Councillor to whom it is to be put.

9.4 Number of questions

At any meeting only one question can be asked by any person or organisation.

9.5 Scope of questions

The Legal, Governance and Democracy Lead Specialist (Monitoring Officer) may reject a question if it:

- is not about a matter for which the local authority has a responsibility or which affects the district;
- 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 whether or not it has been put by the same person or organisation; or
- requires the disclosure of confidential or exempt information.

Should the Monitoring Officer decide to reject a question, the person or organisation who has submitted should be given the reason why the question has been rejected.

9.6 Record of questions

The Legal, Governance and Democracy Lead Specialist (Monitoring Officer) will send a copy of the question to the relevant Member.

Where practicable to do so, copies of all questions will be circulated to all Members and will be made available to the public attending the meeting.

9.7 Asking the question at the meeting

The Chairman will invite the questioner to put the question to the Member to whom the question is directed.

If a questioner who has submitted a written question is unable to be present, they may ask the Chairman to put the question on their behalf. The Chairman 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.

9.8 Supplemental question

A questioner who has put a question in person may also ask one supplementary question to the Member who has replied to it without needing to give advance notice of this intention. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 9.5 above.

9.9 Written answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to have been put, will be dealt with by a written answer.

9.10 Reference of question to the Cabinet or a committee

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

10. QUESTIONS BY MEMBERS

10.1 On the composite report of the Cabinet

A composite report of the Cabinet will be presented, on a quarterly basis, to ordinary meetings of the Council, excluding the Annual Meeting and Extraordinary Meetings. Members may put questions on the content of the composite report to appropriate Cabinet Members.

10.2 Cabinet Question Time

A period of 30 minutes will be allocated at each ordinary meeting of the Council, excluding the Annual Meeting and Extraordinary Meetings, during which Members may ask questions of the Executive on any topic that is within the jurisdiction or reasonable influence of the Council and is relevant to the Leader or the Portfolio Holder's area of responsibility in accordance with the procedure set out in Rule 10.3.

As set out in paragraph 2(h) above, at least three times a year Council will be asked to consider a composite report of the Cabinet. This will form part of the Cabinet Question Time agenda item with a combined time period of up to a maximum of one hour being allocated.

10.3 Procedure for putting Questions during Cabinet Question Time (Rule 10.2)

The following procedure will be followed for putting questions during Cabinet Question Time:-

- Questions which are submitted in writing will be taken first.
- Written questions should be submitted in writing to the Legal, Governance and Democracy Lead Specialist (Monitoring Officer) with at least 24 hours prior to the date of the relevant Council meeting.
- The Leader and/or the Leader or Portfolio Holder will be notified as soon as possible of the receipt of a written question.
- Written questions will be taken in the alphabetical order of the name of the Member putting the questions. This will be alternated from meeting to meeting.
- Where a Member submits more than one question for a meeting, he/she will be able to ask his/her first question in accordance with the alphabetical order of receipt. His/her subsequent question(s) will be taken after all other Members have asked their first or sole questions. If more than one Member falls into this category then the subsequent questions will be asked alternatively until all questions have been asked or the 30 minute period has expired.
- In the event that it is not possible to ask a written question due to lack of time, the Leader or relevant Portfolio Holder will provide a written answer to the question following the meeting. This will also be circulated to all Members.
- Once all written questions have been dealt with, and subject to time remaining within the 30 minute period, Members will be able to put questions from the floor to appropriate Portfolio Holders present in the room, provided that they comply with the criteria in paragraph 10.2 above. If more than one such question is asked the procedure set out in Rule 10.2(a) shall apply.
- Once a response has been given to the question, the Member who asked the question 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.

10.4 Response

An answer to either a written question, supplementary question or oral question put during Cabinet Question Time may take the form of:

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

10.5 On reports of a committee

A Member of the Council may ask the Chairman of a committee any question without prior notice about an item of the report of a committee when that item is being received or under consideration by the Council.

10.6 Questions on notice at full Council

Subject to Rule 10.8, a Member of the Council may ask the Chairman of the Council or the Chairman of any committee or sub-committee a question on any matter in relation to which the Council has powers or duties or which affects the area.

10.7 Questions on notice at committees and sub-committees

Subject to Rule 10.8, a member of a committee or sub-committee may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affect the area and which falls within the terms of reference of that committee or sub-committee

10.8 Notice of questions

A Member may only ask a question under Rule 10.6 or 10.7 if either:

- (a) they have given at least one working day's notice in writing of the question to the Legal, Governance and Democracy Lead Specialist (Monitoring Officer); or
- (b) the question relates to urgent matters, they have the consent of the Chairman to whom the question is to be put and the content of the question is given to the Legal, Governance and Democracy Lead Specialist (Monitoring Officer) by 10.00 a.m. on the day of the meeting.

10.9 Response

An answer to a question put under Rules 10.5, 10.6 or 10.7 shall take any of the forms set out in Rule 10.4.

10.10 Supplementary question

A member asking a question under Rules 10.5, 10.6 or 10.7, may either make a response to the question, or may ask one supplementary question without notice to the Member to whom the first question was asked. The response or supplemental question must arise directly out of the original question or the reply.

10.11 Length of Questions/Responses

Each question and each response under this Rule 10 shall be restricted to three minutes.

11. MOTIONS ON NOTICE

11.1* Notice

Except for motions which can be moved without notice under Rule 12, and notice of a motion to remove the Leader as set out in 11.2 below, written notice of every motion, signed by at least one Member, must be delivered to the Legal, Governance and Democracy Lead Specialist (Monitoring Officer) at least 8 clear working days before the date of the meeting. All Notices of Motion will be displayed on the Council's website. Motions under 11.1 will be accepted electronically provided they include an electronic signature and are submitted from a Member's dedicated email address to the Legal, Governance and Democracy Lead Specialist (Monitoring Officer) within the deadline above.

11.2 Notice to Remove the Leader

Written notice, signed by three Councillors calling for the removal of the Leader and the appointment of another named Councillor as Leader, must be delivered to the Legal, Governance and Democracy Lead Specialist (Monitoring Officer) at least 8 clear working days before the date of the meeting. Receipt of Notices to Remove the Leader will be displayed on the Council's website.

11.3* Motion set out in agenda

Where Notice of Motion have been submitted as above, it will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that he/she proposes to move it to a later meeting or withdraw it.

11.4* Scope

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

12.* MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee or Member arising from an item on the summons for the meeting;
- (f) to receive reports or adopt recommendations of committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular Council procedure rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a Member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4;
- (p) to give the consent of the Council where its consent is required by this Constitution; and
- (q) an emergency motion, the need for which could not have been foreseen, subject to the agreement of the Chairman of the Council, Political Group Leaders and Monitoring Officer.

13. RULES OF DEBATE

13.1* 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.

13.2* Right to require motion in writing

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

13.3* Seconders' speech

When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

13.4* Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the Chairman.

13.5* 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 he/ she last spoke;
- (c) if his/ her first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he/ she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

13.6* Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and will 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 of.
- (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 Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

13.7* Alteration of motion

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

13.8* Withdrawal of motion

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

13.9* Right of reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (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 has no right of reply to the debate on his or her amendment, except in the case of an amendment to the budget report made at the budget Council meeting.

13.10* 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 20.3 or to exclude them from the meeting under Rule 20.4.

13.11* 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 next business is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

(c) If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/ she will put the procedural motion to the vote. If it is passed he/ she will give the mover of the original motion a right of reply before putting his/ her motion to the vote.

(d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/ she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

13.12* Point of order

A Member may raise a point of order at any time. The Chairman 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 indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Chairman on the matter will be final.

13.13* 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. The ruling of the Chairman on the admissibility of a personal explanation will be final.

14. PREVIOUS DECISIONS AND MOTIONS

14.1* Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least six Members.

14.2* 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 unless the notice of motion or amendment is signed by at least six Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

15. VOTING

15.1* Majority

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

15.2* Chairman's casting vote

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

15.3* Show of hands

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

15.4* Ballots

The vote will take place by ballot if eight members present at the meeting demand it. The Chairman will announce the numerical result of the ballot immediately the result is known.

15.5* Recorded vote

If eight Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

15.6 Automatic recorded vote for budget decision meetings

Immediately after any vote is taken at a budget decision meeting of the Council, there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting. "Budget decision" under 15.6 means a meeting of the Council at which it:-

(a) makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992; or

(b) issues a precept under Chapter 4 of Part 1 of that Act, and includes a meeting where making the calculation or issuing the precept as the case may be was included as an item of business on the agenda for that meeting.

References to a vote are references to a vote on any decision related to the making of the calculation or the issuing of the precept as the case may be.

15.7* Right to require individual vote to be recorded (This rule cannot be suspended)

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.

15.8* Voting on appointments

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

16. MINUTES

16.1* Signing the minutes

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

16.2 No requirement to sign minutes of previous meeting at extraordinary meeting (This rule cannot be suspended)

Where the next meeting for the purpose of signing the minutes is an Extraordinary meeting (called under paragraph 3 of schedule 12 to the Local Government Act 1972), then the next following ordinary meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for signing of minutes.

17.* RECORD OF ATTENDANCE

The Legal, Governance and Democracy Lead Specialist (Monitoring Officer) will keep a record of attendance at every meeting.

18.* EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 21 (Disturbance by Public).

19. MEMBERS' CONDUCT

19.1 DISCLOSABLE PECUNIARY INTERESTS

19.1a* Declaration of Disclosable Pecuniary Interests

(a) A Member who has declared a disclosable pecuniary interest, as required by the Council's Code of Conduct, in the District Councillors' Register of Disclosable and Other Interests and the meeting is to consider, or is considering, a matter which relates to that interest should declare that they have such an interest to the meeting and leave the room without taking part in the debate or determination of the matter.

(b) If an interest has not been entered into the Register and the Member is attending a meeting where they find that they have a disclosable interest in a matter under consideration, then the Member must disclose the interest to the meeting and leave the room without taking part in the debate or determination of the matter.

(c) Where the Member has a sensitive interest as described by the Localism Act 2011, they need not declare the full nature of the interest as in (a) and (b) above when making their declaration at the meeting

19.1b* Circumstances in which a Member with a disclosable pecuniary interest can remain in the meeting

If a dispensation has been granted to a Member in relation to a disclosable pecuniary interest then, subject to the terms of the dispensation, the Member may be relieved from the above restrictions but will still be required to declare the interest to the meeting.

19.2 Standing to speak

When a Member speaks at full Council they must normally stand and address the meeting through the Chairman. If more than one Member stands, the Chairman will ask one to speak and the other(s) 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.

19.3* Chairman standing

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

19.4* Member not to be heard further

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

19.5* Member to leave the meeting

If the Member continues to behave improperly after such a motion is carried, the Chairman 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.

19.6* General disturbance

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

19.7* Mobile Telephones

Councillors attending meetings must either switch off mobile phones or put them on silent during meetings.

20. DISTURBANCE BY PUBLIC

20.1* Removal of member of the public

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

20.2* Clearance of part of meeting room

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

21. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

21.1* Suspension

All of these Council Rules of Procedure, except Rules 15.7 (Right to require individual vote to be recorded) and 16.2 (No requirement to sign minutes of previous meeting at extraordinary meeting), 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.

21.2* 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.

22. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

22.1* All of the Council Rules of Procedure apply to meetings of full Council. None of the rules apply to meetings of the Cabinet. Subject to Rule 22.2 and 6.1, only Rules 4, 6-8, 11.1, 11.3-16.1, 17-19.1, 19.3-21.2, apply to meetings of committees and sub-committees (These are shown with an asterisk next to their number).

22.2 In the case of Lake Administration Committee the quorum of a meeting will be one quarter of the whole membership of that Committee comprising Council Members and Co-opted Members and of those persons present the Members of the Council shall be in the majority.

SOUTH LAKELAND DISTRICT COUNCIL

PUBLIC PARTICIPATION GUIDELINES

GENERAL PUBLIC PARTICIPATION SCHEME

(a) As part of its commitment to community governance and openness, South Lakeland District Council welcomes and encourages attendance and contributions by the public at its meetings. This is known as public participation. Information on when the Council, its Committees and the Cabinet meets can be found on the Council's website www.southlakeland.gov.uk or by contacting the Committee Services Group.

(b) Some meetings, e.g. Planning Committee and Licensing Sub-Committees have separate procedures for public speaking. The General Public Participation Scheme applies to the following meetings –

- (i) Council (except the Annual Council meeting);
- (ii) Cabinet;
- (iii) Lake Administration Committee;
- (iv) Licensing Regulatory Committee;
- (v) Licensing Act Committee; and
- (vi) Overview and Scrutiny Committee

(c) Where there is no specific agenda item for public participation, any requests to speak are at the discretion of the Chairman.

(d) In addition, any part of a meeting where it has been decided that the press and public should be excluded means that public participation cannot be included in the business.

(e) Members of the public can make representations, put a question or present a petition to a meeting. (Petitioners should read the Council's Petition Scheme.) However, it should be noted that public participants are not subject to the privilege rule and, therefore, individuals who take part should have regard to the laws governing defamation, libel and slander.

(f) Public Participation is open to the following people:

- a resident and/or elector of South Lakeland District;
- a representative of a South Lakeland District based group or organisation;
- a representative of a town or parish council within South Lakeland District;
- a business ratepayer of South Lakeland District; or
- anyone else, subject to the discretion of the Chairman.

(g) Representations must relate to those issues which are the responsibility of the meeting to which they are to be made. For advice on this please contact the Committee Services Group.

(h) Representations are not permitted where the issue relates to the circumstances of an individual, matters covered by legal or other proceedings or about a member of staff.

(i) A period of 30 minutes is allotted at the start of each meeting to hear representations, but this can be extended at the discretion of the Chairman in situations where there is a clear public interest in participation.

(j) Anyone wishing to make representations should contact the Committee Services Group no later than 00:01 (one minute past midnight) two working days before the meeting. Generally, Speakers will be taken in the order that their requests to speak have been received with priority being given to requests in writing.

(k) Requests should include name, address and contact telephone number and indicate if a question, petition or representation is being made.

(l) The Council's Monitoring Officer reserves the right to omit or refuse a request which includes any matter which appears to be defamatory, frivolous, offensive or for any other legitimate reason. In these cases, where time permits, the person concerned will be informed in writing of the reason for omission or refusal.

(m) The Chairman has discretion to vary the time limits for speaking but generally, speakers are allowed up to three minutes to put their case. In order to speak on behalf of a group, you must provide the names of all those on whose behalf you will be speaking. Those speaking on behalf of a group may have up to five minutes in which to make representations. This does not apply where the other individual is one of the following:

- a family member
- a partner
- a business associate
- a member of the same organisation

The Chairman may refuse an individual's application to speak if it becomes clear that they would be doubly represented at the meeting.

Committee Services will acknowledge all requests to speak within two working days of receipt of that request. If your request is received outside of the Council's office hours, the date of receipt will be taken as the next working day. If you do not receive an acknowledgement either within this time frame or before the meeting if sooner, please call Committee Services who will be pleased to help.

(n) Responses to representations are at the discretion of the Chairman and may (but not necessarily) take one of the following forms:

- the Chairman or officers may answer any questions raised;
- the issue may be discussed by Members under an agenda item;
- the meeting can resolve that the matter should be referred to the appropriate Committee; or
- the Chairman may decide that a written response is more appropriate. In this case, a written response will be given within 7 working days of the meeting.

(o) A person who has spoken at one of the Council's meetings (e.g. Council, Cabinet, a committee or sub-committee meeting), may not speak for a period of six months on the same matter, or a related issue, at any subsequent meetings of the Council, Cabinet, committee or sub-committee, without the consent of the Chairman.

(p) Any disruptive behaviour may result in the Chairman adjourning the meeting and/or the individual concerned being asked to leave.

(q) The use of Social Media, filming, videoing, photographing or recording of Council meetings or other meetings which are open to the public is allowed, subject to the conditions of the Protocol governing the use of mobile phones, social media, filming and recording at meetings attached to the public participation guidelines in the Constitution.

(r) The use of social media in formal meetings is permitted for members of the public, press and Councillors, so long as this does not cause any disruption or disturbance. The Chairman's decision on whether a disruption or disturbance is being caused is final.

(s) To minimise disruption to others attending the meeting, all attendees including Councillors must ensure that their phone or other mobile devices are switched off or set to silent mode during the meeting.

(t) All current Members of South Lakeland District Council and Co-optees on Overview and Scrutiny Committee and Lake Administration Committee have been granted a dispensation in circumstances when they have a Disclosable Pecuniary Interest in relation to an agenda item, to make representations under the General Public Participation Scheme. Such dispensation does not apply to the remainder of the agenda item and upon completing his/her address the member will be required to leave the chamber for the remainder of the agenda item.

(u) A Member or Co-Opted Member who due to private or ward activities has to declare bias and pre-determination in relation to an agenda item may utilise the General Public Participation Scheme

and speak on such an agenda item subject to the requirement that upon completing his/her address the member will be required to leave the chamber for the remainder of the agenda item.

(v) Members utilising the general public participation scheme should indicate in what capacity they are speaking when addressing any meeting on which they are not a member.

(w) At any meeting of the Overview and Scrutiny Committee held to consider the call-in of an executive decision, all representations and questions must relate to the reasons for the call-in and must not address the wider context or original decision. For advice on this please contact Committee Services or the Monitoring Officer. Public participation at such meetings will be taken following the initial presentation by those calling-in the decision and the response from the decision-maker, and prior to the Committee's debate. Petitions may not be submitted to meetings of the Overview and Scrutiny Committee held to consider a call-in.

Planning Committee agenda papers are normally published on the Council's Website five working days before the relevant meeting. The papers include a report, together with a recommendation, from officers on each of the planning applications to be considered by the Committee.

Please see the General Public Participation Scheme for public speaking guidelines on agenda items that are not related to a specific planning application or enforcement item.

PUBLIC PARTICIPATION AT PLANNING COMMITTEE REGARDING SPECIFIC PLANNING APPLICATIONS OR ENFORCEMENT AGENDA ITEMS

Who can speak regarding a specific planning application or enforcement agenda item at a meeting of the Planning Committee?

You can speak at Planning Committee if you are:-

- An elected Ward Member
- An elected Member of South Lakeland District Council, including Co-optees on Overview & Scrutiny Committee (see more information on this point below).
- A Parish/Town Councillor representing the views of your Parish/Town Council
- An objector to a planning application
- A supporter to a planning application

Elected Members utilising public participation should indicate in which capacity they are speaking, e.g. to confirm whether on behalf of a ward or specific community.

All current Members of the Council, including Co-optees on Overview and Scrutiny Committee, have been granted a dispensation in circumstances in which they have a Disclosable Pecuniary Interest in relation to an agenda item, to make representations under this public participation scheme. Upon completing his/her address, the Member will be required to leave the chamber for the remainder of the agenda item as the dispensation does not apply to the remainder of the agenda item. Such members must register to speak before the meeting in the same way as a member of the public.

All current Members of the Council (including Co-opted members) who, due to private or ward activities, has to declare bias and pre-determination in relation to an agenda item may utilise this Public Participation Scheme and speak on such an agenda item. Such members must register to speak before the meeting in the same way as a member of the public. Upon completing his/her address the member will be required to leave the chamber for the remainder of the agenda item.

How do I register to speak?

You must give notice of your wish to speak by contacting the Committee Services team either by email at committeeservices@southlakeland.gov.uk or by telephone on 01539 733333 no later than 0.01am (1 minute past midnight), two working days before the date of the Planning Committee. Planning Committee usually takes place on a Thursday so you will usually be required to register by no later than 0.01am on the Tuesday before that meeting.

You will need to provide:-

- Your name
- Your address
- A contact phone number and an email address
- The planning application or agenda item number of the item to which you wish to speak.

Committee Services will acknowledge all requests to speak within two working days of receipt of that request. If your request is received outside of the Council's office hours, the date of receipt will be taken as the next working day. If you do not receive an acknowledgement either within this time frame or before the Planning Committee if sooner, please call Committee Services who will be pleased to help.

Anyone who has registered to speak on a specific planning application or enforcement agenda item should try to arrive at least 15 minutes before the start of the meeting.

How long can I speak for?

Three minutes.

You will be given a reminder shortly before your allocated time comes to an end. In order to ensure fairness to all parties, you will not be allowed to speak beyond your allocated time.

Can I speak on behalf of a group?

Yes. In order to speak on behalf of a group of people, you must provide the names of all those on whose behalf you will be speaking. Those addressing the Committee on behalf of a group may have up to 5 minutes in which to make representations. Any organisation that is a legal entity such as a school, parish council, or company will be treated as an individual and not as a group. They will, therefore, be given three minutes in which to address the committee.

The Chairman may refuse an individual's application to speak if it becomes clear that they would be doubly represented at the meeting.

What can I say?

Any presentation must be limited to planning considerations.

The planning system operates to regulate the use of land in the public interest and not to protect private interests. The three possible decisions that the Planning Committee can take with regard to planning applications are to approve, refuse or defer.

By law, decisions must be based upon planning considerations, namely:-

- Development Plan policies of the Council (South Lakeland Land Allocations Development Plan Documents, Core Strategy and Local Plan);
- The National Planning Policy Framework and other national government planning guidance; and
- Other material considerations which must be related to planning such as:-
 - loss of privacy
 - overlooking
 - highway impacts (safety, traffic, parking)
 - noise and disturbance
 - design, scale and appearance of the proposed development
 - flooding
 - effect on conservation areas/listed buildings, wildlife, trees

Decisions cannot, however, be based upon personal issues such as:-

- loss of private views
- business competition
- noise or disturbance during development phase
- boundary disputes
- impact on property values
- impact of private rights
- private covenants and other property matters
- personal comments e.g. the motive of the applicant

Please do not make statements of a personal or slanderous nature, be abusive or interrupt other speakers, or the Committee, during their debate. If you fail to abide by this requirement, you will not be permitted to address the Committee any further and will be required to leave the Chamber.

If you are unsure that what you want to say is a planning consideration please contact the Planning Officer on 01539 73333 and a member of staff will be able to advise you.

If I am unable to attend can someone speak on my behalf?

If, due to unforeseen circumstances, you are unable to attend or address the Committee then you may appoint someone to speak on your behalf, subject to the approval of the Chairman of the Planning Committee and the relevant authority being provided to the representative.

Please note: an agenda item will not be deferred if someone who has registered to speak fails to arrive in time for the item to be considered.

What will happen at the meeting?

Requests to speak at Planning Committee are usually taken in the order of the related planning application as it appears on the printed Agenda. However, this order can be varied at the discretion of the Chairman.

The Chairman will introduce the application and the Planning Officer will provide a brief overview of the item. The speakers will then be invited to address the Committee in the following order:-

- Objectors
- Supporters
- Parish/Town Councillor
- Ward Member/Elected Member of Council
- Applicant/agent/developer

The Planning Officer will then, if necessary, provide a more detailed report on the planning application/enforcement item before it is debated by the Committee.

Where a speaker is not present in the room when it is their time to speak they may lose their right to speak on the application.

Can I circulate documents or photographs at the meeting?

Speakers cannot distribute photographs, plans or similar additional material at the meeting. However, if you wish to submit such material, you should contact the relevant Planning Officer by 5pm two working days prior to the meeting and this can instead be included in the Late Representations report provided at the meeting to the Committee. Anything submitted after this time will not be considered by the Planning Committee.

Can I ask the Committee a question? Will I be asked questions by the Committee?

Speakers cannot ask Committee Members, Officers or other speakers questions during the meeting and Committee Members and Officers are not permitted to cross-examine speakers. However, if clarification is needed speakers may be asked questions by the Chairman, or with the permission of the Chairman, a member of the Committee.

What if an item is deferred by Committee or referred back to Committee by officers?

Where an application or enforcement item is deferred (e.g. for a site visit by the Committee) or is referred back to Committee by officers, any person, or group, who has already spoken will not be permitted to speak when the matter comes back to the Committee other than on any new information. The relevant Planning Officer can provide clarification on this point.

Can I film the meeting?

The use of social media, filming, videoing, photographing or recording of Council meetings or other meetings which are open to the public is allowed, subject to the conditions of the protocol governing the use of mobile phones, social media, filming and recording at meetings attached to the public participation guidelines in the Constitution.

The use of social media in formal meetings is permitted for members of the public, press and Councillors, so long as this does not cause any disruption or disturbance. The Chairman's decision on this point is final.

To minimise disruption to others attending the meeting, all attendees, including Councillors, must ensure that their phone and other mobile devices are switched off or set to silent mode during the meeting.

PUBLIC PARTICIPATION AT LICENSING SUB-COMMITTEES REGARDING SPECIFIC LICENSING APPLICATIONS

Licensing Hearings

1. In general, the applicant for a licence will be allowed to speak at a hearing in line with the agreed protocol for hearings. (Details of the procedure are available to view on the Council's website or by contacting the Public Health and Licensing Manager). In addition, responsible authorities or "other persons" who make valid representations within the consultation period (28 days for a premises licence) will also be allowed to speak to outline their representation or objection to the application. "Other persons" must give five working days' notice to the Licensing Manager before the hearing in question if they intend to speak at a hearing. "Other persons" may be represented if they so wish but must inform the Public Health and Licensing Manager in writing if they wish someone else to speak on their behalf. Five working days' notice must be provided in writing by the applicant or other person to the Public Health and Licensing Manager pursuant to The Licensing Act 2003 (Hearings) Regulations 2005.

"Other persons" includes any individual, body or business entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises. In addition, these persons may themselves seek a review of a premises licence. Any representations made by these persons must be 'relevant', in that the representation relates to one or more of the licensing objectives. It must also not be considered by the licensing authority to be frivolous or vexatious. In the case of applications for reviews, there is an additional requirement that the grounds for the review should not be considered by the licensing authority to be repetitious.

2. Any of these individuals or groups may specifically request a representative to make his, her or its representation on his, her or its behalf e.g. A legal representative, a friend, a Member of Parliament, a local ward Councillor, could act in such a capacity.

3. However, a local ward Councillor who was also a Member of the Licensing Committee and who is making a representation on behalf of the other person would be expected not to take part or have any involvement with the decision-making process.

4. "Responsible authorities" include public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premise licence.

5. All representations made by responsible authorities are relevant representations if they concern the effect of the application on the licensing objectives. For all premises, these include the South Lakeland District Council Licensing Department, the Strategic Health Authority, the Chief Officer of Police, the local Fire Authority, the local enforcement agency for the Health and Safety at Work Act 1974, the local authority with responsibility for environmental health, the local planning authority, any body that represents those who are responsible for, or interest in, matters relating to the protection of children from harm and is recognised by the licensing authority as being competent to advise it on such matters and the local trading standards authority.

6. The use of Social Media, filming, videoing, photographing or recording of Council meetings or other meetings which are open to the public is allowed, subject to the conditions of the Protocol governing the use of mobile phones, social media, filming and recording at meetings attached to the public participation guidelines in the Constitution.

7. The use of social media in formal meetings is permitted for members of the public, press and Councillors, so long as this does not cause any disruption or disturbance. The Chairman's decision on this point is final.

8. To minimise disruption to others attending the meeting, all attendees including Councillors must ensure that their phone or other mobile devices are switched off or set to silent mode during the meeting.

Procedures for Hearings in relation to Licensing applications can be viewed on the Council's website or obtained from the Public Health and Licensing Manager.

Note - There is no public participation at Licensing Regulatory Sub-Committee meetings which are hearing taxi and private hire vehicles, and applications made under the Gambling Act 2005.

Annex

USE OF MOBILE PHONES, SOCIAL MEDIA, FILMING AND RECORDING AT MEETINGS

1. Introduction

1.1 This protocol provides guidance to members of the public, press and Councillors on the use of mobile phones, social media and on filming and recording at all formal meetings of South Lakeland Council (including Cabinet, Committees and Sub-Committees).

1.2 Social media refers to the use of web-based technologies to share information and to interact with online communities, e.g. blogs, Twitter, Facebook.

2. General

2.1 It is important that Councillors who are members of the meeting can concentrate fully on proceedings and these Councillors must not be distracted by any filming and recording.

2.2 The Chairman's decision on whether or not the meeting is being disrupted or disturbed is final. If that is the Chairman's decision they have the authority to require the cessation of the use of social media or filming.

2.3 Whilst no prior permission is required, as a courtesy anyone proposing to film, record or take photographs during a meeting is requested to tell the Committee Services Team before the start of the meeting and to provide their name and contact details.

2.4 The Council expects those recording the proceedings:-

- Not to edit the film/ recording/ photographs in a way that could lead to misinterpretation or misrepresentation of the proceedings. This includes refraining from editing an image or views expressed in a way that may ridicule or show a lack of respect towards those being photographed/ recorded or filmed;
- To comply with any request of a member of the public not to be filmed, recorded or photographed;
- Not to provide an oral commentary during the meeting as this could be disruptive; and
- Not to use flash photography.

2.5 If intending to bring large equipment or wishing to discuss any special requirements, please contact the Committee Services Team in advance of the meeting in order, where possible, for any necessary arrangements or adjustments to be made. The Chairman may direct that audio/ visual recording or photography must only take place from a specific location in the meeting room - normally from the public gallery area.

2.6 The Chairman will, at the beginning of the relevant meeting, make an announcement that the meeting will be filmed, recorded or photographed and will ask if anyone objects to this.

3. Filming, Videoing, Photography and Recording of Meetings

3.1 The filming, videoing, photographing or recording of Council meetings or other meetings which are open to the public is allowed, providing it does not disturb the conduct of the meeting.

3.2 The Chairman of the meeting will have the power to rescind this permission if it is disruptive or distracting to the good order and conduct of the meeting, for example through flash photography or intrusive camera equipment.

3.3 All those filming a meeting are requested to only focus on recording councillors, officers and the public who are directly involved in the conduct of the meeting.

3.4 If a meeting passes a motion to exclude the press and public then, in conjunction with this, all rights to film, video photograph or record the meeting are removed.

3.5 The Council cannot accept liability for any equipment that may be lost, stolen or damaged at its public meetings.

4. Filming Members of the Public

4.1 In the case of members of the public speaking at meetings (at Planning Committee, for example) the Chairman will ask each individual to give their express permission to being filmed and they will not be filmed if they actively object.

5. Use of Mobile Devices and Social Media

5.1 To minimise disruption to others attending the meeting, all attendees including Councillors must ensure that their phone or other mobile devices are switched off or set to silent mode during the meeting.

5.2 The use of social media in formal meetings is permitted for members of the public, press and Councillors, so long as this does not cause any disruption or disturbance. The Chairman's decision on this point is final.

5.3 No Councillor in attendance, whether a decision-maker or observer, is permitted to use social media or mobile devices during a private session (when the press and the public are excluded), or to disclose in any way the content of the items under discussion.

5.4 The Members' Code of Conduct will apply when using social media. Inappropriate comments made during a meeting could open Councillors to potential complaints or investigation under the Code of Conduct.

6. Legal Responsibility

6.1 Recording and reporting the Council's meetings is subject to the law and it is the responsibility of those doing the recording and reporting to ensure compliance. This will include the Human Rights Act, the Data Protection Act and the laws of libel and defamation.

7. Useful contacts

Members of the public - the Committee Services Team on 01539 793187 or email committeeservices@southlakeland.gov.uk

Members of the press - the Communications and Customer Services Manager on 01539 793304 or email communications@southlakeland.gov.uk

APPENDIX 2

PETITIONS SCHEME

The petitions process allows members of the public to have direct influence on the political process and to raise concerns that are important to them. A petition is defined as a communication in writing or using an electronic facility which is signed by the appropriate number of qualifying persons.

1. Types of petitions

Essentially there are three types of petitions:

“Ordinary” petitions

These must be signed by at least 30 people but the Authority will use its discretion where there are fewer than 30 signatories in cases where there is clear local support for action (e.g. where all the residents of an isolated community have petitioned for action on an issue of local concern).

Petitions requiring debate

Petitions which contain 1,000 signatures or more will be debated by the Full Council. (see section 6 for more information)

Petitions to hold a Senior Council Officer to account

Petitions which call for evidence from a Senior Council Officer and have at least 500 signatures will trigger that response. (see section 7 for more information)

2. What sort of issues can be the subject of a petition?

Members of the public can submit petitions on the following:

- Issues relating to the Authority’s responsibilities
- Issues which affect the District of South Lakeland or communities in the area, as long as the Authority is in a position to exercise some degree of influence.
- Anything relating to an improvement in the economic, social or environmental well-being of the District to which any of the Authority’s partners could contribute

The Authority will respond to all the petitions it receives and we will be as flexible as we can when handling your petition so that it is considered quickly and in the most appropriate way.

Before submitting a petition you should first check with your local Councillor or with the Authority so see if we are already acting on your concerns and that the District Council is the most appropriate body to receive your petition as sometimes your petition may be more appropriate for another public body such as the County Council.

All petitions sent or presented to the Authority will receive an acknowledgement within ten working days of receipt. This acknowledgement will set out what we plan to do with the petition.

Paper petitions can be sent to the Committee Services Team (contact details are available at the end of this guidance).

Petitions can also be created, signed and submitted online by following this link:-

[http://democracy.southlakeland.gov.uk/mgepetitionlistdisplay.aspx?bcr=1&\\$lo\\$=1](http://democracy.southlakeland.gov.uk/mgepetitionlistdisplay.aspx?bcr=1&lo=1)

Petitions can also be presented to a meeting of the Full Council, Cabinet, Lake Administration Committee, Licensing and Licensing Regulatory Committees or the Overview and Scrutiny Committee. The dates and times of these meetings can be found on the Council’s website www.southlakeland.gov.uk. If you would like to present your petition at a meeting, or would like your Councillor to present it on your behalf, please contact the Committee Services Team in writing (email committeeservices@southlakeland.gov.uk) at least ten working days before the meeting. If you would like to discuss this please contact the Committee Services Team and they will talk you through the process.

Who can submit a petition?

Anyone who lives, works or studies in the District of South Lakeland, including under-18s, can sign or organise a petition.

3. What are the guidelines for submitting a petition?

Petitions submitted to the Council must include:

- A clear and concise statement covering the subject of the petition. It should also state what action the petitioners wish the Council to take.
- The name, address (including postcode) and signature of any person supporting a paper petition.
- The name, address (including postcode) and email address of any person supporting an online petition.

Where a person supporting a petition does not live within South Lakeland, they must indicate whether they work or study within the District and the South Lakeland address to which this applies in order to meet the requirements set out in paragraph 2 above.

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. The contact details of the petition organiser will not be placed on the website. Petitions which do not identify a petition organiser will not be accepted.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. If a petition does not follow the guidelines set out above, the Authority may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

4. What will the Council do when it receives my petition?

An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.

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. If the petition has enough signatures to trigger a Full Council debate, or a senior officer giving evidence, then the acknowledgement will confirm this and tell you when and where the meeting will take place. 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 (e.g. requesting a referendum on having an elected mayor), or on a matter where there is already a right of appeal, such as Council Tax banding and non-domestic rates, other procedures apply. Further information on all these procedures and how you can express your views is available on the Council's website.

We will not take action on any petition which we consider to be vexatious (annoying), abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgment of the petition.

To ensure that people know what we are doing in response to the petitions we receive, the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (personal details will be removed). ***When you sign an e-petition you can elect to receive this information by email. We will not send you anything which is not relevant to the e-petition you have signed, unless you choose to receive other emails from us.***

5. How will the Council respond to petitions?

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- Taking the action requested in the petition
- Considering the petition at a Council, Cabinet or committee meeting

- Holding an inquiry into the matter
- Undertaking research into the matter
- Holding a public meeting
- Holding a consultation
- Holding a meeting with petitioners
- Referring the petition for consideration by the Council's Overview and Scrutiny Committees*
- Calling a referendum
- Writing to the petition organiser setting out our views about the request in the petition

*The Overview and Scrutiny Committee is a Committees of Councillors who are responsible for scrutinising the work of the Council – in other words, the Overview and Scrutiny Committee has the power to hold the Council's decision makers to account.

In the vast majority of cases your petition will be submitted to one of the Council's formal meetings where elected councillors will decide how to respond to the petition. These meetings will be held in public and petitioners are welcome to attend the meeting to observe the proceedings. The petition organiser will be entitled to briefly address the meeting.

Depending on the subject matter your petition will be submitted to either the Full Council, the Cabinet or the Council's Lake Administration Committee, Licensing and Licensing Regulatory Committees or Overview and Scrutiny Committee. There are two exceptions to this:

- If your petition contains more than 1,000 signatures then it must be debated by the Full Council.
- If your petition is asking for a Senior Council Officer to give evidence at a public meeting then it will be considered by one of the Council's Overview and Scrutiny Committees provided it contains at least 500 signatures.

In addition to these steps, the Authority will consider all the specific actions it can potentially take on the issues highlighted in a petition. The table below gives some examples.

Petition subject	Appropriate steps
Alcohol related crime and disorder	If your petition is about crime and disorder linked to alcohol consumption, the Council will, among other measures, consider the case for placing restrictions on public drinking in the area by establishing a designated public places order or, as a last resort, imposing an alcohol disorder zone. When an alcohol disorder zone is established the licensed premises in the area where alcohol related trouble is being caused are required to contribute to the costs of extra policing in that area. The Council's response to your petition will set out the steps we intend to take and the reasons for taking this approach.
Anti-social behaviour	As the elected representative of your local area, as social landlord and licensing authority, the Council plays a significant role in tackling anti-social behaviour. The Council, in conjunction with other partners in the South Lakeland Community Safety Partnership have set out minimum service standards for responding to issues of anti-social behaviour.

If your petition is about something over which the Authority has no direct control (e.g. the local railway or hospital) we will aim to make representations on behalf of the community to the relevant body. South Lakeland District Council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are unable to do this for any reason (e.g. if what the petition calls for conflicts with our policy), then we will set out the reasons for this to you. You can find out more information on the services for which we are responsible on our website www.southlakeland.gov.uk.

If your petition is about something that a different Council is responsible for, we will give consideration to what is the best method for responding to it. It 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.

6. Full Council Debates

If a petition contains more than 1,000 signatures it will be debated by Full Council unless it is a petition asking for a senior Council Officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of 15 minutes. Full Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant Committee. The petition organiser will receive written confirmation of the decision. This confirmation will also be published on the website.

7. Officer Evidence

Your petition may ask for a Senior Council Officer to give evidence at a public meeting about something for which the Officer is responsible as part of their job e.g. your petition may ask a Senior Council Officer to explain progress on an issue, or to explain the advice given to elected Members to enable them to make a particular decision.

If your petition contains at least 500 signatures, the relevant Senior Officer will give evidence at a public meeting of the Council's Overview and Scrutiny Committee. The list of Senior staff that can be called to give evidence is below:

- Chief Executive
- Director of Strategy, Innovation and Resources)
- Director of Customer and Commercial Services
- Section 151 Officer

You should be aware that the Overview and Scrutiny Committees may decide that it would be more appropriate for another Officer to give evidence instead of any Officer named in the petition – for instance, if the named Officer has changed jobs. Committee Members will ask the questions at this meeting, but you will be able to suggest questions to the Chair of the Committee by contacting the Legal, Governance and Democracy Lead Specialist, up to three working days before the meeting.

After the meeting the Committee will submit a report within 14 working days and this report will be considered at the next meeting of Full Council. The petition organiser will receive a copy of this report.

8. Are there any petitions which the Council cannot accept?

We believe that the vast majority of petitions we receive will be accepted but in certain circumstances petitions may not be accepted, including:-

- If the petition applies to a planning application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal or a separate complaints process
- Any petition which we consider to be vexatious, abusive or otherwise inappropriate. We will explain the reasons for this in our acknowledgement of the petition.
- Where a person or organisation (or someone on their behalf) has submitted a petition which is the same or substantially the same as one submitted within the previous 12 months

If we decide that a petition is not acceptable then we will let the petition organisers know our reasons.

9. E-petitions

The Authority welcomes e-petitions which are created and submitted through our website. All e-petitions must follow the petition guidelines set out above. If a petition organiser wishes to use an e-petition facility not administered by the Council, they must ensure that the chosen system will allow

the correct information to be provided for it to be accepted. If you are unsure please contact Committee Services.

The petition organiser will need to provide us with their name, postal address and email address. You will also need to decide how long you would like your petition to be open for signatures. Most petitions run for six months, but you can choose a shorter or longer timeframe, up to a maximum of 12 months.

When you create an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature.

If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within ten working days, a summary of the petition and the reason why it has not been accepted will be published under the “rejected petitions” section of the website.

When an e-petition has closed for signature, it will automatically be submitted to the Committee Services Team. In the same way as a paper petition, you will receive an acknowledgement within ten working days. If you would like to present your e-petition to a meeting of the Council, please contact the Committee Services Team within five days of the petition closing and at least ten working days before the relevant meeting, whichever is the earlier.

A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment and response will also be published on the Council’s website.

10. How do I “sign” an e-petition?

You can see all the e-petitions currently available for signature on the Council’s website.

When you sign an e-petition you will be asked to provide your name, postcode and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your “signature” will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

11. What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Council’s Overview and Scrutiny Committee reviews the steps that the Authority has taken in response to your petition.

The Committee will consider your request within 30 days of receiving it. Should the Committee determine we have not dealt with the petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council’s executive and arranging for the matter to be considered at a meeting of the Full Council.

Once the appeal has been considered the petition organiser will be informed of the results within five working days. The results of the review will also be published on our website.

12. Is there anything else I can do to have my say?

South Lakeland District Council recognises that petitions are just one way in which people can let us know about their concerns. There are a number of other ways in which you can have your say including asking questions at Council meetings and through the Council’s complaints system.

If you have any queries on the Petitions Scheme please contact:-

Committee Services Team
South Lakeland District Council
South Lakeland House
Lowther Street
Kendal

LA9 4UQ

Telephone 01539 733333

Email – committeeservices@southlakeland.gov.uk

ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

These rules (except 4.2 and 4.3) apply to all meetings of the Council, overview and scrutiny committees, area committees (if any), the Standards Committee and regulatory and other committees and public meetings of the Cabinet (together called meetings).

Rules 4.2 and 4.3 apply to the Cabinet, a committee of the Cabinet, a joint committee or a sub-committee of a joint committee, where all the members of the joint committee are Cabinet members, which is authorised to discharge the function to which the executive decision relates; or an area committee of the Cabinet (together called executive meetings).

2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

3. RIGHTS TO ATTEND MEETINGS

Members of the public may attend all meetings subject only to the exceptions in these rules. Please also see protocol on use of mobile phones, social media, filming and recording at meetings.

4. NOTICES OF MEETING

4.1 The Council will give at least five clear days' notice of any meeting by posting details of the meeting at South Lakeland House, Kendal, Cumbria.

4.2 Where a meeting, or part of a meeting, of the executive is to be held in private the following procedure must be followed:-

(a) The decision maker will give at least 28 days' notice of their intention to hold the meeting in private by posting a statement of the reasons for doing so at South Lakeland House, Kendal, Cumbria and on the Council's website; and

(b) At least five clear days before the date of the private meeting, they will publish a further notice stating the reasons why the meeting is being held in private, details of any representations which have been received to hold the meeting in public and a statement of the response to such representations. This notice is to be published at South Lakeland House, Kendal, Cumbria and on the Council's website.

4.3 Where it is impracticable to comply with the above requirement because of the date by which the meeting must take place, it can still be held in private subject to compliance with the following:-

(a) The Chairman of the Overview and Scrutiny Committee; or

(b) If there is no such person, or if the Chairman of the Overview and Scrutiny Committee is unable to act, the Chairman of the Council; or

(c) Where both the Chairman of the relevant Overview and Scrutiny Committee or Chairman of the Council are unavailable, the Vice Chairman of the Council has agreed that the meeting is urgent and cannot reasonably be deferred and, as soon as practicable after the agreement has been given notice to that effect, setting out the reasons why the meeting is urgent and cannot be deferred is published at South Lakeland House, Lowther Street, Kendal and on the Council's website.

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 at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection from the time the item was added to the agenda.

6. SUPPLY OF COPIES

The Council will supply, to any person on payment of a charge for postage and any other costs, copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Legal, Governance and Democracy Lead Specialist (Monitoring Officer) thinks fit, copies of any other documents supplied to Councillors in connection with an item.

7. ACCESS TO MINUTES ETC AFTER THE MEETING

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

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) 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;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

8. BACKGROUND PAPERS

8.1 List of background papers

The proper officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/ her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report;

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of Cabinet reports, the advice of a political advisor.

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.

In addition subject to rule 8.1 above, in the case of executive decisions, a copy of all background documents will be made available for inspection at South Lakeland House, Kendal, and on the Council's website at the same time as the report, or part of the report, is available for public inspection.

9. SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents is kept at and made available to the public at the Council's main offices.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential information - requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

10.2 Exempt information - discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.3 Meaning of confidential information

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

10.4 Meaning of exempt information

Exempt information means information falling within the following categories (subject to any condition):

Category

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person [including the authority holding that information].
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
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.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Conditions:

Information falling within paragraph 3 above 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;
- (c) The Friendly Societies Act 1992;
- (d) The Industrial and Provident Societies Acts 1965 to 1978;
- (e) The Building Societies Act 1986; or
- (f) The Charities Act 1993.

Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

Information which:-

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

Is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Legal, Governance and Democracy Lead Specialist (Monitoring Officer) thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 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.

Where the report relates to an executive decision being made, notice of the fact that the decision will be taken in private will be advertised in accordance with rule 4.2 above.

12. APPLICATION OF RULES TO THE CABINET

Rules 13 - 24 apply to the Cabinet and its committees. If the Cabinet or its committees meet to take a key decision then it must also comply with Rules 1 - 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 13.03 of this Constitution.

If the Cabinet or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the Key Decision Notice by which it is to be decided, then it must also comply with Rules 1 - 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 13.03 of this Constitution. This requirement does not include meetings, whose sole purpose is for officers to brief members.

13. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

- (a) a notice (called a Key Decision Notice) has been published in connection with the matter in question;
- (b) at least 28 clear days have elapsed since the publication of the Key Decision Notice; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings) and Rule 8 re background documents.

14. THE KEY DECISION NOTICE (FORWARD PLAN)

14.1 Period of Key Decision Notice

Key Decision Notices will generally be prepared on a monthly basis.

14.2 Contents of the Key Decision Notice

The Key Decision Notice will contain matters which the decision maker has reason to believe will be subject of a key decision to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers, area committees or under joint arrangements in the course of the discharge of an executive function. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and membership list of its members;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) a list of the documents submitted to the decision maker for consideration in relation to the matter;
- (e) subject to any prohibition or restriction on their disclosure, the address from which copies of, or extracts from, any document listed is available;
- (f) that other documents relevant to those matters may be submitted by the decision maker; and
- (g) if applicable, the procedure for requesting details of those documents as they become available.

14.3 Publication of the Key Decision Notice

Subject to General Exceptions rules and cases of special urgency, the Key Decision Notice must be published at least 28 clear days before the decision is made.

Exempt information need not be included in a Key Decision Notice and confidential information cannot be included.

15. GENERAL EXCEPTION

If a matter which is likely to be a key decision has not been included in the Key Decision Notice, then subject to Rule 16 (special urgency), the decision may still be taken if:

It is impracticable to include the intention to take a key decision in a Key Decision Notice in accordance with Rule 14 above, subject to the following -;

- (a) the Proper Officer has informed the Chairman of the Overview and Scrutiny Committee, or if there is no such person, each member of that committee by notice in writing, of the matter to which the decision is to be made and the reasons why compliance with Rule 14 is impracticable;
- (b) the Proper Officer has made copies of that notice available to the public at the offices of the Council and published it on the Council's website; and
- (c) at least five clear days have elapsed since the Proper Officer complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public unless the information is exempt.

16. SPECIAL URGENCY

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision maker (if an individual) or the chairman of the body making the decision, obtains the agreement of the chairman of a relevant overview and scrutiny committee that the taking of the decision is urgent and cannot be reasonably deferred. If there is no Chairman of a relevant Overview and Scrutiny Committee, or if the Chairman of the Overview and Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice-Chairman will suffice.

As soon as is practicable, the decision maker must publish a notice at South Lakeland House, Kendal, and on the Council's website setting out the reasons why the meeting is urgent and cannot be reasonably deferred.

17. REPORT TO COUNCIL

17.1 When the Overview and Scrutiny Committee can require a report

If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- (a) included in the Key Decision Notice; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the Overview and Scrutiny Committee Chair, or the Chairman/Vice-Chairman of the Council under Rule 16;

the committee may require the Cabinet to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the committee when so requested by the chairman or any 5 members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant overview and scrutiny committee.

17.2 Cabinet's report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to

Council will set out particulars of the decision, the individual or body making the decision, and if Cabinet is of the opinion that it was not a key decision the reasons for that opinion.

17.3 Quarterly reports on special urgency decisions

In any event the Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the particulars of each decision made and a summary of the matters in respect of which those decisions were taken.

18. RECORD OF DECISIONS

After any meeting of the Cabinet or any of its committees, whether held in public or private, the Legal, Governance and Democracy Lead Specialist (Monitoring Officer) or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include the following:-

- a record of the decision including the date it was made;
- a record of the reasons for the decision;
- details of any alternative options considered and rejected by the decision maker at the meeting at which the decision was made;
- a record of any conflict of interest relating to the matter decided which is declared by any member of the decision making body which made the decision; and
- in respect of declared interests, a note of any dispensation granted by the Head of Paid Service or Monitoring Officer/Standards Committee.

19. CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

The Cabinet will meet in public for all its decisions, except where they relate to exempt or confidential matters.

20. OFFICERS

The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees, are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet unless the Proper Officer has been given reasonable notice that a meeting is to take place.

21. EXECUTIVE DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET

21.1 Reports intended to be taken into account

Where an individual member of the Cabinet receives a report which he/she intends to take into account in making any executive, including key decisions, then he/she will not make the decision unless they comply with rule 14 above.

21.2 Provision of copies of reports to overview and scrutiny committees

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chairman of the Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

21.3 Record of individual executive decision

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet, he/ she will prepare, or instruct the proper officer to prepare, a written statement of the executive decision which includes the information specified at rule 18 above. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political adviser.

22. EXECUTIVE DECISIONS BY OFFICERS

As soon as is reasonably practicable after an officer has made an executive decision, the officer must produce a written statement which includes the information specified at rule 18 above.

23. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS

23.1 Rights to copies

Subject to Rule 23.2 below, a member of the Overview and Scrutiny Committee (including its Sub-Committees) will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to:-

- (a) any business transacted at a public or private meeting of the Cabinet or its committees; or
- (b) any decision taken by an individual member of the Cabinet or officer.

Any document requested in accordance with this rule must be provided as soon as reasonably practicable and in any case, no later than 10 clear days after the request is received.

Where it is determined that the member of the Overview and Scrutiny Committee is not entitled to a copy of a document, or part of any such document, because it does not fall within the requirements of this rule, Cabinet must provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.

23.2 Limit on rights

No Member of the Overview and Scrutiny Committee will be entitled to a copy of:

- (a) any part of a document that contains exempt or confidential information, unless:
 - the information is relevant to an action or decision they are reviewing or scrutinising;
 - there is an intention to scrutinise; or
 - it relates to any review contained in the Committee's work programme; or
- (b) the advice of a political adviser.

Where it is determined that the Member of the Overview and Scrutiny Committee is not entitled to a copy of a document, or part of any such document, for the reasons set out in this rule, Cabinet must provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.

24. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

24.1 Material relating to public meetings

Subject to rule 14, all members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business to be transacted at a public meeting at least five clear days before the meeting, subject to the following exceptions:

- (a) where the meeting is convened at shorter notice, the document must be available for inspection when the meeting is convened; and
- (b) where an item is added to the agenda at shorter notice, the document must be available for inspection when the item is added to the agenda.

24.2 Material relating to private meetings, individual member or officer executive decisions

Subject to rule 14 after an executive decision has been made by an individual member or officer, or at the conclusion of a private meeting or in any event, within 24 hours from when the decision is made or the conclusion of the meeting, all Members will be entitled to inspect any document containing material relating to any business transacted during the private meeting which is in the possession or under the control of the Cabinet or its committees unless either (a) or (b) below applies –

- (a) it contains exempt information falling within paragraphs 1 to 7, 7A, 7B and 7C of the categories of exempt information; or

(b) it contains the advice of a political advisor.

Rule 24.1 and 24.2 do not require the document to be available for inspection if the information falls within paragraph 2 (except to the extent that it relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract); or paragraph 6 of the categories of exempt information as set out in Rule 10.4.

24.3 Nature of rights

These rights of a Member are additional to any other right he/she may have.

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 Cabinet to implement it.

2. Process for developing the framework

The process by the budget and policy framework shall be developed is:

(a) The Cabinet will publicise a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The Cabinet Member and the Chairmen of Overview and Scrutiny Committees will also be notified. The consultation period in each instance will ideally be not less than 8 weeks but no longer than 12 weeks.

(b) During a consultation period, the relevant Overview and Scrutiny Committee may investigate and research the subject matter and may report to the Cabinet in detail on the policy recommendations before the end of the consultation period.

(c) At the end of the consultation period, the Cabinet will draw up firm proposals having regard to the responses received to the consultation, including any report from an Overview and Scrutiny Committee. The report to Council, which accompanies the firm proposals, will summarise all comments made by consultees and the Cabinet's response to those comments.

(d) Once the Cabinet has approved the firm proposals, the proper officer will refer them at the earliest opportunity to the Council for decision.

(e) In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or, in principle, substitute its own proposals in their place.

(f) If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision, which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.

(g) The decision will be publicised in accordance with Article 4 and a copy shall be given to the Leader.

(h) An in-principle decision will automatically become effective five working days from the date of the Council's decision, unless the Leader informs the proper officer in writing within that period that he/she objects to the decision becoming effective and provides reasons why.

(i) In that event, the proper officer will call a Council meeting to be held within a further fifteen working days. At that meeting, the Council will reconsider its decision and the Leader's written submission. The Council may:-

- approve the Cabinet's recommendation by a simple majority of votes cast at the meeting; or
- approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority.

(j) The decision shall then be made public in accordance with Article 4, and shall be implemented immediately.

(k) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and the degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with Rules 5 to 7 of these Rules. Any other changes to the budget and policy framework are reserved to the Council.

(l) Where the proposals are submitted before the 8th February in any year and relate to:-

- estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49 of the Local Government Finance Act 1992;

- estimates of other amounts to be used for the purposes of such a calculation; or
- estimates of such a calculation;

other than calculations or substitute calculations which the Council is required to make in accordance with sections 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; or

- amounts required to be stated in a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992 other than amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act;

and following consideration of the proposals the Council wishes to amend them, refer them back to the Cabinet for further consideration, or substitute its own “in-principle proposals” in their place, the Council must follow the procedure set out in paragraphs (h) to (j) above with reference to “revised proposals” meaning “revised estimates or amounts”.

(m) Where the proposals are submitted after 8th February in any year, the Council's decision is final.

3. Decisions outside the budget or policy framework

(a) Subject to the provisions of paragraph 5 the Cabinet, individual members of the Cabinet and any officers, area committees or joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full council, then that decision may only be taken by the Council, subject to paragraph 4 below.

(b) If the Cabinet, individual members of the Cabinet and any officers, area committees or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the monitoring officer and/ or the chief financial officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/ or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

4. Urgent decisions outside the budget or policy framework

(a) The Cabinet, a committee of the Cabinet, an individual member of the Cabinet, or officers, area committees or joint arrangements discharging executive functions, 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:

- (i) if it is not practical to convene a quorate meeting of the full Council; and
- (ii) if the chair of a relevant overview and scrutiny committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chairman of the relevant Overview and Scrutiny Committees' 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 Chairman of a relevant Overview and Scrutiny Committee, the consent of the Chairman of the Council, or, in the absence of both, the Vice-Chairman of the Council, will be sufficient.

(b) Following the decision, the decision taker 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. Capital Expenditure, Supplementary Revenue Estimates, Unspent Estimates and Transfer of Estimates

The Procedures for these items are set out under the Financial Procedure Rules of the Constitution.

6. In-year changes to policy framework

The responsibility for agreeing the budget and policy framework lies with the Council and decisions by the Cabinet, an individual member of the Cabinet, or officers, area committees or joint arrangements discharging Cabinet functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes which:-

- (a) will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) are necessary to ensure compliance with the law, ministerial direction or government guidance; or
- (c) are in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

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, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Financial Officer.

(b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Financial Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the monitoring officer or the Chief Finance Officer conclude that the decision was a departure, and to the Overview and Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.

(c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Financial Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the overview and scrutiny committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within ten working days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial Officer. The Council may either:

- (i) endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way;
- (ii) amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, the Council require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.

CABINET PROCEDURE RULES

1. HOW DOES THE CABINET OPERATE?

1.1 Who may make executive decisions?

The arrangements for the discharge of executive functions may be set out in the executive arrangements adopted by the Council. If they are not set out there, then the leader may decide how they are to be exercised. In either case, the arrangements or the leader may provide for executive functions to be discharged by:

- the Cabinet as a whole;
- a committee of the Cabinet;
- an individual member of the Cabinet;
- an officer;
- an area committee;
- joint arrangements; or
- another local authority.

1.2 Delegation by the leader

At the annual meeting of the Council, the leader will present to the Council a written record of delegations made by him/ her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the leader will contain the following information about executive functions in relation to the coming year:

- the extent of any authority delegated to Cabinet members individually, including details of the limitation on their authority;
- the terms of reference and constitution of such executive committees as the leader appoints and the names of Cabinet members appointed to them;
- the nature and extent of any delegation of executive functions to area committees, any other authority or any joint arrangements and the names of those Cabinet members appointed to any joint committee for the coming year; and
- the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

1.3 Sub-delegation of executive functions

- (a) Where the Cabinet, a committee of the Cabinet or an individual member of the Cabinet is responsible for an executive function, they may delegate further to an area committee, joint arrangements or an officer.
- (b) Unless the Council directs otherwise, if the leader delegates functions to the Cabinet, then the Cabinet may delegate further to a committee of the Cabinet or to an officer.
- (c) Unless the leader directs otherwise, a committee of the Cabinet to whom functions have been delegated by the leader may delegate further to an officer.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.4 The Council's scheme of delegation and executive functions

- (a) Subject to (b) below 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 in Article 7 and set out in Part 3 of this Constitution.
- (b) If the Leader is able to decide whether to delegate executive functions, he/she may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Proper Officer and to the person, body or committee concerned. The

notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Cabinet as a whole. The proper officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

(c) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when the Leader has served it on its Chairman.

1.5 Conflicts of Interest

(a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

(b) If every Member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

(c) If the exercise of an executive function has been delegated to a committee of the Cabinet, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

1.6 Disclosable Pecuniary Interests

(a) Subject to (b) below, if a Member has a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting, then the Member should declare that interest to the meeting and should leave the room whilst any discussion or vote takes place.

(b) If a dispensation has been granted to a Member in relation to a disclosable pecuniary interest then subject to the terms of the dispensation the Member may be relieved from the above restrictions but will still be required to declare the interest to the meeting.

1.7 Cabinet meetings - when and where?

The Cabinet will meet at least 10 times per year at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

1.8 Public or private meetings of the Cabinet?

Meetings of the Cabinet will be open to the press and public, subject to the normal rules on exempt information in Schedule 12A of the Local Government Act 1972 (see Rule 10 of the Access to Information Procedure Rules).

1.9 Quorum

The quorum for a meeting of the Cabinet shall be three.

1.10 How are decisions to be taken by the Cabinet?

(a) Executive decisions which have been delegated to the Cabinet as a whole 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 Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

2. HOW ARE CABINET MEETINGS CONDUCTED?

2.1 Who presides?

If the Leader is present he/she will preside. In his/ her absence, then the Deputy Leader, or in his/her absence a person appointed to do so by those present, shall preside.

2.2 Who may attend?

See 1.7 above.

2.3 What business?

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

- consideration of the minutes of the last meeting;
- declarations of interest, if any;
- matters referred to the Cabinet (whether by an overview and scrutiny committee or by the Council) for reconsideration by the Cabinet 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;
- consideration of reports from overview and scrutiny committees;
- matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution; and
- reports from the Chief Executive and Directors.

2.4 Consultation

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant overview and scrutiny committees, 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 Who can put items on the Cabinet agenda?

The Leader will decide upon the schedule for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/ she wishes, whether or not authority has been delegated to the Cabinet, a committee of it or any member or officer in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect.

- (a) Any member of the Cabinet may require the Proper Officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If he/she receives such a request the Proper Officer will comply.
- (b) The Proper Officer will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a relevant overview and scrutiny committee or the full Council have resolved that an item be considered by the Cabinet.
- (c) There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by Overview and Scrutiny Committees.
- (d) Any member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees then the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. (This individual will be invited to attend the meeting, whether or not it is a public meeting.)

The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of an Cabinet meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. What will be the number and arrangements for the Overview and Scrutiny Committee?

The Council will have an Overview and Scrutiny Committee as set out in Article 6 and will appoint to it as it considers appropriate from time to time. Such committee may appoint sub-committees.

2. Who may sit on the Overview and Scrutiny Committee?

All Councillors, except Members of the Cabinet, may be members of the Overview and Scrutiny Committee or its sub-committees. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

3. Co-optees

(a) The Overview and Scrutiny Committee shall be entitled to appoint up to 25% of the total membership of the Committee as non-voting or voting Co-optees.

(b) The Council operates a Scheme of Voting Rights for Co-opted Members of the Overview and Scrutiny Committee. If Co-optees are to be voting Co-optees then their appointment must be approved by full Council before they can take up their voting rights.

(c) The exercise of voting rights for Co-optees must be in accordance with the Council's Scheme of Voting Rights for Co-opted Members of the Overview and Scrutiny Committee.

4. Meetings of the Overview and Scrutiny Committee

There shall be at least three ordinary meetings of the Overview and Scrutiny Committee in each year. In addition, one meeting will specifically consider budget issues and extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chairman of the Overview and Scrutiny Committee, by any three elected members of the Committee or by the Proper Officer if he/she considers it necessary or appropriate.

5. Quorum

The quorum for an Overview and Scrutiny Committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution. For the avoidance of doubt the number for a quorum relates to the number of elected members and does not include co-optees.

6. Who chairs Overview and Scrutiny Committee meetings?

The Chairman and Vice-Chairman of the Overview and Scrutiny Committee will be drawn from among the Councillors sitting on the Committee. Subject to this requirement, the Committee may appoint such a member of the Committee as it considers appropriate as Chairman.

7. Work Programme

The Overview and Scrutiny Committee will be responsible for setting its own Work Programme and, in doing so, it shall take into account the wishes of members on that Committee.

8. Agenda items

Any member of the Overview and Scrutiny Committee or its sub-committee shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee or sub-committee to be included on the agenda for the next available meeting of the Committee or sub-committee. On receipt of such a request, the Proper Officer will ensure that it is included on the next available agenda. Any three members of the Council who are not members of the Overview and Scrutiny Committee may give written notice to the Proper Officer that they wish an item to be included on the agenda of the Overview and Scrutiny Committee. If the Proper Officer receives such a notification, then he/she will include the item on the first available agenda of the Overview and Scrutiny Committee.

The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, the Cabinet, to review particular areas of

Council activity. Where it does so, the Overview and Scrutiny Committee shall report its findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Committee within one month of receiving it.

9. Councillor Call for Action

The Council has a Councillor Call for Action Scheme, details of which are attached to these procedural rules. Upon receipt of a Councillor Call for Action request, a meeting of the Overview and Scrutiny Committee shall be convened within ten working days to consider the Councillor Call for Action request.

10. 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.

(b) In relation to the development of the Council's approach to other matters not forming part of its Policy and Budget Framework, the Overview and Scrutiny Committee may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.

(c) The Overview and Scrutiny Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. It 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 the Committee on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

11. Reports from the Overview and Scrutiny Committee

(a) Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Proper Officer for consideration by the Cabinet (if the proposals are consistent with the existing Budgetary and Policy Framework), or to the 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 Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.

(c) The Council or Cabinet shall consider the report of the Overview and Scrutiny Committee within eight weeks of it being submitted to the proper officer.

12. Making sure that Overview and Scrutiny reports are considered by the Cabinet (or Council as appropriate) or policy committees

Once the Overview and Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its final report to the proper officer who will allocate it to either or both the Cabinet and the Council for consideration, according to whether the contents of the report would have implications for the Council's Budget and Policy framework. If the Proper Officer refers the matter to Council, he/she will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Cabinet will have four weeks in which to respond to the overview and scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from the Overview and Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Cabinet.

Where the Overview and Scrutiny Committee or sub-committee prepares a report for consideration by the Cabinet in relation to a matter where the Leader of the Council has delegated decision making powers to another individual member of the Cabinet, then the overview and scrutiny committee will submit a copy of its report to that individual for consideration. At the time of doing so, the overview and scrutiny committee shall serve a copy on the Proper Officer and the Leader. If the member with delegated decision making powers does not accept the recommendations of the overview and scrutiny committee, then he/she must then refer the matter to the next available meeting of the

Cabinet for debate before exercising his/her decision making power and responding to the report in writing to the Overview and Scrutiny Committee. The Cabinet member to whom the decision making power has been delegated will respond to the Overview and Scrutiny Committee within four weeks of receiving it. A copy of his/her written response to it shall be sent to the Proper Officer and he/she will attend a future meeting to respond.

The Overview and Scrutiny Committee will, in any event, have access to the Key Decision Notice and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the overview and scrutiny committee following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

13. Rights of Overview and Scrutiny Committee members to documents

(a) In addition to their rights as councillors, members of the Overview and Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

(b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Overview and Scrutiny Committee as appropriate, depending on the particular matter under consideration.

14. Members and officers giving account

(a) The Overview and Scrutiny Committee or sub-committees 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 the Leader, any (other) member of the Cabinet, the Head of Paid Service and/or any senior officer to attend before it 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 performance;

and it is the duty of those persons to attend if so required.

(b) Where any member or officer is required to attend an Overview and Scrutiny Committee under this provision, the Chairman of that committee will inform the Proper Officer. The Proper Officer shall inform the member or officer in writing, giving at least ten working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the 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 the Overview and Scrutiny Committee shall, in consultation with the member or officer, arrange an alternative date for attendance.

15. Attendance by others

The Overview and Scrutiny Committee may invite people other than those people referred to in Paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

16. Call-in

Call-in should only be used in exceptional circumstances.

(a) When a decision is made by the Cabinet, an individual member of the Cabinet or a committee of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, the decision shall be published, including, where possible, by electronic means, and shall be available at the main offices of the Council normally within two days of being made. The Chairman of the

Overview and Scrutiny Committee will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless it is called in.
- (c) During that period, the Proper Officer shall call-in a decision for scrutiny by the Committee if so requested by the Chairman of the Overview and Scrutiny Committee, or any three members of the council who are not Cabinet members. The reason for the call-in request should be provided at the time that the request is made. The Proper Officer shall then notify the decision-taker of the call-in. Within ten working days of receipt of the request to call-in a decision, he/she shall, after consultation with the Chairman of the relevant Committee where possible, issue a summons to a meeting of the relevant Committee to be held on a date as soon as practicable, but in any event, within one calendar month of the date of receipt of the call-in request.
- (d) At least two of the three Members who called-in the decision will be required to attend the meeting to address the Committee in order to expand upon the written reasons given for the call-in. Failure to attend the Committee may result in the Executive Decision as submitted being accepted without further debate. The decision maker will also be permitted to explain why the decision was taken and the relevant officer (if different from the decision maker) will also be allowed to be present at the meeting to deal with any issues that may arise. The addresses from the Member(s) calling-in the decision and the decision maker will be heard before the matter is opened up to debate by the Committee.
- (e) If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further ten working days, amending the decision or not, before adopting a final decision.
- (f) If, following an objection to the decision, the Overview and Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny Committee meeting, or the expiry of that further five working day period, whichever is the earlier.
- (g) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no powers to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a committee of it, a meeting will be convened to reconsider within ten working days of the Council request. Where the decision was made by an individual, the individual will reconsider within ten working days of the Council request.
- (h) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

Exceptions

- (i) In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use and the process will be monitored as follows:-
- (i) A decision may only be called-in by the Chairman of the Overview and Scrutiny Committee or any three Members of Council who are not members of Cabinet;
- (ii) The Chairman of the Overview and Scrutiny Committee shall from time to time to review the exercise of the call-in power and the use of the urgency procedures set out in the following paragraph of this Rule. If he/she believes that call-in has been abused or used unreasonably, he/she shall request the Monitoring Officer to prepare alternative proposals for

consideration by the Council to remedy the situation, The Chairman will report annually to the Council on the operation of the call-in provisions.

Call-in and Urgency

(j) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would, for example, seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether, in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

(k) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

17. The party whip

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 he/she speak or vote in any particular manner."

When considering any matter in respect of which a member of the Overview and Scrutiny Committee is subject to a party whip, the member must declare the existence of the whip, and the nature of it, before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

18. Procedure at Overview and Scrutiny Committee meetings

(a) The Overview and Scrutiny Committee and sub-committees shall consider the following business:

- minutes of the last meeting;
- declarations of interest (including whipping declarations);
- consideration of any matter referred to the committee for a decision in relation to call in of a decision;
- responses of the Cabinet or Council to reports of the overview and scrutiny committee; and
- the business otherwise set out on the agenda for the meeting.

(b) Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:-

- 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;
- that those assisting the committee by giving evidence be treated with respect and courtesy; and
- that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

(c) Following any investigation or review, the Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate, and shall make its report and findings public.

TABLE 1

Terms of Reference for the Overview and Scrutiny Committee.

Membership

The Overview and Scrutiny Committee shall have 12 Council Members and up to three co-optees who may vote in accordance with the Council's Scheme of Voting Rights for co-opted members of the Overview and Scrutiny Committee.

Terms of Reference

To fulfil all the functions of the Overview and Scrutiny Committee in the areas detailed in Article 6.01 of the Constitution.

SCHEME OF VOTING RIGHTS FOR CO-OPTED MEMBERS OF THE OVERVIEW AND SCRUTINY COMMITTEES

South Lakeland District Council, in exercise of the powers conferred by Schedule 1 of the Local Government Act 2000, as amended by Section 115 of the Local Government Act 2003, adopted the following Scheme on 16 July 2009:-

1. Citation

This Scheme may be cited as the Scheme for Voting Rights for Co-opted Members of the Overview and Scrutiny Committee.

2. Definitions

2.1 This Scheme shall be called “The Scheme of Voting Rights for Co-opted Members of the Overview and Scrutiny Committee”.

2.2 In this Scheme:

- “Council” means South Lakeland District Council;
- “Councillor” means an Elected Member of South Lakeland District Council;
- “Co-optee” means a person who is not a member of the Council but who is a member of the Overview and Scrutiny Committee; and
- “Overview & Scrutiny Committee” means a Committee appointed pursuant to Section 21 of the Local Government Act 2000.

3. The Scheme

3.1 The Council’s Constitution allows for the Overview and Scrutiny Committee to appoint up to 25% of the total membership of an Overview & Scrutiny Committee as co-optees. Where voting co-optees are to be appointed these must be approved by full Council and operate in accordance with this Scheme.

3.2 The Council would like to draw on the experience and knowledge of people within South Lakeland when undertaking its Scrutiny function. There are a number of benefits to giving such co-opted Members voting rights. These include:-

- 3.2.1 encouraging a sense of ownership and therefore more involvement by co-opted Members in debates before the Overview and Scrutiny Committee;
- 3.2.2 allowing non-elected Members of the public a more active voice in scrutiny;
- 3.2.3 inclusivity in the decision making process of all who have contributed to a scrutiny process, i.e. both elected and non-elected Members;
- 3.2.4 improved quality of decision making by including broader based issues and views; and
- 3.2.5 a pseudo “partnership” approach to scrutiny decision making in line with the Government’s “Partnership Agenda”.

3.3 There are circumstances where co-opting non-voting Members also adds value to the scrutiny process.

A person specification and role description for a co-opted member on the Overview and Scrutiny Committee is attached to this Scheme.

4. When a Co-optee may vote

Where co-optees have been approved by full Council as voting co-optees they may exercise a vote in considering items of business on Overview and Scrutiny Committees with the exception of those matters under discussion as set out under Paragraph 5 below.

5. When a Co-optee may not vote

Voting rights will not apply in relation to the following matters of business:

- Appointment of Chair/Vice-Chair of the Committee
- Call-ins exercised under the relevant provisions of the Local Government Act 2000

6. Voting Protocol of the Scheme

To recognise the overarching importance of the elected accountability of Council Members the following Voting Protocol will be observed.

6.1 The total number of voting co-opted Members on the Overview and Scrutiny Committee will not exceed 25% of the total membership of the Overview & Scrutiny Committee at any one time.

6.2 Co-opted Members will exercise their voting rights in accordance with the Principles of Decision Making set out in the Constitution, namely:

- To take into account all relevant considerations and to ignore irrelevant considerations.
- A realistic evaluation of alternatives and consultation through access by the public to decision-making and decision-makers.
- Proportionality [ie the action must be proportionate to the desired outcome].
- Due consultation and the taking of professional advice from Officers.
- Respect for human rights.
- A presumption in favour of openness.
- Clarification of aims and desired outcomes.
- An explanation of the options that were considered and the reasons for the decision.

7. General Principles

7.1 This Scheme and arrangements made in accordance with its terms shall be subject to regular review.

7.2 Co-opted Members will be subject to the Members' Code of Conduct and must sign a declaration of office and complete a Register entry of any relevant interests.

7.3 Co-opted Members will be entitled to an allowance and/or reimbursement of their reasonable expenses in accordance with the Council's Members' Allowances Scheme.

ROLE OF OVERVIEW AND SCRUTINY CO-OPTED MEMBERS

In order to help clarify what is expected of co-opted members on the Overview and Scrutiny Committees at South Lakeland District Council the following role descriptions have been drawn up based on best practice.

Key Skills

- An ability to act as an independent voice for those who live and / or work in South Lakeland.
- An interest in local government and an understanding of how overview and scrutiny fits into the Council's structure.
- An ability to establish good relations with Members, Officers and other Co-opted Members.
- To be able to work as part of a team.
- To have good communication skills and a willingness to take part in meetings and task groups raising questions and comments as necessary.

Duties and Responsibilities – What will be expected of you

- To attend an induction session, identify training needs, and have a willingness to attend all subsequent relevant training as required.

- Attend the Overview and Scrutiny Committee meetings and any additional Overview and Scrutiny Committee meetings agreed to be held by the Chair.
- Read and review the agenda provided for the Overview and Scrutiny Committee meeting in advance of the meeting.
- Actively participate in the work of the Overview and Scrutiny Committee under the guidance of the Chair.
- To bring specialist skills and knowledge to the overview and scrutiny process and / or an external challenge by representing the public and the body from which you have been appointed.
- Actively participate in monitoring the Council's decision making process
- Investigate the quality of services provided and hold the Executive to account in respect of their actions in carrying out policy.
- Take part in task and finish groups as agreed by the Overview and Scrutiny Committee.
- If appointed to a task and finish group to undertake those duties and responsibilities associated with this role, (full description found in the Members' Scrutiny Handbook).

GUIDANCE FOR COUNCILLORS

SLDC COUNCILLOR CALL FOR ACTION SCHEME

What is a Councillor Call for Action?

Ward Councillors play a key role in local government as community leaders and champions for local concerns. The Councillor Call for Action (CCfA) strengthens this role and provides Councillors with an opportunity to request that the Overview and Scrutiny Committee considers any local problem or issue of concern, after all other attempts to resolve them have been exhausted. CCfA is about helping Councillors resolve problems and issues on behalf of their residents.

Overview and Scrutiny has powers to scrutinise local authorities and other public bodies across organisational boundaries, and Councillors sit at the centre of this process. Councillors have a democratic mandate to challenge existing practice, involve local communities in the decision-making process and help councils change and improve. CCfA should help Councillors drive improvements to services provided by the Council and partner organisations.

CCfA is a last resort and should only be used after all other means of resolving an issue have been exhausted. It is not appropriate for planning or licensing matters, or any other matter where there is an established complaints procedure. It should also not be used to make an individual complaint about a service, for example someone whose bin hasn't been emptied, or someone who has received a parking ticket.

How do I decide if a CCfA is the right approach?

The purpose of CCfA is to act as a means of solving local problems when all other avenues and approaches have failed. Consequently the first step is to establish whether an issue can be resolved through any other means.

There are many avenues open to Councillors to help resolve problems – both formal and informal which could be explored before deciding to initiate a CCfA e.g.

- informal discussions with the Portfolio Holder, officers and/or other Councillors;
- formal letters written on behalf of constituents;
- public meetings and community campaigns;
- raising the issue at the Local Area Partnership;
- communication with local partner organisations, such as the Police, Primary Care Trust, Environment Agency, the County Council Area Committees and Neighbourhood Forums, and the Local Area Partnerships, etc.
- petitions and deputations;
- written questions or Motions on Notice put to Full Council;
- encouraging constituents to make use of the Public Participation at Meetings scheme;
- communication with local MPs; and
- requesting that an item be included on a Committee agenda – currently aside from CCfA arrangements any member of the Overview and Scrutiny Committee or any three non-Overview and Scrutiny Committee Councillors may request that an item be placed on an Overview and Scrutiny Committee agenda;

Councillors wishing to raise CCfAs should think carefully about their reasons for doing so and in particular be sure that all other routes have been explored to resolve the issue.

It is important to recognise that CCfA is not guaranteed to solve a particular problem. CCfA does provide:

- recognition that an issue is significant enough for time, attention and resources to be spent in trying to resolve it;
- a public forum for discussion of issues;

- an opportunity for all parties to discuss an issue in a neutral environment;
- an opportunity to discuss a problem with the explicit aim of resolving it; and
- a high-profile process owned by the ward Councillor.

Councillors will also need to be clear at the outset about what outcomes they hope to get from the CCfA process. For example will an issue be successfully resolved when:

- the matter has been resolved to the satisfaction of the person or persons who raised the issue with the ward Councillor?
- the Councillor is satisfied that the desired outcome has been achieved?
- the Overview and Scrutiny Committee has considered the issue and is happy with the outcome?
- a response has been received from Cabinet or other executive body?
- If I think that a CCfA is the right approach – how do I go about it?

Any Councillor may submit a CCfA request. The request needs to be in writing, and should be submitted to the Legal, Governance and Democracy Lead Specialist (Monitoring Officer). The request should clearly set out:

- the nature of the problem;
- the action that has been previously taken to try to resolve the problem;
- what outcomes the Councillor hopes to achieve from the CCfA;
- which partners if any, for example the County Council, the Police, the LDNPA, etc, are involved.

The Councillor Call for Action Sub - Committee will meet to consider each CCfA request within ten working days of its receipt and will decide whether the request is valid, or whether the issue may be better resolved through other means.

The Councillor initiating the CCfA may be asked to attend the Sub- Committee meeting to clarify why they have initiated a call for action.

If the Sub-Committee feels that it is appropriate to consider the CCfA it will be included on the next agenda of the Overview and Scrutiny Committee. Any appropriate partners and witnesses will also be invited to attend that meeting to help the Committee explore how the issue may best be resolved. The CCfA can be dealt with at a single Committee meeting or it could be agreed to establish a task and finish group to look at the issue in more detail and make recommendations back to the Committee.

The Overview and Scrutiny Committee discussion should focus on the outcomes sought and Councillors initiating CCfAs should expect to be challenged at Committee.

Having considered the CCfA the Overview and Scrutiny Committee may prepare a report and recommendations for Cabinet or Full Council as appropriate. Alternatively (or in addition) the Overview and Scrutiny Committee may also present its report to relevant partner organisations.

What will happen at the Overview and Scrutiny Committee meeting?

The Chairman will provide a short introduction to the issues and then invite the Councillor who has raised the CCfA to briefly outline the reasons behind the request and the outcomes sought.

The Chairman may then open the discussion and invite other Committee members to ask questions to help clarify the issues and outcomes sought.

The relevant Portfolio Holder, senior officers and/or representatives from partner organisations will be invited to attend to provide information, respond to questions and assist the Committee to arrive at the appropriate outcome.

Do other public bodies and partner organisations have to respond to CCfAs?

Overview and Scrutiny at SLDC has powers to scrutinise a wide range of national, regional and local organisations. The Scrutiny Officer can provide further information on this.

Partners have a duty to provide information to Overview and Scrutiny when requested and to consider and respond to overview and scrutiny reports and recommendations, setting out what action they will take in response, or their reasons for taking no action, within two months of receiving the report.

Executive members of partner organisations and/or their officers are not under any obligation to attend Overview and Scrutiny meetings - but again in the spirit of closer partnership working we hope they will agree to attend and help resolve CCfAs if requested.

CCfA can be a useful tool for partners. It can involve them in working more closely with local Councillors and by extension, with local communities. Local Councillors can in turn provide valuable advice to partners on local concerns and issues and can act as a vital conduit for information and discussion.

Local Crime and Disorder and Community Safety issues.

The Police and Justice Act 2006 introduced a CCfA for local crime and disorder and community safety issues.

Local crime and disorder matters include any matter concerning crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment) or the misuse of drugs, alcohol and other substances.

What issues are excluded from the CCfA process?

Regulations state that issues should be excluded from CCfA when they relate to a formal complaints process. These include:

- any planning matter;
- any licensing matter; and
- all other areas where a person has a route to resolve the problem through the established complaints process (for example council tax and non-domestic rates).

It is also not appropriate for some complaints made by individual residents about a service the Council provides to be brought to the attention of the Council through the CCfA process where procedures already exist for resolving such issues e.g. if bins have been missed on a waste collection round, residents should call the Contact Centre who will arrange for the bin to be emptied.

However Overview and Scrutiny may act where it is felt that a series of complaints demonstrates a 'systematic failure' in a particular service area. So for example a large number of individual complaints about waste collection – even if quickly resolved to the satisfaction of the person making the complaint – may lead to scrutiny acting to establish why so many complaints are being made in the first place.

In addition regulations state that 'any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Committee or at a meeting of a sub-committee of that committee is to be excluded'.

All CCfAs logged will be considered by the Overview and Scrutiny Committee when deciding upon issues for potential inclusion in its work programmes.

CCfA and the call-in procedure.

CCfA should not be used by Councillors to have a second review of an issue where previously a call-in has failed to achieve the outcomes sought.

However if there have been material or other changes in the nature of an issue that has previously been subject to call-in, and where the CCfA may add something to the process and not merely duplicate what has happened before – then the CCfA should not be automatically excluded and the Sub-Committee may decide that it should go ahead.

If a Councillor has any questions on CCfA or wishes to raise a CCfA, the Scrutiny Officer will provide help and assistance.

FINANCIAL PROCEDURE RULES

STATUS

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

The s.151 Officer (Chief Finance Officer) is responsible for issuing advice and guidance to underpin the Financial Procedure Rules that Officers and Members of the Council and anyone acting on its behalf are required to follow.

Failure to comply with the requirements of the Financial Procedure Rules may, if appropriate, lead to action being taken against officers under the Council's Disciplinary Procedure and against Members by the Council's Standards Committee.

1. GENERAL

Statutory References

1.1 Under Section 151 of the Local Government Act 1972, the Chief Finance Officer is responsible for the financial affairs of the Council and is particularly responsible for:

- (a) Supervising arrangements for the receipt of income due to the Council and expenditure incurred by the Council.
- (b) The preparation and presentation of final accounts.
- (c) The maintenance of a continuous and effective internal audit of the Council's activities.

1.2 Under Section 114 of the Local Government Finance Act 1988 the Chief Finance Officer or in her/his absence a designated member of his staff has a duty to make a report if it appears to him that the Council, a Committee, a Member or Officer of the Council or joint committee on which the Council is represented:

- (a) has made or is about to make a decision which involves or would involve the Council incurring expenditure which is unlawful;
- (b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful or likely to cause a loss or deficiency on the part of the Council; or
- (c) is about to enter an item of account, the entry of which is unlawful.

The Chief Finance Officer must make a report under Section 114 if it appears to her/him that the Council's expenditure (including commitments) in a financial year is likely to exceed the resources (including sums borrowed) available to meet them.

Any Officer of the Council who is or should be aware of the circumstances specified at (a), (b) and (c) above or any expenditure which is likely to exceed the amounts allocated in the Council's Budgets shall notify the Chief Finance Officer to enable her/him to carry out their statutory duty.

General

1.3 Reference in these Rules to Portfolio Holders refer equally to Committees which manage budgets. References to Directors include the two Directors, the Chief Executive and Operational Leads and Lead Specialists. References to Departments refer to the accompanying administrative organisations.

In the absence of the Chief Finance Officer, the Deputy S151 Officer, has delegated authority to carry out all actions within this part of the Constitution.

1.4 Each Director shall consult the Chief Finance Officer with respect to any matter within his control which is liable materially to affect the finances of the Council before any provisional or other commitment is incurred or before reporting thereon to Members.

1.5 In allocating the duties of officers within their Departments, each Director shall arrange for internal checks to ensure that:-

(a) The duty of keeping records relating to income shall not be carried out by officers who are also responsible for the collection of income.

(b) The duties of issuing orders, certifying the receipt of goods or the completion of work, and approving accounts for payment shall be carried out by different officers.

1.6 It is the duty of all officers appointing consultants to carry out work on behalf of the Council to bring these Rules to the attention of those consultants and instruct them to follow such procedures as are relevant.

Authority to Incur Expenditure

1.7 The inclusion of items in approved budgets represents the authority to incur expenditure except where the Cabinet has a reservation on such items.

1.8 The Cabinet shall not approve a supplementary revenue budget request or amend a capital budget without Directors first having consulted with the Chief Finance Officer on the financial implications. A comment will be sought from the Chief Finance Officer to be incorporated to the Report on the proposal made to Council to approve a supplementary revenue budget request or capital budget.

1.9 Nothing in these regulations shall prevent a Director from incurring expenditure which is essential to meet any immediate needs created by an emergency subject to their action being reported forthwith to the Cabinet.

2. ACCOUNTING

2.1 All accounting procedures and records of the Council and its officers shall be in a form approved by the Chief Finance Officer. Where such procedures and records are maintained in a specialist or operational area other than that of the Chief Finance Officer the Director or Specialist or Operational Lead shall, before giving approval, gain the Chief Finance Officer's approval to any proposed changes.

2.2 No accounting procedure or financial records shall be amended or discontinued without the prior approval of the Chief Finance Officer.

2.3 All accounts and accounting records of the Council shall be compiled by the Chief Finance Officer or under her/his direction.

2.4 The Chief Finance Officer shall ensure that all accounts, accounting records, balance sheets, etc of the Council are properly completed, presented to the Members and submitted to external audit in accordance with statutory requirements.

3. BUDGETS - GENERAL

3.1 Budget Preparation – will cover the forthcoming five year period and be subject to a timetable prepared by the Chief Finance Officer and approved by Cabinet. The Chief Finance Officer will produce the Five Year Medium Term Financial Plan on an annual basis in consultation with Cabinet Members and Management Team for approval by the Council. Regular updates of the strategic financial position will be provided to the Cabinet and Council.

3.2 The detailed form of capital and revenue estimates shall be determined by the Chief Finance Officer in accordance with any general directions of the Cabinet and after consultation with the Management Team.

3.3 Revenue Budgets – Staffing budgets shall be prepared by the Chief Finance Officer in consultation with the relevant Director. All other estimates of revenue income and expenditure shall be prepared by appropriate Directors in consultation with the Chief Finance Officer and submitted to Members for approval. The Chief Finance Officer shall collate the estimates and submit them to the Cabinet with a report setting out how this compares to the Council's existing Medium Term Financial Plan.

3.4 Capital budgets shall be prepared in the form of a rolling five-year Capital Programme. The Chief Finance Officer shall review and estimate the capital resources available to the Council over the five year period. Bids for the use of capital resources shall be made in a form agreed by the Cabinet, to include an appropriate level of project appraisal and an assessment of the revenue consequences

of the capital scheme. The Cabinet shall be responsible for the allocation of resources within a viable Capital Programme for submission to the Council for approval.

4. BUDGETARY CONTROL

It is the duty of the Cabinet and/or every Committee to monitor and regulate the Council's performance against the targets set out in the Corporate and Service Plans and how resources have been utilized against the approved Budget during each budget period.

Financial sustainability of the Council is paramount and projected variations to approved budgets and service delivery must be properly managed within a robust control system. Directors and other Budget holders responsible for budgets shall maintain an effective system of budgetary control. Budgets are the reflection of service plans and variations in either must be matched to the other in performance and other reports.

All budgets will be assigned to a budget holder who is responsible and accountable for spending and generating income in accordance with the approved budget and associated service plan. Budget holders are responsible for the underlying reliability of the financial data and service performance. The responsibility of Officers for budgets will be clearly defined and determined by the Chief Executive and Directors, who shall determine relevant procedures to be followed by those officers. (See 4.2)

The Chief Finance Officer shall make available to all budget holders information on commitments, receipts and payments to enable them to carry out these duties and to allow them to monitor performance and make proposal/take decisions on changes. Budget holders will be provided with training to assist them (provided by the Chief Finance Officer). Each Director/budget holder shall utilize the Council's corporate financial management system to maintain records of orders raised and other commitments, recording their effect on budgeted expenditure.

The Chief Finance Officer has overall responsibility for the Budget Framework including the Budget Timetable, Budgetary Control reporting arrangements and preparation of the Year End Statement of Accounts. Each Budget will have a single named Manager, determined by Management Team. The Chief Finance Officer is responsible for ensuring that the Budget and Council Tax Setting is carried out in accordance with the statutory deadlines.

Finance Section responsibilities:

The Chief Finance Officer is responsible for the following areas of budget setting and budgetary control:

- assisting Operational and Specialist Leads and budget holders in the preparation of draft budgets
- provision of timely, accurate, relevant financial information to budget holders to enable effective budgetary control to be carried out
- budgetary control reporting arrangements
- provision of financial advice and training to budget holders
- to actively use information from Directors on service trends that may have a impact on budgets.

Responsibilities of Directors:

- preparation of detailed revenue budgets, including the compilation of information produced centrally, to the standards and timescales set by the Chief Finance Officer.
- liaison with Accountancy and other staff in the provision of budgets
- identification of areas in which budget savings and/or efficiencies can be made
- assistance in the preparation of service reviews and the implementation of these and other approved changes to budgets.
- identification of development proposals and implementation if approved
- ensuring that budgets are consistent with approved service plans

- identification and subsequent review of meaningful profiles for budgets “signing off” detailed budgets and profiles to indicate that managers accept their content and accuracy and believe that they are sufficient to deliver the service
- monitoring budgets using monthly budgetary control reports and managing the service within budget
- Where overspends are identified, or projected, to alert Directors or Management Team as appropriate and to propose actions to correct the overspending
- notifying Directors and/or Management Team of potential underspendings/ increased income that could be of corporate benefit to the Council
- compliance with the Council’s Financial Procedure Rules
- provision of timely, relevant and accurate explanations for budget and service delivery variances as required by the Chief Finance Officer, Management Team and Members
- update Finance staff on service trends that may have an impact on budgets.
- developing performance information to complement budgetary control processes

Responsibilities of Members:

Members generally are responsible for taking an overview of the Council’s finances and its performance against budgets. In particular:

- Full Council is required to review periodically the adequacy of the Council’s overall budget.
- Portfolio holders are required, in conjunction with budget holders, to monitor and manage budgets for the services under their control.

Budget monitoring reports shall be produced by the Chief Finance Officer on the first working day of each month. The Service Accountants are responsible for checking the reports prior to their distribution. Each Director and Portfolio Holder will receive budget monitoring reports for their services. A summary report will be produced for publication electronically for Members and officers.

Reports will be submitted to the Management Team, Cabinet and Council quarterly on the Authority’s projected Income and Expenditure compared with the budget.

5. SUPPLEMENTARY REVENUE BUDGET REQUEST

General

5.1 Prior to any request for a supplementary revenue budget request being made Portfolio Holders and Directors should consider whether the expenditure can be accommodated within existing budgets by the use of virement. All requests for supplementary revenue budget requests must be discussed with the Chief Finance Officer prior to being considered by Cabinet.

5.2 No supplementary revenue budget requests below £25,000 should be granted; instead virement should be identified to accommodate the expenditure;

5.3 The Cabinet is able to grant supplementary revenue budget requests up to a value of £100,000. Supplementary revenue budget requests above that limit can only be approved by Full Council.

General Fund

5.4 Supplementary revenue budget requests shall only be granted where suitable virement cannot be identified. Such supplementary revenue budget requests shall be restricted to the following genuinely exceptional and inescapable items of expenditure:

- contractual claims, court and litigation costs;
- health and safety items constituting a risk to “life and limb”;
- additional expenditure arising from tenders following competitive tendering of services (conversely, savings on such tendering should be returned to contingencies);
- additional legislative responsibilities.

5.5 Supplementary revenue budget requests may be allowed for income-generating schemes where expenditure in the year will result in increased net income in subsequent years which will, at least, cover the amount of the supplementary revenue budget request;

5.6 No supplementary revenue budget requests should be granted that have an ongoing financial implication for subsequent years.

Reporting

5.7 Regular reports to the Cabinet shall clearly state the ongoing implications of proposed expenditure, identify the source of finance being used for supplementary revenue budget requests and the balance available within the Working Balance.

6. UNSPENT BUDGETS AND GRANTS

Unspent Grants

6.1 Where

(a) a grant or contribution has been received in a financial year for which there are no conditions; and

(b) the grant is unspent at the end of the financial year, the relevant Operational or Specialist Lead can request that the grant be carried forward to the following financial year.

6.2. The mechanism for the carry forward is the granting of a supplementary revenue estimate for the income. Items up to a value of £100,000 can be approved by Cabinet with larger requests to be considered by Full Council.

6.3. All requests for the carry forward of unspent grants should be discussed with the Chief Finance Officer prior to submission to Cabinet for approval.

Unspent Budgets

General

6.4 All requests for the carry forward of unspent budgets should be discussed with the Chief Finance Officer and the relevant Portfolio Holder should be consulted.

6.5 The mechanism, for the carry forward is the granting of a supplementary revenue budget, on the strength of an underspending in the previous year. Items up to a value of £100,000 can be approved by Cabinet with larger requests to be considered by full Council.

6.6 Requests for carry forwards must be submitted to the Chief Finance Officer by the deadline set annually by the Chief Finance Officer and be accompanied by an explanation of the service need and implications. Carry forwards must be for use on specific items of expenditure which have no on-going cost implications for subsequent years.

6.7 In many cases, requests for carry forward of budgets will be made before the final expenditure for the financial year is known. Approvals can be made in these instances but will be subject to possible withdrawal if the Operational or Specialist Lead, Department or Council budget is subsequently found to be overspent.

6.8 A minimum limit of £10,000 per item will usually apply to the gross value of savings considered for carry forward.

The Operational or Specialist Lead will be required to identify and explain the reasons for his/her opinion that underspendings have arisen from savings.

In the context of this policy, underspends are defined as underspending of expenditure budgets or additional income against income budgets provided that those savings have not been anticipated for corporate use.

Limitations

6.9 An Operational or Specialist Lead will not be allowed to carry forward any unspent budget where the overall net expenditure for the year exceeds the Operational or Specialist Lead's revenue budget.

In these circumstances the Operational or Specialist Lead may be required to deduct the overspending from his/her budget for the following year. Individual cases will be considered on their merits, taking into account the degree to which external factors are responsible for the overspending.

The amount of any unspent estimates to be carried forward will be limited to the Operational or Specialist Lead's overall net underspending for the year, where this is a smaller amount.

6.10 Where a budget is approved for a Council year, rather than a financial year (for example the Chairman's Allowance) any underspend will be automatically carried forward if requested.

6.11 Subject to these limitations, approval for the carry forward of qualifying unspent budgets will not normally be withheld. However, corporate considerations, particularly budgetary constraints, may cause individual provisions to be over-ridden or the whole policy to be suspended in the overall interests of the Council.

7. TRANSFER OF BUDGETS (VIREMENT)

7.1 Virement is intended to enable the Cabinet, Directors and their staff to manage budgets with a degree of flexibility within the overall Budget and Policy Framework to optimise the use of resources. However, it may be appropriate to suspend these provisions and apply more restrictive procedures if required by the Council's financial position.

Virements are administered by the Chief Finance Officer.

7.2 The overall Revenue and Capital Budget is approved by Council and published in the Annual Budget book. Operational and Specialist Leads are authorised to spend in accordance with the estimates that make up the Budget and in accordance with the Contract Procedure Rules. Virement will be required if resources are to be moved between the lines set out in the Budget Book.

Virement must not create additional overall budget Commitment. Operational and Specialist Leads are expected to exercise discretion in managing their budgets responsibly and prudently, for example by avoiding future commitments for which they have not identified resources.

7.3 Virement can only be applied to direct expenditure. It cannot be applied to the budget headings such as Capital Charges, Recharged Employees, Central Support Recharges, Departmental Recharges or Indirect Income. In general, virement will not be allowed from employee budgets.

Following consultation with the Chief Finance Officer, the responsible Operational or Specialist Lead shall be entitled to transfer budgets from within and between any one service to another up to a maximum limit of £60,000 per transfer.

The Cabinet shall be entitled to transfer budgets from within and between any one service to another up to a limit of £100,000 per transfer.

Beyond these limits, approval to transfers can only be given by full Council.

The Returning Officer shall be entitled to transfer budgets within the Elections Service without any financial limit.

The Corporate Financial Monitoring process should be used for approval where appropriate.

Virement requests must include details of the reason for the transfer and details of the impact on service delivery.

7.4 Virements will only be allowed where they are within these rules and generally in accordance with the policies of the Council and there will be no overall effect on the Budgets of the General Fund.

7.5. These virement rules must also be applied where additional income is received above levels included in the approved budget.

7.6. 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 there is an approved basis and terms, including financial limits, on which it will be allocated.

7.7 The Chief Finance Officer is able to transfer budgets to correct allocations, to reflect restructures and in the case of 'housekeeping' where budgets could be held under more appropriate headings.

8. CAPITAL EXPENDITURE

8.1 Capital expenditure shall not be incurred unless it forms part of the approved Capital Programme and has been allocated an expenditure account by the Chief Finance Officer.

8.2 The Cabinet may adjust the phasing of expenditure, by deferment or advancement, of existing approved schemes in the Capital Programme.

8.3 Following consultation with the Chief Finance Officer, the responsible Operational or Specialist Lead shall be entitled to transfer budgets from within and between any one capital scheme to another, or from revenue to any capital scheme up to a maximum limit of £60,000 per transfer.

The Cabinet may transfer Capital Programme provisions from one capital scheme to another capital scheme or from revenue to any capital scheme, subject to a limit of £100,000 per individual transfer.

Beyond these limits, approval to transfers can only be given by full Council.

8.4 The Cabinet may allocate available capital resources within the Capital Programme to new schemes which are urgent, necessary and generally in accordance with Council priorities, subject to a limit of £100,000 per individual allocation, provided in all cases the Chief Finance Officer is consulted and is satisfied with the affordability and advisability of the proposed use of resources.

Beyond these limits, amendments to the Capital Programme can only be made by Council.

9. FINANCING OF CAPITAL EXPENDITURE

The Chief Finance Officer may adjust the planned method of financing capital expenditure within the aggregate resources available to the Council, provided that such 'switching' of financing is in the Council's interest and in accordance with the Prudential Framework and Treasury Management Policy and Statement. Factors to be taken into account in such adjustments shall include prudence, affordability, financial advantage, flexibility and risk considerations.

10. RESERVES AND WORKING BALANCES

10.1 Three types of Reserves are maintained by the Council:-

(a) Unusable reserves are established and managed under various statutes and the Accounting Code of Practice.

(b) A Working Balance and a General Reserve are established by Council in accordance with an appropriate risk assessment undertaken by the Chief Finance Officer.

(c) Usable earmarked reserves are established and managed in accordance with criteria approved by Council.

10.2 The Chief Finance Officer is required, as part of the annual budget process, to carry out a formal review of balances and reserves and to advise the Council on their adequacy. In particular she/he is responsible for:

(a) preparing a statement for Council showing the estimated opening working balance for the year ahead, the addition to/withdrawal from balances, and the estimated end of year balance, including reference to the extent to which such reserves are to be used to finance recurrent expenditure.

(b) reporting on the annual review of earmarked reserves, listing the various earmarked reserves, the purposes for which they are held, showing the estimated opening balances for the year, planned addition/withdrawals and the estimated closing balances, and advising on their appropriate levels.

(c) making a statement on the adequacy of the general reserves and provisions in respect of the forthcoming financial year and the Council's Medium Term Financial Plan, taking into account the strategic, operational and financial risks facing the authority.

The advice given by the Chief Finance Officer should be recorded formally in the minutes of the Council meeting, including whether or not that advice has been accepted.

Unusable Reserves

10.3 The establishment and maintenance of these reserves are the responsibility of the Chief Finance Officer as part of the closure of the Council's accounts each year.

Working Balance/General Reserve

10.4 The Chief Finance Officer must make an assessment of the minimum level of balances required in these reserves as part of the annual budget process using an appropriate risk matrix.

10.5 Contributions to and from these reserves will be managed by the Chief Finance Officer and be in accordance with the criteria established as part of the annual budget process and approval.

10.6 Any overall surplus or deficit on the Council's accounts for the year will be reflected in the General Reserve and should the resultant balance be less than the minimum established then a separate report must be made to Council on the implications.

Usable Earmarked Reserves

10.7 The following criteria will be used to authorise Officers to establish and maintain usable Earmarked Reserves:

- (a) The reserve can only be established if it supports the Council's objectives, Council Plan and MTFP and complies with at least one of the following:
 - (i) Where expenditure is planned in future years and it is prudent to build up resources in advance
 - (ii) The reserve is a statutory requirement of the service or on the Council
 - (iii) It relates to the carry forward of budgets identified in budget monitoring and in accordance with the carry forward rules
- (b) The reserve can only be used for the purpose for which it was established and In line with any timescales identified when established or following annual review as part of the annual budget process.
- (c) The timescales involved and the amounts to be transferred in and out of a reserve must be clearly set out when the reserve is established. Amounts can take the form of wording if figures are not available.
- (d) Budget monitoring should identify the need for a reserve during the year and subject to meeting the criteria can be set up with the action being reported to the Portfolio Holder and ultimately Cabinet and Council through quarterly monitoring and the Statement of Accounts. Only exceptionally should the need for a reserve be identified in the Closure of Accounts process.
- (e) One named member of staff should be responsible for a reserve and who can authorise any transactions.

10.8 Management and maintenance of usable earmarked reserves must include any variations to the annual budget approved movements being approved through the budget monitoring process. Budget amendments in the Carry Forward Reserve will be automatically implemented in the new financial year.

10.9 Following consultation with the Chief Finance Officer, the responsible Operational or Specialist Lead shall be entitled to transfer budgets from any one service to a reserve or from a reserve to a service up to a maximum limit of £60,000 per annum providing the use or contribution is for the purpose for which the reserve was established. The Cabinet shall be entitled to transfer budgets to and from any reserve another up to a limit of £100,000 per transfer providing the use or contribution is for the purpose for which the reserve was established. Beyond these limits, approval to transfers can only be given by full Council.

10.10 Following the closure of the accounts for a financial year, the Chief Finance Officer will report to Cabinet and Audit Committee on the transfers to and the use of reserves and working balances for that year and seek approval of those transactions by full Council.

11. MEDIUM TERM FINANCIAL PLAN

11.1 The Chief Finance Officer is required to produce and seek approval from Council for a Medium Term Financial Plan, detailing the Council's projected financial position for a period of five years ahead. The Plan should be drawn up by reference to the Council's Corporate Plan and include the financial implications of that Plan. As a minimum the Medium Term Financial Plan should contain

- current and projected revenue budgets, including the revenue effects of capital and other investments;
- projections of council tax levels to finance those budgets;
- an indication of identifiable budgetary pressures and an action plan to deal with those pressures;
- capital expenditure plans and resource projections;
- projections of reserves and working balances; and
- an assessment of the adequacy of reserves and the risks attaching to the assumptions in the Plan.

11.2 The Plan should be updated at regular intervals during the year and form part of the Annual Budget Process. All significant proposals with financial implications should be assessed against the Medium Term Financial Plan and the effects of those proposals reported at the time of making a decision.

12. EXTERNAL AUDIT

12.1 The Council's activities will be audited by the External Auditor appointed in accordance with the requirements of the Local Audit and Accountability Act 2014.

13. INTERNAL AUDIT

13.1 Regulation 5 of the Accounts and Audit Regulations 2015 requires the Council to maintain an adequate and effective Internal Audit. Arrangements for that audit will be approved by the Audit Committee.

13.2 The Internal Audit Annual Plan will be submitted for approval by the Audit Committee. An Annual Report of the activities of Internal Audit and the completion of the Audit Plan are to be submitted to the Chief Finance Officer within three months of the end of each financial year and subsequently reported to the Committee.

13.3 A continuous risk based internal audit, under the independent control and direction of the Chief Finance Officer, shall be arranged to carry out an examination of accounting, financial and other operations of the Council.

13.4 For the purpose of Internal Audit, the Chief Finance Officer or her/his authorised representative shall have authority to:

- (a) enter at all reasonable times on any Council premises or land
- (b) have access to all records, documents and correspondence relating to any financial or other transaction of the Council
- (c) require and receive such explanations as are necessary concerning any matter under examination, and
- (d) require any employee of the Council to produce cash, stores or any other Council property under his control.

13.5 The Internal Auditor shall have the right to report any concerns directly to the Chief Executive, appropriate Councillors and the External Auditor.

14. BANKING ARRANGEMENTS, CHEQUES AND BACS

14.1 All arrangements with the Council's bankers shall be made or approved by the Chief Finance Officer, who shall be authorised to operate such banking accounts as they may consider necessary including the designation of authorised signatories.

14.2 All cheques, or other payment instruments/stationery excluding those drawn on authorised imprest accounts, shall be ordered only on the authority of the Chief Finance Officer, who shall make proper arrangements for their safe custody.

14.3 Cheques on the Council's main banking accounts shall be signed in accordance with the bank mandate (i.e. single signature under £10,000, two signatures over £10,000).

14.4 Payments made by BACS shall be authorised by the Chief Finance Officer or his/her representative in accordance with the Council's banking arrangements.

15. IMPREST ACCOUNTS

15.1 The Chief Finance Officer shall provide such petty cash and advance accounts as he/she considers appropriate for such officers of the Council as may need them for the purposes of defraying petty cash and other expenses. Such accounts shall be maintained on the imprest system.

15.2 Where he/she considers it appropriate, the Chief Finance Officer shall open an account with the Council's bankers for use by the imprest holder who shall not allow such account to be overdrawn. It shall be a standing instruction to the Council's bankers that the amount of any overdrawn balance on an imprest holder's banking account shall forthwith be reported to the Chief Finance Officer.

15.3 No income received on behalf of the Council may be paid into an imprest account but must be banked or paid to the authority as provided elsewhere in these regulations.

15.4 Payments shall be limited to minor items of expenditure and to such other items as the Chief Finance Officer may approve and shall be supported by a receipted voucher to the extent that the Chief Finance Officer may require.

15.5 An officer responsible for an imprest account shall carry out periodic reconciliations of his/her account and give the Chief Finance Officer a certificate as to the state of his/her imprest advance.

On leaving the employment of the Council, or otherwise ceasing to be entitled to hold an imprest advance, an officer shall account to the Chief Finance Officer for the amount advanced to him/her.

15.7 All cash floats held are to be confirmed to the Chief Finance Officer in writing at the end of each financial year.

15.8 Every transfer of official money from one member of staff to another shall be evidenced in the records of the Departments concerned by the signature of the receiving officer, or by an official receipt.

16. CONTRACTS

16.1 The Contract Procedure Rules deal with the regulation and control of contracts for the execution of work and the supply of goods, materials and services awarded by the Council. These Rules should be followed in conjunction with those Rules.

16.2 In the paragraphs under this section reference to the "relevant person" shall mean the appropriate Director, an officer nominated by him/her in writing for that contract or a private architect, engineer or other consultant engaged by the Council for the purpose of that contract.

The Chief Finance Officer shall be consulted as to any Performance Bonds to be obtained or given in respect of a proposed contract.

16.3 Each Director responsible for the awarding of contracts, which provide for payment to be made by instalments, shall arrange for the keeping of a register, to the satisfaction of the Chief Finance Officer, to show the state of account on each contract between the Council and a contractor, together with any other payments and related professional fees.

16.4 Payments to contractors on account of contracts shall be made only on a certificate issued by the relevant person.

16.5 Subject to the provisions of the contract in each case, every variation shall be authorised in writing by the relevant person. Each variation shall include an estimate of the increase or reduction in cost arising from that variation of the contract.

16.6 When the net effect of such variations exceeds the following limits, this shall be reported as soon as possible to the Cabinet or relevant Committee of the Council through the Corporate Financial

Monitoring process where the overspend is greater than £10,000 or 10% of the contract sum, whichever is greater.

Provided that it shall not be necessary to report such net effect in the case of contracts undertaken under agency or contractual arrangements on behalf of another local or public authority where that authority has approved the cost of the variation.

16.7 Where the relevant person issues a certificate and the amount to be paid on that certificate, when added to amounts previously certified for payment, would result in the contract sum or budgetary provision being exceeded, then the certificate shall be accompanied by a report fully explaining the position from the relevant person to the Chief Finance Officer.

16.8 The final certificate of completion of any contract shall not be issued until the relevant person has produced to the Chief Finance Officer a detailed final statement of account and all relevant documents, if required.

16.9 The Chief Finance Officer shall, to the extent that is considered necessary, examine final accounts for contracts and shall be entitled to make all such enquiries and receive such information and explanations as may be required in order to be satisfied as to the accuracy of the accounts.

16.10 Every works contract and every other contract which is estimated to exceed £60,000 in value or amount shall, where appropriate, include provision for liquidated damages, except where the contract is a partnering contract entered into under the Council's procurement policy. Where there has been a delay in the completion of a contract and an extension of time is not appropriate to be authorised, the relevant person shall impose the liquidated damages clause in all instances, unless, after consultation with the Monitoring Officer, it is decided it is inappropriate to do so.

16.11 A report as to final costs under each contract shall, after agreement of the final account, be incorporated into the Post Implementation Review submitted to the Senior Management Team, Cabinet or relevant Committee by the appropriate Director after consultation with the Chief Finance Officer.

16.12 Claims from contractors in respect of matters not clearly within the term of any existing contract shall be referred to the Monitoring Officer for consideration of the Council's legal liability and, where necessary, to the Chief Finance Officer for financial consideration, before a settlement is reached.

16.13 Where a contractor enters into liquidation or receivers are appointed or the contractor makes arrangement or composition with his/her creditors, the relevant person shall report the full circumstances in writing to the Cabinet or relevant Committee of the Council as soon as they are known to him/her.

16.14 Every Officer and Member of the Council has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and /or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council, in accordance with established Codes of Conduct.

17. ORDERS FOR WORK, GOODS AND SERVICES

17.1 The following procedures and those in Rule 18 relate primarily to the electronic entry and authorisation of purchase orders and certification of creditor invoices using the Integra financial information system. The same principles apply to non-purchase order invoices and to purchases using procurement (purchasing) cards.

17.2 Official orders shall be issued in advance for all work, goods or services to be supplied to the council, except for:

- supplies of public utility services, or other services, where paid by direct debit;
- petty cash purposes;
- works on Council properties that fall within the planned maintenance contract administered by the Council's property services contractor;
- such other exceptions as the Chief Finance Officer may approve.

Orders for works arranged with the Council's property services contractor must follow the specific procedures so arranged for this purpose through the Corporate Asset Lead. Initially a work request

form, appropriately authorised, should be submitted to the Council's property services contractor and once a suitable contractor has been arranged to carry out the work, an official order should be raised direct to that contractor. Full details of the procedure are available on SharePoint.

In exceptional circumstances where an order cannot be dispatched at the time of making the commitment, the supplier should be given an order number and the Confirmation Order issued not later than the next working day.

17.3 Official orders shall be in the form approved by the Chief Finance Officer and are to be approved only by officers authorised by the appropriate Director who shall be responsible for official orders issued from his department. The Director shall ensure that:

- value for money is obtained in all cases, primarily by obtaining and recording alternative quotations for the supply;
- the order is allocated to the correct accounting code and that the relevant budget is not exceeded

17.4 Each order should record the agreed price for the supply or the estimated cost of the supply, delivery and invoicing addresses.

17.5 Each order shall conform with the directions of the Council with respect to central purchasing and the standardisation of supplies and materials.

17.6 Orders must never be split to avoid authorisation limits.

17.7 When the work, goods or services to which the order relates has been received or carried out, appropriate confirmation of this must be obtained (normally in the form of a delivery note, advice note or works schedule) – only then should the receipt be recorded by means of the entry of a Goods Received Note (GRN) in Integra.

17.8 Procurement cards will be issued to Officers based on an assessment of needs. Cardholders must follow procedures laid down by the Chief Finance Officer: cards will be withdrawn if the facility is misused.

18. PAYMENT OF ACCOUNTS

18.1 Apart from Credit Card, petty cash and other payments from imprest accounts, the payment of monies due from the Council shall be by BACS payment or other instrument drawn on the Council's banking account by the Chief Finance Officer.

All requests for payment submitted to the Chief Finance Officer must be in the form prescribed by him/her.

18.2 The Director issuing an order is responsible for ensuring that the work, goods or services to which an account relates has been carried out or supplied as requested to a satisfactory standard. Normally this is evidenced on Integra by entry of a Goods Received Note, or for a non-purchase order invoice by completion of the appropriate boxes on the certification voucher.

18.3 Any significant price variation between the purchase order and the resulting invoice will require certification by an appropriate officer. Non-purchase order invoices will require manual certification by signature. Before certifying an account, the certifying officer shall, save to the extent that the Chief Finance Officer may otherwise determine, satisfy himself that:

- (a) the work, goods or services to which the account relates have been received, carried out, examined and approved.
- (b) the quantities, prices, extension, calculations, discounts, other allowances, credits and tax are correct
- (c) the account has not been previously passed for payment and is a proper liability of the Council

18.4 Periodically a list of officers authorised to approve such records shall be circulated by the Chief Finance Officer to each Director together with specimen signatures for confirmation by that Director. The Director shall ensure that this list be amended on the occasion of any changes to signatories. The Director shall ensure that adequate separation of duties exists by arranging that the officer certifying an account for payment is a different person to the one who ordered the supply.

18.5 Properly certified accounts (either by electronic means, in terms of purchase order price variations, or by manual signature) shall be passed without delay to the Chief Finance Officer who shall examine them to the extent that he considers necessary, for which purpose he shall be entitled to make such enquiries and to receive such information and explanations as he/she may require.

18.6 Amendments should not normally be made to an invoice. Where an amendment is required or where an invoice is received that does not quote a purchase order number and that invoice falls within the ordering criteria, the invoice shall be returned to the supplier for replacement.

18.7 Accrual of expenditure is normally dealt with by entry of Goods Received Notes in the Integra system. For any expenditure that falls outside the purchase ordering system, each Director shall, as soon as possible after 31 March, and not later than a date specified by the Chief Finance Officer in each year, notify the Chief Finance Officer of all outstanding expenditure for goods and services relating to the previous financial year which has not been paid at that date.

19. PAYROLL

19.1 The payment of all salaries, pensions, compensation and other emoluments to all employees or former employees of the Council shall be made by the Chief Finance Officer or under arrangements approved and controlled by him/her.

19.2 Each Director shall notify the Payroll Team as soon as possible and in the form prescribed by the Chief Finance Officer, of all matters affecting the payment of such emoluments, and in particular:

- (a) appointments, resignations, dismissals, retirements, suspensions, secondments and transfers
- (b) absences from duty for sickness or other reason, apart from approved leave
- (c) changes in remuneration, other than normal increments and pay awards and agreements of general application
- (d) information necessary to maintain records of service for superannuation, income tax, national insurance, etc.

19.3 Appointments of all employees shall be made in accordance with the regulations of the Council and the approved grades and rates of pay.

19.4 All time records or other pay documents shall be in a form prescribed or approved by the Chief Finance Officer and shall be certified in manuscript by or on behalf of the appropriate Director. The names of officers authorised to certify such records shall be sent to the Chief Finance Officer Team by each Director together with specimen signatures and shall be amended on the occasion of any change.

20. TRAVELLING, SUBSISTENCE AND ATTENDANCE ALLOWANCES

20.1 All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses shall be submitted to the Chief Finance Officer, duly certified in a form approved by him/her, made up to a specified day of each month, within a prescribed period. The names of officers authorised to certify such records shall be sent to the Chief Finance Officer by each Director together with specimen signatures and shall be amended on the occasion of any change.

20.2 The certification by or on behalf of the Director shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.

20.3 Officers shall normally submit claims for expenses at monthly intervals. Any claims submitted more than two months after the expenses were incurred will be paid only with the express approval of the Chief Finance Officer. All claims for a financial year are to be submitted within one month of 31 March.

20.4 Payments to Members, including co-opted members of the Council or its Cabinet, Committees or Sub-Committees, Panels and Working Parties, who are entitled to claim travelling or other allowances will be made by the Chief Finance Officer upon receipt of the prescribed form duly completed. Any claims submitted more than two months after the expenses were incurred will be paid only with the express approval of the Monitoring Officer. All claims for a financial year are to be submitted within one month of 31 March.

21. INCOME

21.1 The collection of all money due to the Council shall be under the supervision of the Chief Finance Officer and all systems, procedures and documentation involved in the assessment, collection, receipt and recovery of all income due to the Council shall be approved by him/her. All account forms shall require remittances to be sent in accordance with instructions issued by the Chief Finance Officer.

21.2 Subject to arrangements made by the Chief Finance Officer, each Director shall either furnish him/her with such particulars in connection with work done, goods supplied or services rendered and of all other amounts due as may be required to record correctly all sums due to the Council and to ensure the prompt rendering of accounts for the recovery of income due, or shall arrange to record those transactions and details in the appropriate system within his/her Department.

21.3 When raising sales invoices on the Integra system, each Director shall ensure that the customer details, fees, VAT treatment, period covered and details of the debt are recorded accurately and that the debt can be substantiated if disputed by the customer.

21.4 Recovery of outstanding sundry debts shall be administered by the Chief Finance Officer but responsibility for the debt lies with the originating Director, who shall liaise with the debtor and instruct the Chief Finance Officer on the best means of recovery.

21.5 The Chief Finance Officer shall be notified promptly of all money due to the Council including contracts, leases and other agreements and arrangements entered into which involve the receipt of income by the Council and the Chief Finance Officer shall have the right to inspect any documents or other evidence in this connection as may be decided.

21.6 All receipt forms, books, tickets and other such items shall be ordered and supplied to Departments by the Chief Finance Officer, who shall be satisfied with the arrangements for their control.

21.7 All amounts received by an authorised officer of the Council shall be immediately acknowledged by the issue of an official receipt, ticket or similar voucher.

21.8 All income received by an officer on behalf of the Council shall without delay be paid to the Chief Finance Officer, or, as directed, to the Council's banking account or transmitted directly to any other body or person entitled thereto. No deduction may be made from such income save to the extent that the Chief Finance Officer may specifically authorise. Each officer who so banks income shall enter on the paying-in slip a reference to the related debt (such as the receipt number, invoice number or the name of the debtor) or otherwise indicate the origin of the cheque. On the reverse of each cheque, the officer shall enter the name of his/her Operational or Specialist Lead, office or location, or otherwise identify the cashier. When a receipt is issued the receipt number should be indicated on the reverse of the cheque. Where the banking covers a range of income sources the officer making the banking must ensure a return analysing the income and agreeing to the amount of the banking is forwarded to the Chief Finance Officer at the time of the banking.

21.9 Personal cheques shall not be cashed out of money held on behalf of the Council.

21.10 Every transfer of official money from one member of staff to another shall be evidenced in the records of the Departments concerned by the signature of the receiving officer, or by an official receipt.

21.11 Each Director shall as soon as possible after 31 March, and not later than a date specified by the Chief Finance Officer in each year, notify the Chief Finance Officer of all outstanding income due relating to the previous year which has not previously been notified.

21.12 At least once per year, each Director shall, in consultation with the Chief Finance Officer, review scales of charges or fees relating to his/her Directorate in accordance with the Corporate Charging Policy, budget timetable and budget strategy. Consultation shall be carried out in accordance with the Corporate Charging Policy. Proposals should be approved by Cabinet or Committee as appropriate.

22. EXTERNAL ARRANGEMENTS (PARTNERSHIPS, EXTERNAL FUNDING ARRANGEMENTS AND WORK FOR THIRD PARTIES)

22.1 Partnerships play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – public agencies, private communities, community groups and voluntary organisations. On other occasions the Council may agree to provide services funded by outside bodies, sometimes acting as an accountable body. There may be occasions when the Council is requested to provide services on behalf of other bodies, often provided under a Service Level Agreement. The External Arrangements Rules deal with the regulation and control of such arrangements. These rules should be followed in conjunction with those Rules.

22.2 In particular, the key controls for Operational and Specialist Leads are:-

Partnerships:

- (a) To be aware of their responsibilities under the Council's Financial Procedure Rules and the 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.
- (f) To ensure the Council's insurers are informed of the proposals and suitable insurance is arranged.

External Funding Arrangements:

- (g) 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.
- (h) To ensure that funds are acquired only to meet the priorities approved in the policy framework by the Council.
- (i) 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.
- (j) To ensure that the consequences for the Council, or for any partners for whom the Council may be acting as Agent, of exceeding the funding or expenditure requirements are clearly set out and understood.
- (k) To ensure the consequences for the Council's VAT position are understood.
- (l) To ensure the Council's insurers are informed of the proposals and suitable insurance is arranged.

Work for Third Parties

- (m) To ensure that proposals are costed properly in accordance with guidance provided by the Chief Finance Officer including consideration of any VAT implications.
- (n) To ensure that contracts are drawn up using guidance provided by the Chief Finance Officer and that the formal approvals process is adhered to.
- (o) To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.
- (p) To ensure the Council's insurers are informed of the proposal and suitable insurance is arranged.

23. PRUDENTIAL FRAMEWORK

23.1 The Council adheres to the requirements of the CIPFA Code on a Prudential Framework for Local Authority Capital Finance. The Chief Finance Officer is responsible for preparing the indicators

stipulated by the Code and reporting them to Council for approval. The indicators are to be reviewed at least annually and on major amendments to the Capital Programme.

23.2 The Prudential Indicators are to be taken into account in managing the Council's finances, particularly its projections of future expenditure and resources.

23.3 The Council is required to approve and keep up to date a Treasury Management Policy Statement and agree an annual Strategy Statement to direct its treasury activities.

23.4 Capital financing decisions are to be made in accordance with the Council's Treasury Management Policy and Strategy and the Prudential Code.

23.5 The Council's performance against its prudential indicators should be monitored regularly by the Chief Finance Officer and reported to Council and the Overview and Scrutiny Committee at least once during each year and at the end of each year.

24. INVESTMENTS, BORROWINGS, LEASING AND TRUST FUNDS

24.1 All investments and borrowing of money and leasing arrangements shall be made in the name of the Council.

24.2 All investment and borrowing transactions shall be carried out in accordance with the Council's approved Treasury Management Policy and Strategy Statements.

24.3 All securities the property of or in the name of the Council and the title deeds of all property in its ownership shall be kept in the custody of the Monitoring Officer.

24.4 The Chief Finance Officer shall be the Council's registrar of stocks, bonds and mortgages and shall maintain records of all leasings and borrowing of money by the Council.

24.5 All trust funds shall wherever possible be in the name of the Council.

24.6 All officers acting as trustees by virtue of their official position shall deposit all securities etc. relating to the trust with the Chief Finance Officer unless the deed otherwise provides.

24.7 The Chief Finance Officer shall seek and accept tenders for leasing facilities for the acquisition of assets where this is an appropriate method of financing subject to consultation with the relevant Portfolio Holder(s) and Director(s). Operational and Specialist Leads, in consultation with the Chief Finance Officer or their Deputy must determine whether leasing is the most appropriate method of financing an asset before going out to procurement and this must be signed off by the Chief Finance Officer before procurement commences, as entering into a lease is considered debt financing.

24.8 The Chief Finance Officer will maintain a register of all leases into the organisation. It is the responsibility of Operational and Specialist Leads to provide the Chief Finance Officer with the necessary information to ensure this is comprehensive and up-to-date.

25. LAND AND BUILDINGS

25.1 The Monitoring Officer shall maintain a terrier or register of all Land and Buildings owned by the Council and a register of leases recording the responsible Assistant Director, purpose for which held, location, extent and plan reference, purchase details, particulars of nature of interest and rents payable and particulars of tenancies granted.

25.2 All contracts for the acquisition or disposal of land/buildings shall be signed or sealed and the Monitoring Officer shall arrange for the secure custody of all title deeds.

25.3 The Monitoring Officer shall be responsible for instituting routine inspection of all Council Land and Buildings and ensuring that schedules of maintenance are prepared and work instigated and supervised on behalf of the Council as advised.

26. INVENTORIES

26.1 Inventories recording furniture, fittings and equipment, plant and machinery held by each Directorate shall be maintained by the Operational or Specialist Lead concerned. The form of the inventories shall be settled by the appropriate Operational or Specialist Lead after consultation with

the Chief Finance Officer. All items contained therein shall, as far as possible, be suitably marked as council property.

26.2 Each Operational or Specialist Lead shall be responsible for maintaining at least an annual physical check of all items on the inventory, for taking action in relation to surpluses or deficiencies and revising the inventory accordingly. In some areas, more frequent spot-checks may be appropriate in addition. The Chief Finance Officer must be informed of any significant discrepancies discovered on checking inventories.

26.3 A copy of each inventory should be submitted to the Chief Finance Officer when requested.

Where assets are to be disposed of the relevant Operational or Specialist Lead shall be required to keep comprehensive records of the disposal.

26.4 The Council's property shall not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific directions issued by the Operational or Specialist Lead concerned.

26.5 Where assets other than land and property are to be disposed of the relevant Operational or Specialist Lead shall be required to ensure Best Consideration is obtained and shall be required to keep comprehensive records of the disposal.

27. STOCKS AND STORES

27.1 Each Operational or Specialist Lead shall be responsible for the care and custody of the stocks and stores in his/her Department and for the maintenance of appropriate records in a form approved by the Chief Finance Officer.

27.2 Stocks shall not be in excess of normal requirements except in special circumstances with the approval of the Operational or Specialist Lead concerned.

27.3 Operational or Specialist Leads shall arrange for periodical test examinations of stocks by persons other than storekeepers and shall ensure that all stocks are checked at least once in every year.

27.4 The Chief Finance Officer shall be entitled to receive from each Operational or Specialist Lead such information as he/she requires in relation to stores for the accounting, costing and financial records. Surplus materials, stores or equipment shall be disposed of by competitive tender or public auction unless the Cabinet decides otherwise in a particular case. Where the aggregate value of surplus materials, stores or equipment etc. to be disposed of does not exceed £5,000 in any one financial year, the appropriate Operational or Specialist Lead, in conjunction with the Chief Finance Officer, shall be authorised to make the appropriate arrangements for disposal.

28. AMOUNTS TO BE WRITTEN-OFF

28.1 The Chief Finance Officer is authorised to write-off debts which for all accounts for an individual debtor do not exceed £20,000.

28.2 The Chief Finance Officer is authorised to write-off stocks and stores up to £20,000 for any one item in any one financial year.

28.3 The Chief Finance Officer, in consultation with the Portfolio Holder responsible for financial matters, be authorised to write-off irrecoverable business rate debts in excess of £20,000 but which do not exceed £100,000 and in all cases exceeding £100,000 where further recovery action is impossible because the debtor is subject to bankruptcy, liquidation or an administration order. In such cases to comply with requirements of the Official Receiver and other similar bodies the debt may be written-off on Council records prior to formal approval by the Chief Finance Officer providing that approval is given within 14 days.

28.4 The Chief Finance Officer shall be supplied with such information with regard to write-offs as is considered necessary.

28.5 The Director of Customer and Commercial Services is authorised to write-off debts relating to penalty charge notices.

28.6 For debts which fall outside the categories stated in paragraphs 28.1 to 28.5 approval will be required from Cabinet or the relevant committee. This will be included in the Corporate Financial Monitoring process.

29. SECURITY

29.1 Each Operational and Specialist Lead is responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash etc., under his/her control.

29.2 Maximum limits for cash holdings shall be agreed with the Chief Finance Officer and shall not be exceeded without his/her express permission.

29.3 Persons responsible for keys to safes and similar containers shall make arrangements to ensure the safe custody of the keys at all times; the loss of any such keys must be reported to the Chief Finance Officer immediately.

29.4 Each Operational and Specialist Lead shall maintain a register of key holders in a secure place.

29.5 The Digital Lead Specialist shall be responsible for maintaining proper security and privacy as respects information held in the computer installation.

29.6 The responsibility for all hardware, software, information held and ensuring that the standards as set by the Digital Lead Specialist within each Directorate rests with the appropriate Director.

29.7 The security of personal possessions in the work environment is the responsibility of the owner and the Council will accept no responsibility for the security of any items not necessary for the service of the Council.

30. INSURANCES

30.1 The Chief Finance Officer shall effect all insurance cover, where appropriate by competitive tendering.

30.2 The process for the insurers settling claims will be agreed with the Monitoring Officer and the Monitoring Officer will approve settlement of claims under £10,000 and where claims exceed £10,000 the Monitoring Officer and the Chief Finance Officer shall both approve settlements.

30.3 Operational and Specialist Leads shall notify the Chief Finance Officer immediately of all new risks, properties or vehicles which may require to be insured and of any alterations affecting existing insurances.

30.4 Operational and Specialists Leads shall forthwith notify the Chief Finance Officer in writing of any loss, liability or damage or any event likely to lead to any claim against the Council.

30.5 All appropriate employees of the Council shall be included in a suitable fidelity guarantee insurance.

30.6 The Chief Finance Officer shall annually, or at such other period as is considered necessary, review the level of risk and external insurance in consultation with the appropriate Operational or Specialist Lead.

31. FINANCIAL STATIONERY

31.1 All official receipt forms, cheques, tickets, stores requisition notes, order books and other documents representing money shall be ordered, controlled and issued by each Director. A register shall be kept by him of all receipts and issues of such documents, and each issue shall be acknowledged by the signature of the officer to whom the issue is made, the quantity issued to be determined by ascertained needs. The officer responsible for the stationery shall ensure that it is stored in a secure place and that unauthorised access is prevented.

32. INDEMNITIES

32.1 Directors must consult with the Chief Finance Officer and Monitoring Officer regarding the terms of any indemnity which the Council is requested to give.

33. IRREGULARITIES

33.1 Whenever any matter arises which involves, or is thought to involve, financial irregularities concerning cash, stores or other property of the Council, or any suspected irregularity in the exercise of its functions the Director concerned shall immediately notify the Chief Finance Officer who shall take such steps as he/she considers necessary by way of investigation and report as detailed in the Anti-Bribery, Fraud and Corruption Policy. Directors should, meanwhile, take any appropriate action to prevent further loss and secure records and documents against removal or alteration.

33.2 The Chief Finance Officer should decide whether to involve the Police in matters of serious irregularities and inform the Leader or appropriate Chairman accordingly.

33.3 Full details of procedures for dealing with suspected irregularities are given in the Anti-Bribery, Fraud and Corruption Policy.

Definitions of principal irregularities are:

Fraud is 'the intentional distortion of financial statements or other records by persons internal or external to the Authority which is carried out to conceal the misappropriation of assets or otherwise for gain'.

Theft is 'dishonestly appropriating property belonging to another with the intention of permanently depriving them'.

Corruption is 'the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person'.

Bribery is the offer, promise or giving of a financial or other advantage to another person, intending to induce them to perform improperly a relevant function or activity, or to reward a person for such improper performance.

33. DEPARTURES TO FINANCIAL PROCEDURE RULES

33.1 In the event of it being impracticable to apply any of these rules in any particular case, the Chief Finance Officer is authorised to waive compliance, subject to reporting any major departures to the next following Cabinet.

CONTRACT PROCEDURE RULES

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BRIEF GUIDE TO CONTRACT PROCEDURE RULES

These Contract Procedure Rules (issued in accordance with section 135 of the Local Government Act 1972) are intended to promote good procurement practice and public accountability and deter corruption, ensuring value for money on all Council spend. The rules are the best defence against allegations that a procurement process has been conducted unlawfully.

Legal challenges against public procurement are increasing with **potentially serious consequences** for the Council and its officers if procurement activity is not undertaken to the highest standards of probity and professionalism.

These Rules are complimented by the Procurement Strategy and Commissioning Strategy and the Procurement Toolkit maintained by the Strategy Team. The guidance can be found on the Council's SharePoint.

For the purposes of these rules, where there is a requirement for communication to be in writing, this shall be deemed to include e-mail transmissions as well as hard copy. In addition, the term "contract", refers to both paper/hard copy documents and process and their replication by electronic media.

In accordance with the Constitution, the Monitoring Officer in consultation with the Chief Finance Officer, is authorised to make technical amendments from time to time to these Contract Procedure Rules.

Important Tips

- Follow the rules if you procure goods, services or building work. This is very much in your own interest as well as that of the Council
- Ensure that all known future procurements projects are placed on the Council's **Procurement Schedule**, the approval by Cabinet and Council of the Schedule is the start of the decision making process. Ensure the decision making column is correct and agree this with the Specialist for Legal and Procurement. Key Decisions should be entered on the Forward Plan and listed in detail prior to Cabinet agreement to the Procurement Schedule.
- The authorisation and approval process is set out in the Schedule 2 to these Contract Procedure Rules.
- Take all necessary legal, financial, HR and professional advice. Do this early in the procurement process to avoid abortive effort and to allow time for consideration of all relevant issues. This to include consideration of the type of contract and if it is to be under seal (all contracts over £60,000 should be under seal unless the Monitoring Officer agrees it is not expedient to do so).
- Declare any personal conflict of interest, financial or otherwise, in a contract. Corruption is a criminal offence.
- Check you have correct and appropriate approvals before you proceed.
- Check whether there is an existing contract or an appropriate framework agreement that you can make use of before undergoing a competitive process.
- Consider your procurement objectives and available procurement routes such as collaboration, use of framework agreements or exemptions/waivers at the outset.
- Consider risk, including non-financial factors, at the outset e.g. data protection, safeguarding.
- If your procurement affects any of the Council's land and building you must contact the Operational Lead for Delivery and Commercial Services.
- Use the Council's chosen e-tendering portal, The Chest.
- Use the Procurement Toolkit that can be found on SharePoint.
- Ensure you have agreed your contract documents including:
 - selection and award criteria,

- weightings, and
- draft terms and conditions, including the need for a performance bond before you publish any advert, Selection Questionnaire (SQ) or tender.
- Pre-market engagement is now allowed and encouraged under the Public Contracts Regulations 2015. The nature of the pre-market engagement should be agreed with the Procurement Team. Once the procurement has commenced contact should be via The Chest only.
- Tenders take time with minimum timescales specified for some aspects of the process. Ensure you consult with the Procurement Specialist to draw up an appropriate procurement timetable. For tenders above the procurement thresholds threshold minimum timescales are mandatory by law.
- Take into account mobilisation periods, elections, public holidays and other events which may impact the decision making or implementation process.
- Ensure your service and any potential changes being considered as part of this procurement are assessed for their ultimate social value, impact on equality and impact on sustainability before proceeding.
- Keep bids confidential during the bidding process.
- Keep records of dealings with suppliers and contractors.
- Complete a written contract where appropriate, and Council purchase order before the supply of goods, services or works begin.
- Nominate an appropriately qualified contract manager with responsibility for ensuring the contract delivers as intended.
- Share lessons learned about what went well or not so well during the procurement, feedback to the Procurement.
- Assess each contract 6-12 months after award to see how well it met the procurement needs and Value for Money requirements.
- Remember that all information regarding your procurement process could be subject to a Freedom of Information Request or Environmental Information Regulations request. Requests for information concerning tender processes and suppliers/contractors are relatively common and publication of tenders is part of the movement towards greater transparency. However, before releasing any information consult the Data Protection Officer and the Procurement Officers.
- Under the Government's transparency requirements all contracts over £5,000 must be included on the electronic contracts register once the contract is awarded or extended. This should also include waivers and exemptions.

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

1. BASIC PRINCIPLES

1.1 The following basic principles shall apply to all procurement and disposal procedures and contracts:-

- All procurement activity will comply with all applicable Procurement Directives, UK Legislation, the Council Constitution and all other relevant policies and procedures;
- The Council will undertake procurement activity using the most efficient and effective methods and will select the most appropriate delivery mechanisms to ensure Value for Money;
- All procurement activity will include due consideration of social, economic and environmental factors and will be assessed on Whole Life Costing;
- Robust contract management will support improved service delivery through continuous improvement in the quality of goods, works and services; and
- Procurement will be fair, open and transparent and undertaken to the highest standards of probity, integrity, honesty and professionalism.

1.2 These rules apply equally to tenders and requests for quotations.

1.3 The designated contract manager is responsible for ensuring contracts have an appropriate funded budget.

1.4 These Contract Procedure Rules shall be reviewed and updated annually. These Rules and Amendments to them shall be agreed and approved by the full Council.

2 DIRECTORS' AND OPERATIONAL AND LEAD SPECIALISTS' RESPONSIBILITIES

2.1 Directors, Operational and Specialist Leads shall:-

2.1.1 Review and update the Council's Procurement Schedule (including exemptions, exceptions and waivers) at least annually.

2.1.2 Ensure the central registers of:

2.1.2.1 contracts with a value of £5,000 or more and arrange their safekeeping on Council premises;

2.1.2.2 exemptions recorded under Rule 3; and

2.1.2.3 2.1.2.1 and 2.1.2.2 above are updated for all procurements.

2.1.3 Compile and keep under continuous review a written schedule of all standing delegations made by them under these Contract Procedures.

2.2 The relevant scheme of delegations is as follows:-

2.2.1 Under £25,000 then this is an Administrative Decision by Lead Specialist.

2.2.2 Above £25,000 up to £60,000 then the relevant Director by Administrative Decision

2.2.3 Above £60,000 up to £100,000 then the relevant Director by Delegated Executive Decision (NB requirement to place item on the Forward Plan if over the Key Decision threshold)

2.2.4 £100,000 up to Public Regulations thresholds (“Procurement Thresholds”) £250,000 then the relevant Director and Portfolio Holder by Delegated Executive Decision (NB requirement to place item on the Forward Plan if over the Key Decision threshold)

2.2.5 Over £250,000, Cabinet once approved by Cabinet the decision to be implemented by Administrative Decision. (NB requirement to place item on the Forward Plan if over the Key Decision threshold)

2.2.6 Please note if the matter affects more than 2 wards then this also falls within the definition of a Key Decision and a Forward Plan entry is also required.

SECTION 2: COMMON REQUIREMENTS

3 STEPS PRIOR TO PROCUREMENT

3.1 As part of the budget process for the following financial year, the Council will prepare a Procurement Schedule. This will be considered by the Overview and Scrutiny Committee, Cabinet and approved by Council as part of the Budget and Policy Framework and will be included in the Forward Plan. If your procurement falls within the definition of a **Key Decision** you must add these as Forward Plan entries as part of the approval process. This should take place prior to the Procurement Schedule being approved by Cabinet and Council.

3.2 **The Procurement Schedule** will include:-

- (a) the title of the contract;
- (b) the service and officer responsible;
- (c) a brief summary of the goods or services covered;
- (d) proposed start and end dates;
- (e) a review date and extension period (if applicable);
- (f) estimated value by band (Under £25,000, above £25,000 to £60,000, above £60,000 to £100,000, above £100,000 to £250,000 and above £250,000);
- (g) the process to be followed, if known (e.g. request for quotation, invitation to tender, use of existing framework, full PCR 2015); and
- (h) the proposed decision route (officer Administrative Decisions, Delegated Executive Decision of the Director or Director and Portfolio Holder or Cabinet.

3.3 Each Operational and Specialist Lead is responsible for ensuring the Procurement Schedule is updated. It should include waivers and exemptions.

3.4 Tenders and Requests for Quotation shall wherever practicable be widely and appropriately advertised to ensure equality of opportunity for potential suppliers to compete if they so choose.

3.5 Officers must ensure that appropriate approval has been given to proceed with the procurement and that the processes within the financial regulations are followed.

Items not on the Procurement Schedule and Exemptions or Waivers.

3.6 In the event of an exemption or waiver then the following must be obtained

3.6.1 Under £25,000 then this is an Administrative Decision of Lead Specialist

3.6.2 Above £25,000 to £60,000 then this is an Administrative Decision by relevant Director

3.6.3 Above £60,000 to £100,000 by Delegated Executive Decision of the relevant Director.

3.6.4 Above £100,000 to £250,000 by Delegated Executive Decision by the relevant Portfolio Holder

3.6.5 Above £250,000, Cabinet approval with Administrative Decision

3.7 All procurements authorized by this route must be reported to Cabinet at the earliest opportunity

3.8NB – Waivers and exemptions which are Key Decisions must be placed as individual items on the Forward Plan

3.9 In the event that the contract is not on the procurement schedule the Director, Monitoring Officer and Section 151 Officer must be consulted to ensure that the limits in 3.6 and decision making routes can be applied as this is predicated on budget provision being in place.

3.10 Officers must ensure that provision for resources for the management of the contract and for support from internal specialists, for its entirety, have been identified and where necessary included in a business case.

3.11 Officers must assess the procurement process in a manner commensurate with its complexity and value. Officers must:-

3.11.1 Ensure that any procurement commenced must comply with the commissioning strategy that is approved and any procurements must ensure and demonstrate that the strategy in Schedule 2 hereto has been complied with and the requirements and evaluation methodology aligns to this strategy

3.11.2 appraise the need for the expenditure and its priority;

3.11.3 define the objectives of the procurement process;

3.11.4 conduct an options appraisal to consider how the contract should be packaged and what procurement method is most likely to achieve the objectives and demonstrate value for money, including internal or external sourcing, partnering and collaborative procurement arrangements;

3.11.5 assess the risks associated with the procurement process and how to manage them;

3.11.6 consult the Operational Lead for Delivery and Commercial Services for all procurement relating to the Council's land and buildings;

3.11.7 consult end users, internally and externally, about their expectations, the proposed procurement method, and expected contract standards and performance;

3.11.8 consider what terms and conditions (T&Cs) should be used, including use

of:-3.11.9 Council standard T&Cs for straight forward procurements;

3.11.10 the most recent edition of professional/industry standard T&Cs where appropriate (e.g. JCT Minor Works Contract);

3.11.11 appropriate levels of insurance in consultation with Finance Specialists;

3.11.12 specialist T&Cs drafted by Legal Services for more complex, high spend or high risk procurements; and

3.11.13 the T&Cs relating to any framework (if applicable);

3.11.14 ensure conflicts of interest are identified, including where staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the procurement process. Any potential conflicts should be identified to the Monitoring Officer; and

3.11.15 set out these matters in writing if the Contract value of the Procurement exceeds £25,000.

3.12 The Chief Finance Officer will set, from time to time, default levels of insurances appropriate for different types of procurement/contracts. These default levels can only be reduced with the approval of the Chief Finance Officer.

4 TRANSFER OF UNDERTAKINGS PROTECTION OF EMPLOYEES

issue a statement on the application of the Acquired

4.1 In all cases where a request for Quotation or Invitation to Tender for services may result in a transfer of employees to or from the Council the Council will:-

- Rights Directive(s) and the Transfer of Undertakings (Protection of Employment) Regulations 2006; and
- consult staff who may be affected.

5 NON-COMMERCIAL CONSIDERATIONS, EQUALITIES & COMMUNITY BENEFIT

5.1 Under procurement law, public bodies are only able to take social and environmental matters into account in the decision to award a contract to the extent that those matters are directly relevant to the subject matter of the contract. However, in compliance with public procurement law, public bodies are now required to consider how social, economic and environmental improvements can be achieved through procurement.

5.2 Inclusion of such criteria in specifications should be undertaken in accordance with the Procurement Toolkit.

6 RECORDS

6.1 All contractual documents associated with Requests for Quotations and Tenders from successful and unsuccessful suppliers must be retained in accordance with the clauses below:-

6.1.1 The method for obtaining bids

6.1.2 copies of public notices

6.1.3 any Contracting decision including exemptions and the reasons for it

6.1.4 the shortlisting criteria and scoring

6.1.5 the Award criteria and scoring

6.1.6 the reason if the lowest price is not accepted

6.1.7 Tenders/Quotations returned

6.1.8 Any post tender interviews and clarifications including written notes of any interviews

6.1.9 arrangement for contract management and monitoring

6.1.10 communications with all Candidates and with the successful contractor

6.1.11 Requisition for Supplies/goods

6.1.12 Copy orders

6.1.13 Delivery Notes

6.1.14 Invoices, credit notes etc

6.1.15 Price Advices

6.1.16 Contract Variations

6.1.17 Write off Approvals

6.2 A complete set of the original contract and tender documents must also be retained, including contract terms and conditions, specification, pricing schedule, evaluation models,

correspondence and award decision and letter as either electronic or hard copies. All of the above will be safely stored on the Council's e-tendering portal, The Chest when used to undertake a procurement exercise. Where there is no requirement under these Rules for a formal written contract, then a copy of the original Purchase Order and invoice including specification pricing information and correspondence will be kept by the Officer/relevant service. Where a contract has a value of over £5,000 a copy of the PO/invoice will be shared with Legal Specialists for the purposes of updating the Council's Contracts Register.

6.3 Records required by this rule, must be retained in accordance with the Council's document retention policy but in any event must be retained for the following:

6.3.1 For contracts below £60,000 in total estimated value – 3 years or the lifetime of the contract

6.3.2 For contracts £60,000 and above – six years after the expiry of the contract

6.4 The Monitoring Officer shall have overall responsibility to ensure a register (the Contract Register) is maintained for all contractual arrangements over £5,000. The Register will be continually reviewed and updated in line with all relevant procurement activity, by the Monitoring Officer.

7 TENDER PROCEDURE

7.1 For the purposes of this rule, all estimates of contract values shall be in accordance with the procurement toolkit provided that for Disabled Facilities Grants the procedures set out in Rule 24 ("Disabled Facilities Grants") shall apply. If for any reason this is not available the estimates are to be in writing and prepared by the relevant Director or a competent member of his/her staff. Written quotations or tenders are not required for goods, services or works having an estimated value of less than £10,000 although best value should be obtained; this can be demonstrated through seeking three written quotes.

7.2 For contracts having an estimated value of £10,000 but not exceeding £100,000 quotations are obtained from competent contractors through The Chest. A minimum of three quotes should be obtained. Where less than three quotes are submitted the authorisation of Chief Finance Officer should be obtained before a quotation is accepted. The Chief Finance Office must be satisfied that the quotation represents value for money.

TENDERS (BELOW PROCUREMENT THRESHOLD VALUES)

7.3 No contract having an estimated value of £60,000 or more but below Procurement Threshold values applicable at the time shall be made unless the procedures below are undertaken:

7.3.1 At least fourteen (14) days public notice should be given on The Chest and Contracts Finder using the Council's standard documentation or a variation of such, and stating:-

- the nature and purpose of the contract;
- inviting tenders for its execution;
- details of the award criterion; and
- the last date for when tenders will be accepted.

Pre-Qualification (Selection Questionnaire)

7.3.3 Where application has been invited by Public Notice in accordance with the Rules above, the invitation may require a pre-tender assessment (Selection Questionnaire, previously known as a Pre- Qualification Questionnaire) to be undertaken and for the invitation to submit a tender to be limited to those persons who satisfactorily meet the requirements of that assessment.

7.3.4 Where this applies the public notice must clearly and unambiguously state this fact.

7.3.5 The relevant Director shall select not less than 5 contractors from the list who have satisfactorily met the pre-qualification criteria to submit a tender. Where less than 5 have satisfactorily met the pre-qualification criteria the maximum number of suitable contractors must be invited to submit a tender.

7.3.6 A two stage procurement process including pre-qualification should not be used as standard practice but instead when the procurement and contract process is considered high risk.

7.3.7 The Council shall only enter into a contract with a potential supplier if it is satisfied as to the suppliers’:-

7.3.7.1 eligibility that he/she is not disbarred from tendering;

7.3.7.2 financial standing; and

7.3.7.3 overall technical ability.

Tenders above Procurement threshold values

7.4 All supplies, services or works having an estimated contract value in excess of the values stipulated in the Public Contracts Regulations 2015 shall be undertaken strictly in accordance with the requirements of that legislation.

7.5 All public notices for such contracts must be in the prescribed form, electronically transmitted via the e-tendering portal, The Chest and on Contracts Finder.

7.6 Placement of additional local/national or other public notices must only be made after the date of despatch.

7.7 The advice and assistance of the Procurement & Contracts Manager must be sought prior to the despatch of any Notice.

SECTION 3: CONDUCTING PROCUREMENT

8 FINANCIAL LIMITS AND THRESHOLDS

- 8.1 All requests for quotations, tendering and contracting, other than detailed in Rule 3 Exemptions, shall be subject to the thresholds shown in Section 7 (Tender Procedure) above.
- 8.2 The Council acting as an 'Accountable Body' may be subject to lower financial thresholds than specified in Appendix 1 as stipulated by the funding body
- 8.3 The Council will regularly review and if appropriate revise the Financial thresholds listed.

9 AWARD CRITERIA

- 9.1 The basis of tender acceptance and award must be made clear in the tender documentation.
Either:-
- Most Economically Advantageous Tender; or
 - Lowest Price where payment is to be made by the Council; or
 - Highest Price if payment is to be received. As more fully described here under
- 9.2 Contracts shall primarily be awarded on the basis of the Most Economically Advantageous Tender which is most likely to offer 'Value for Money' by a robust assessment of cost and quality. Setting evaluation criteria based solely on lowest prices should be done with extreme caution.
- 9.3 For contracts having a value in excess of £100,000, or identified as likely to have significant environmental impacts(s) the evaluation of cost and quality shall include an assessment of 'Whole Life Costs' proportional to the value of the relevant goods, works or services.
- 9.4 Unless there are exceptional reasons, the weighting given to price shall be between 60% and 85%. A lower figure than 60% will require the written approval of the Chief Finance Officer.
- 9.5 An award on the basis of lowest price should be reserved for sectors where it is possible to precisely specify the goods or supplies to be procured or the items are otherwise identical. (For example basic gas and electricity supply prices but not where an element of the supply is to be from renewable or carbon neutral processes)
- 9.6 The award criteria must be established before publication of Invitation to Tender (ITT) and must be included in the documentation issued to potential suppliers as part of the tender process. In the case of contracts that are estimated to be over the procurement thresholds it is encouraged that the evaluation criteria is also published in the initial notice and is required to be included at the SQ stage.
- 9.7 Award Criteria must not include:-
- non-Commercial Considerations;
 - matters which discriminate against suppliers from the European Economic Area or signatories to the Government Procurement Agreement; or
 - criteria used in selection and award - criteria should be distinguished separately at all times in the tendering process.

10 QUOTATIONS

- 10.1 All Requests for Quotations (RFQs) must include a specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers
- 10.2 The Officer must define Award Criteria that are appropriate to the Procurement and designed to secure an outcome giving value for money for the Council.

- 10.3 All Quotations must specify the terms and conditions of contract that will apply.
- 10.4 The Request for Quotation must state that the Council is not bound to accept the lowest or any Quote, and reserves the right not to award the Contract at all.
- 10.5 All Candidates invited to quote must be issued with the same information at the same time and subject to the same conditions via The Chest. Any supplementary information must be given on the same basis.
- 10.6 Quotations must be returned electronically via the Chest, or where an alternative procedure is adopted via email or in writing addressed impersonally to the relevant Director.
- 10.7 The Operational or Specialist Lead may accept the most advantageous Quotations received in respect of proposed contracts, provided they have been sought and evaluated fully in accordance with these Contract Procedure Rules.
- 10.8 The authority in the preceding paragraph may be subject to delegation for quotations under £10,000. However, the decision on acceptance must be taken by an Officer of appropriate seniority and experience and must be formally recorded.

11 INVITATION TO TENDER

- 11.1 Any Invitation to Tender issued by the Council shall include details of the Council's requirements for that particular contract including:-
 - 11.1.1 A description of the supplies, services or works being procured;
 - 11.1.2 The procurement timetable including tender return date and time. Such date must allow a reasonable period for potential suppliers to prepare and submit their tender;
 - 11.1.3 A specification and instructions on whether variants are permissible;
 - 11.1.4 The Council's standard terms and conditions of contract, or other suitably prepared T&Cs with the agreement of Legal Services;
 - 11.1.5 A statement on the Council's Anti-Bribery, Fraud and Corruption Policy including reference to the Whistle-blowing Policy (Confidential Reporting Code) and the Bribery Act 2010;
 - 11.1.6 The evaluation criteria and any weightings considered appropriate;
 - 11.1.7 The pricing mechanism and instructions for completion;
 - 11.1.8 The form and content of any method statements etc. to be submitted;
 - 11.1.9 A statement that the Council does not bind itself to accept the lowest or any tender;
 - 11.1.10 A statement that late tenders, incomplete tenders, tenders returned not using the means indicated, or where applicable, not returned in the envelope provided or bearing distinguishing marks that would identify the sender, or those containing an unauthorised alteration will be disqualified;
 - 11.1.11 Whether the Council is of the view that the Transfer of Undertakings (Protection of Employment) Regulations 2006 may apply;
 - 11.1.12 A list of documents to be returned, and the rules for their submission;
 - 11.1.13 Any further information that will inform and assist those invited to tender to prepare and submit tenders;
 - 11.1.14 A Non-Collusive Tendering Certificate for completion and return by the tenderer; and

- 11.1.15 A statement that *“The Council does not bind itself to accept the lowest (highest), or any tender”*
- 11.2 Tenders invited in pursuance of Rule 22(1) of the Public Contracts Regulations 2015 shall be returned electronically where the process has taken place via the e-tendering portal.
- 11.3 Where submissions are required in other formats to support the process on The Chest they shall be addressed impersonally to the relevant Director.
- 11.4 Tender return envelopes/labels shall be a plain colour. They shall bear the word ‘Tender’ followed by the tender subject, and clearly state the deadline for receipt of tenders in the top left hand corner.

12 SUBMISSION AND RECEIPT OF TENDERS/QUOTATIONS

- 12.1 Candidates must be given an adequate period in which to prepare and submit a proper Tender/Quotation, consistent with the complexity of the contract requirement. The procurement Procedure lays down specific time periods which are required by law and must be adhered to.
- 12.2 Electronic tenders must only be opened after expiry of the closing date in accordance with the provisions of Clause 13 (“Opening of Tenders/Quotations”) below. Any opening of tenders prior to the tender return deadline will render the tender exercise invalid
- 12.3 All tender responses shall be returned via the portal where they will be sealed until after the deadline for return has passed when only an appointed verifier can release them.
- 12.4 Where a paper-based exercise is followed for quotations under £10,000, quotation envelopes on their return shall be date stamped, the time of their return inserted and initialed by the staff who first receives them. They will be forwarded to the relevant Director who will store them in a secure locked place where they will remain unopened until after the deadline for return has passed.

13 OPENING OF TENDERS/QUOTATIONS

- 13.1 Tenders and Quotations shall be opened at a single time.
- 13.2 Where the preferred method of the approved e-tendering portal is followed all quotations shall be returned via the portal where they will remain locked until after the final deadline for receipt of tenders when only an appointed verifier can release them.
- 13.3 The relevant Director and a designated member of his/her staff or two designated members of his/her staff shall open written quotations received under any other procedure or in the case of using the e- tendering portal an appointed verifier can release them.
- 13.4 Where a paper-based exercise has been followed for quotations under £10,000 the Form of Tender/Quotation, Non-collusive certificates, form of bond and any priced documents submitted by the potential supplier shall be date stamped and those persons present shall insert their initials within the stamp.
- 13.5 Any Tender/Quotation received after the appointed time for receipt of tenders/quotations for a particular contract shall be disqualified, other than under exceptional circumstances, and shall not be opened save to ascertain the name of the tenderer/potential supplier to whom it shall be returned immediately. The Monitoring Officer must agree if special circumstances apply. The circumstances must be recorded on the procurement file and reported to the Procurement Lead.
- 13.6 Where this is carried out as a paper-based activity the Tender and Quotation return envelopes, or photocopies thereof indicating the date and time of receipt shall be retained as part of the tender file.

14 CLARIFICATION PROCEDURES

General

- 14.1 Providing clarification of an Invitation to Tender (ITT) to potential or actual Candidates or seeking clarification of a Tender is permitted only via The Chest.
- 14.2 The Council may seek clarification via The Chest from potential suppliers in respect of their offer where appropriate. However the same opportunity must be afforded to all potential suppliers to ensure a transparent, non-discriminatory process that affords equality of opportunity.
- 14.3 Any question points of clarification must be raised by potential suppliers via The Chest. Questions shall be answered promptly and only via The Chest. The same information must also be communicated in writing to all other potential tenderers to ensure transparency and equality. Consideration must be given to extending the timescales for submission if material clarifications are sought, particularly if clarifications are issued within 6 days of the submission deadline.

Post Tender

- 14.4 Discussions with Tenderers after submission of a Tender and before the award of a contract with a view to obtaining adjustments in price, delivery or content must be the exception rather than the rule and be within the scope of the contract.
- 14.5 Post tender discussions may only be conducted in circumstances which do not put other tenderers at a disadvantage, distort competition or affect adversely the integrity of the competitive tendering process.
- 14.6 Where during the tender evaluation process, examination of the most favourable tender or quotation reveals errors or discrepancies, which affect the tender/quotation figure the following process shall be followed:-
- 14.6.1 If the errors or discrepancies are of an arithmetic nature that results in the tender figure being reduced from that submitted, the tenderer etc. will be informed of the errors or discrepancies involved and that the Council intends to treat the tender figure as reduced to reflect the true arithmetic value of the tender/quotation;
- 14.6.2 If the errors or discrepancies are of an arithmetic nature that results in the tender figure being increased from that submitted, the tenderer etc. will be informed of the errors or discrepancies involved and afforded the opportunity to confirm the tender/quotation figure at the original submitted price or to withdraw the tender/quotation offer;
- 14.6.3 In all other circumstances, the tenderer etc. is to be given details of the errors or discrepancies and afforded the opportunity to confirm the tender/quotation figure or withdraw the offer.
- 14.6.4 A reviewed tender price cannot be submitted by the tenderer at this stage unless the competitive procedure with negotiation procedure is being followed.
- 14.6.5 If a tenderer etc. withdraws an offer as a result of 14.6.2 or 14.6.3 above the next most favourable tender shall be examined and treated in the same manner.
- 14.7 Where post-tender discussions result in a fundamental change to the specification, scope or contract terms, the contract must not be awarded, but re-tendered.

15 EVALUATION

- 15.1 Evaluation means assessment of tenders submitted against published selection and award criteria. Evaluation must only be against the published criteria, any other assessment which has not been stated on commencement of the procurement is against the principles of fairness and transparency.
- 15.2 Apart from any debriefing required or permitted by these Contract Procedure Rules, the confidentiality of Quotations, Tenders and the identity of Candidates must be preserved at all times and information about one Candidate's response must not be given to another Candidate. This is subject to the requirements of legislation, for example the Freedom of Information Act 2000.

15.3 Evaluation of the tenders must be carried out by a minimum of two officers of sufficient seniority, skill, knowledge and experience. The evaluation must be carried out collectively and fully documented.

15.4 The arithmetic in compliant Tenders must be checked. If arithmetical errors are found they should be corrected and notified to the Tenderer, who should be requested to confirm whether they wish their Tender to be evaluated with the amended amount or whether they wish to withdraw their Tender.

15.5 Where no tenders are fully compliant with the specification, the advice of the Procurement Team must be sought.

16 AWARD

16.1 The most favourable tender or quotation may only be accepted where there is adequate provision in the Revenue estimates approved by the Council or an approved Capital Estimate.

16.2 The most advantageous Quotations and Tenders received in respect of proposed contracts may only be accepted provided they have been sought and evaluated fully in accordance with these Contract Procedure Rules.

16.3 Where tenders are to be accepted these must be done in accordance with the financial thresholds information, see Appendix 1.

16.4 Where the most favourable tender received is unacceptable, exceeds the budget provision, despite any adjustments that may be permitted under the Invitation to Tender and these Rules, a report on all tenders for that particular contract, and the options available shall be made to the Cabinet or relevant Council Committee for consideration and decision.

16.5 Where the most favourable quotation received is unacceptable, exceeds the budget provision, despite any adjustments that may be permitted under the Request for Quotation and these Rules, a report on all quotations and the options available shall be prepared by the Lead/Operational Specialist for consideration and decision by the relevant Director.

16.6 Where a payment is proposed to be made to the Council, and the most favourable tender/quotation is unacceptable, or it is proposed to accept other than the most favourable tender/quotation a report shall be made on all tenders or quotation as described in 25.4 and 25.5 respectively.

16.7 At the conclusion of the tender exercise, having an estimated value above procurement threshold values, and prior to any award being made, there shall be a minimum 10-day standstill period during which unsuccessful suppliers shall be debriefed in writing. No information, other than the following, should be given without taking the advice of the Monitoring Officer:

- The criteria and weightings
- The score of the bidder, the score of the winning bidder and the score of the other bidders which must be kept anonymous
- The name of the winning bidder
- The reasons for the decision, including the characteristics and relative advantages of the winning tender

16.8 If formal objections to the intended award are raised the Officer shall not award the contract and immediately consult the Monitoring Officer and the Procurement & Contracts Manager.

16.9 For below procurement threshold procurement exercises suppliers shall be debriefed as to the outcome of the exercise taking into account the same principles of openness and transparency.

16.10 Acceptance of other than the most economic advantageous Tender must be authorised as follows:

- Up to Tender Threshold

By the Operational or Specialist Lead. This authority will not be subject to delegation. Full details of the reasons for the decision must be recorded, signed by the Service Director and forwarded to the Procurement Team to be held on file.

- Tender Threshold to Procurement Threshold

By the Delegated Executive Decision, based on the formal recommendation of the Director. Full details of the reasons for the decision must be recorded and held on file.

- Over Procurement Threshold

By the Cabinet, based on a formal detailed report submitted by the relevant Director.

- Where the tender is covered by the Public Contract Regulations, then acceptance must comply with these.

17 EXEMPTIONS

17.1 Subject to compliance with applicable legislation, Nothing in these Rules shall require written quotations or tenders to be invited if:-

- (a) the contract is with professional persons for the provision of services where the personal skill of those persons is of primary importance; or
- (b) for other reasons certified by the relevant Director there would be no genuine competition; or
- (c) the contract is for the execution of work, the supply of goods, or services certified by the relevant Director as being required so urgently as not to permit the invitation of quotations or tenders; or
- (d) the works to be executed or the goods, works or services fall within the scope of the existing contract; an extension of an existing contract as stated in the initial contract agreement; or
- (e) the works to be executed or the goods, works or services fall within the scope of an existing contract where there is a genuinely justifiable case to use the existing contract to maintain continuity of supply. Extensions will not be considered where to do so would breach applicable legislation Procurement legislation and UK legislation; or
- (f) the goods, services or works are proprietary or of such a specialised nature that they can only be obtained from one particular supplier; or are sold only at a fixed price and no reasonably satisfactory alternative is available; or

Exceptions

- (g) the purchase is through an alternative contract or Framework Agreement or Dynamic Purchasing Systems available to the Council and which has been put together as a result of a lawfully tendered competition; or
- (h) the total estimated value is less than £10,000 although obtaining quotes to ensure best value is encouraged. Where quotations have been sought they should be retained in a format agreed by the Procurement Lead specialist. These contracts should be in the standard terms and conditions that have been approved by Legal services; or
- (i) the contract is for a Disabled Facilities grant and Rule 23 (“Disabled Facilities’ Grants”) is followed; or
- (j) the prices of the goods or materials are wholly controlled by trade organisations or Government Order and no reasonably satisfactory alternative is available; or
- (k) a purchase is to be made at a public auction, provided that the person bidding is satisfied that the cost of the purchase is reasonable compared to the cost of alternative methods of purchase; or that such procurements that fall under the control of specific legislation such as the Disabled Facilities Grant (DFG) and schemes. That the procurement of such service is controlled by the relevant legislation

17.2 Rule 3.6 applies in relation to decision making for exemptions.

17.3 The Procurement Specialist, Monitoring Officer and the Chief Finance Officer must be consulted before an exemption or exception is agreed by the relevant Director under clause 17. These exemptions and exceptions will be included in the Procurement Schedule and, will be reported to Cabinet by the relevant Director as part of the Corporate Financial Monitoring process to the next available meeting. Exception can be implemented by Administrative Decision, exemptions and waivers can be implemented dependent on the financial threshold in accordance with 3.6. These exemptions and exceptions must be obtained prior to the agreement of any contractual agreement with a supplier.

18 Waiving the Rules

18.1 Any waiving of the of these R rules must be completed and authorised prior to the commencement of agreeing any contractual agreement with any supplier

18.2 Subject to UK applicable law any of these Rules may be waived in consultation with the Procurement Specialist and the Chief Finance Officer. Waivers should be included in the Procurement Schedule to be approved by Council as part of the budget setting process.

18.3 In the event of waivers being obtained and not included in the Procurement Schedule then these waivers must be reported to the first available Cabinet detailing the reasoning why obtained by the relevant officer

18.4 If this is not possible, waivers shall be approved by the Monitoring Officer where they are satisfied that to do so is justified in special circumstances and those special circumstances and the advantages and disadvantages of the alternative options are identified.

18.5 Waivers should be reported to the next meeting of the Cabinet or relevant Committee of the Council if over £10,000 or above, or by the relevant Director as part of the Corporate Financial Monitoring process if less than £10,000.

18.6 Waivers relating to insurance claims where the procurement requirements of the insurer have been followed will only need to be reported as part of the Corporate Financial Monitoring process even if over £100,000.

18.7 All waivers will be recoded centrally in a format agreed by the Procurement Specialist.

19 FRAMEWORK AGREEMENTS

19.1 The Council authority has access to numerous frameworks that we can call on for the delivery of services.

19.2 The frameworks are both external and internal. The framework can be accessed by the authority.

19.3 The use of Frameworks must be approved by the Procurement specialist in conjunction with Legal Services to ensure that the objectives and use of the framework is suitable for the council to adopt

19.4 There are one or more suitable suppliers who are party to the framework;

19.5 An options appraisal proportionate to the contract value has been conducted to ensure the council is obtaining best value;

19.6 The duration of any call off contract that results is calculated to take account of the nature and volatility of the market for the goods, works or services that are being procured;

19.7 All framework instructions are complied with, such as those relating to:-

- which organisations can access the framework;
- use of direct award or mini competition;
- terms and conditions; and
- contract duration;

19.8 The use of the Framework Agreement is recorded in the electronic Contract Register. This should include framework reference numbers, lot numbers and the name and company registration number (where appropriate) of the supplier.

20 CONSORTIA

20.1 Where the Council joins one or more bodies/contracting authorities in a consortium or partnership and the contract is being tendered and awarded by that consortium or partnership, the Council shall not be required to invite further tenders, provided that these Rules have been followed to the extent that they are not inconsistent with the procedure(s) adopted by that consortium or partnership for awarding contracts.

21 COLLABORATIVE CONTRACTS (EXCLUDING FRAMEWORK AGREEMENTS)

21.1 In order to secure Value for Money, the Council may enter into collaborative procurement arrangements. This may be with or through another local authority, government department, statutory undertaker or public service purchasing consortium.

21.2 The views of the relevant Portfolio Holder shall be sought before any decision is made as to whether to enter into collaborative procurement arrangements.

21.3 Before undertaking a collaborative agreement, Officers should obtain advice from the Legal Specialist and the Procurement Specialist. Fundamentally it is the responsibility of the lead authority putting in place a collaborative procurement process or framework agreement to ensure the process is fully compliant with all relevant procurement legislation. However, the Council has a clear responsibility not to utilise any contractual agreement which is not fully compliant and can be held accountable should they do so.

21.4 Where collaborative agreements are entered into the Officer must:-

- clarify who is the contracting authority;
- ensure there is a legal agreement that protects the interests of the Council, which may include the use of a memorandum of agreement;
- ensure that where the overall contract values are above Procurement Thresholds the contract was let in accordance with procurement procedures and that any procurement activity below the Procurement Thresholds is conducted with due regard to the procurement based principles; and
- ensure that the duration of any call off contract is calculated to take account of the nature and volatility of market for the goods, works or services being procured.

22 PARTNERSHIPS

22.1 Whenever the Council enters into a formal partnership the Council will ensure Governance arrangements are agreed in writing and include tendering responsibilities and arrangements.

22.2 Where the Council acts as Lead Authority in the partnership these Contract Procedure Rules shall whenever practicable be followed.

22.3 Before entering into contracts, written agreements shall be made with funding partners regarding the level of and conditions attached to any funding.

22.4 Where the Council is not the lead Authority, the tendering procedure rules agreed by the partnership shall be followed.

23 DISABLED FACILITIES' GRANTS ("DFGS")

23.1 DFGs help to fund adaptations to enable independence – safety and minimising the effects of disability, enabling the carer to continue to care and prevention of admission to more institutional care. Adaptations can include but are not limited to stair lifts, level access shower areas and access ramps etc.

23.2 Contracts for DFGs must be entered into in line with the Council's DFG Policy and DFG

Procedure as updated from time to time. The DFG Policy states that the Council will complete the paperwork with the contractor on behalf of, and as the agent for, the applicant in accordance with the DFG Procedure. This means that even though the Council signs the paperwork with the contractor, and in most cases makes payment to the contractor on the applicant's behalf, the contract agreement is between the applicant and contractor, and that the Public Contracts Regulations 2015 (as amended) do not apply to these contracts, because the Council is not a party to the contract acting in its own capacity.

23.3 As at the date of the introduction of this Rule 23 into these Contract Procedure Rules:

23.3.1 in accordance with Housing Grants, Construction and Regeneration Act 1996 (as amended) an application for a grant must contain at least two estimates from different contractors of the cost of carrying out the relevant works, unless the Council as the local housing authority otherwise directs in any particular case;

23.3.2 the Council's position is that at least two estimates from different contractors shall be obtained for the relevant works in all cases, irrespective of the value or the anticipated value of the relevant works;

23.3.3 the DFG Policy sets out the Council's requirements for obtaining quotes, which will usually be under a framework. Where quotes are being obtained under a framework the rules of the framework must be followed. Where works are not covered by the framework quotes must be obtained through the Council's tendering portal (the Chest) seeking at least two competitive tenders.

23.3.4 Where the applicant seeks their own contractor to carry out works required – the applicant is to source at least two comparable quotes.

23.4 These Contract Procedure Rules shall be updated in line with any changes to the legislation or government guidance applicable to DFGs.

24 ACCOUNTABLE BODY

24.1 Tendering arrangements must conform with this Council's and any appointed partner(s)

Contract Procedure Rules, and be capable of providing evidence of this to the Council, its agents and auditors.

N.B. Failure to follow the funding body's tendering rule is likely to result in funds being clawed back, leading to a potential budget deficit to be financed by the Council

25 E-PROCUREMENT

25.1 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.

26 RELEVANT CONTRACTS

26.1 All Relevant Contracts must comply with these Contract Procedure Rules. A Relevant Contract is any arrangement made by, or on behalf of, the Council, other than those in 10.2 above/below.

26.2 Relevant Contracts do not include:

- contracts of employment which make an individual a direct employee of the Council, or
- agreements regarding the acquisition, disposal, or transfer of land (for which the Financial Framework shall apply).

26.3 Providing Services to External Organisations

26.4 The Monitoring Officer, the Chief Finance Officer, Directors as appropriate, Financial Services (insurance) and the Procurement Specialist must be consulted where contracts to work for organisations other than the Council are contemplated.

SECTION 4: CONTRACT AND OTHER FORMALITIES

27 CONTRACT FORMALITIES

27.1 All contracts having an estimated total value of £25,000 and above, and any other case where the Monitoring Officer so decides shall be in writing.

27.2 Every such contract entered into on behalf of the Council shall be in a form approved by the Monitoring Officer and shall be signed by two duly authorised officers of the Council or the Monitoring Officer or made under the common seal of the Council attested by at least one officer in accordance with the Council's Constitution. The Monitoring Officer will specify when electronic signatures are appropriate.

27.3 Contract formalities must be carried out and completed to the satisfaction of the Monitoring Officer before the contractor commences any work under the contract.

27.4 Every such contract shall include:-

27.4.1 The supplies, services or works to be furnished/delivered, had or done [including appropriate technical specification];

27.4.2 The price to be paid with a statement of any discounts or other deductions;

27.4.3 Payment terms which should normally state payment in arrears. However where payment in advance is necessary the rationale for this should be fully documented, and where payments in advance exceed £10,000 a documented risk assessment must be approved by the relevant Operational or Specialist Lead unless the supply relates to computer software.

27.4.4 The time or times within which the contract is to be performed/undertaken;

27.4.5 Valid copies of the minimum appropriate insurance to be held by the contractor at the commencement of the contract and on each subsequent anniversary;

27.4.6 Clauses(s) for the way in which any arbitration is to proceed under the contract;

27.4.7 A clause prohibiting the contractor from transferring, assigning (directly or indirectly) to any person whatsoever, any portion of the contract without the prior written permission of the Council, or from subletting any portion of the contract without such permission other than may be customary in the trade concerned;

27.4.8 In every contract for the execution of works or the supply of goods and materials and in every contract where the estimated value exceeds £60,000 (except where the contract is entered into under partnering arrangements) there shall be a consideration of the need for liquidated damages. Where it is considered that provision should be made for liquidated damages, the requirement and amount of such provision shall be determined in consultation with the Chief Finance Officer who shall consider the nature of the contract and its associated risks. The calculation shall be recorded and filed with the contract documents;

27.4.9 A clause stating the retention of any appropriate amount determined following consultation with the Monitoring Officer that will be withheld until clearance of the Final Account.

27.4.10 That all goods, materials and workmanship must be at least to the standard specified having regard to the relevant European, British or equivalent body, and must otherwise be fit for purpose;

27.4.11 A clause empowering the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor shall have offered or given or agreed to give any person any gift, consideration or any kind of inducement or reward for doing or forbearing to do or to have done any action in relation to obtaining or execution of the contract with the Council;

27.4.12 A clause empowering the Council to cancel the contract and recover from the contractor the amount of any loss resulting from such cancellation if the contractor or any person employed by him/her or acting on his behalf shall have committed any offence under the Bribery Act 2010 or shall have given any fee or reward, the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.

27.4.13 A clause prohibiting the Contractor from transferring or assigning, directly or indirectly, any portion of the contract to any person or organisation without the express written consent of the Council.

27.4.14 A clause that the contractor, his staff, agents and any sub-contractors are required to comply with the Council's Anti-Fraud and Corruption, Modern Slavery, Safeguarding, Prevent, GDPR procedures and the Whistle-blowing Policy (Confidential Reporting Code) or equivalent for reporting any such events.

27.15 A clause that the contractor will comply with the provisions of:

- The Council's Equality and Diversity Policy including requirements of the Equality Act 2010;
- All obligations of the Council under the Human Rights legislations;
- All restrictions and requirements of the Council under Data Protection legislation;
- All restrictions and requirements that may be imposed on the Council under the Freedom of Information Act 2000; and
- The Health and Safety at Work etc Act 1974 and any other legislation made thereunder or relevant to the health and safety of employees.
- The TUPE requirements (where applicable).

27.16 Where a formal contract is not required the Director or relevant officer will notify acceptance in writing to the successful contractor and place the necessary order. This must include the Council's relevant standard terms and conditions.

27.17 Where the annual amount spent with any one contractor or on any one specific type of goods, works or services exceeds £25,000 and outside an existing contractual agreement, a review must be carried out to assess the procurement method and a formal contractual agreement put in place.

Sub Contractors

27.18 Where any sub-contractor or supplier is to be nominated to a main contractor/supplier for the execution of a contract with the Council, these Contract Procedure Rules shall apply as if the Council was entering into a direct contract with the sub-contractor or supplier.

27.19 Details of contracts must be entered on the Council's contracts register

28 SAFEGUARDS FOR DUE PERFORMANCE

Liquidated Damages

28.1 Every written contract must, where appropriate, provide for the payment of liquidated damages by the contractor in the event of his default.

28.2 The level of damages required will be determined by the relevant Director, in consultation with the Chief Finance Officer.

Failure to Deliver

- 28.3 In every contract for the execution of work, supply of goods, materials or services where appropriate having an estimated value of £25,000 and above a clause shall be inserted to secure that, should the contractor fail to deliver the goods, materials or execute the service or works or any part or portion thereof within the time or times specified in the contract, the Council, may without prejudice to any other remedy for breach of contract, either wholly or in part, or to the extent of such default, and to provide for the execution of the work or service by other means, or to purchase other goods or materials, as the case may be make good
- Such default; or
- In the event of the contracts being wholly determined, the unexecuted work or service or the goods or materials to be delivered
- 28.4 The clause shall further secure that the amount by which the cost of providing for the execution of the work or service by other means, or the purchasing of other goods or materials, exceeds the amount which would have been payable to the contractor had he executed the contract, or portion thereof, within the time or times specified therein, shall be payable by the contractor.

Performance Bonds

- 28.5 The use of and level of, retentions on other contracts shall be agreed with the Chief Finance Officer prior to the publication of the proposed terms and conditions within the tender documents. Performance Bonds will normally only be applied to building and facilities contracts.
- 28.6 The Council shall require and take sufficient security for the due performance of all contracts exceeding £60,000 where appropriate. For works contracts the amount of security shall be the retention of 10% of the contract sum during the life of the contract, such retention to be released on issue of the certificate of practical completion of the contract.
- 28.7 In any particular contract or class of contract the Chief Finance Officer may decide that the Council's interest in the proper performance of the contract can be appropriately protected by specifying and taking a different form of security

29 PREVENTION OF CORRUPTION

- 29.1 The Officer must comply with the Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract. High standards of conduct are obligatory. It will be for the Officer to prove that anything received was not received corruptly. Corrupt behaviour is a crime under the statutes referred to in this Rule and is likely to lead to disciplinary action.
- 29.2 The following clause must be put in every written Council contract (excluding framework calloffs):-
- “The Council may terminate this contract and recover all its loss if the Contractor/Supplier, its employees or anyone acting on the Contractor/Supplier's behalf do any of the following things:
- 29.2.1 offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor / Supplier does not know what has been done); or
- 29.2.2 commit an offence under Section 117(2) of the Local Government Act 1972 or the Bribery Act 2010; or
- 29.2.3 commit any fraud in connection with this or any other Council order or contract whether alone or in conjunction with Council Members, contractors, suppliers, or employees.
- 29.3 Any clause limiting the Contractor's liability shall not apply to this clause.”

29.4 Where a supplier's standard terms and conditions are being used they must contain the equivalent of this clause.

30 DECLARATION OF INTEREST

30.1 Every Officer and Member of the Council has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and /or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council, in accordance with the applicable Codes of Conduct.

SECTION 5: CONTRACT MANAGEMENT

31 MANAGING CONTRACTS

Freedom of information

31.1 The Council shall fulfil its obligations under the Freedom of Information Act 2000 (as amended) in respect of any application made under the Act in relation to the contracts it has entered into and the manner in which the contract was procured.

Statistics

31.2 The Procurement Specialist or such other officer nominated by the Chief Finance Officer shall be responsible for ensuring the Council meets its reporting requirements Rules required by the Department for Levelling Up, Housing and Communities or others.

31.3 Directors and Operational and Specialist Leads shall upon request of the nominated officer provide the details and any information necessary to complete these returns with the minimum of delay.

Extensions

31.4 A contract for goods, services or works shall only be extended where the contract terms and conditions expressly provide for an option for extension. Requests for extensions should consider both the cumulative contract value and the period of the contract.

31.5 Any such extension shall be considered where the contract:-

31.5.1 has been successful in demonstrating performance targets identified in the original contract were met;

31.5.2 will demonstrate Service Improvement or innovative service delivery processes;

31.5.3 is able to demonstrate that such extension will deliver Value for Money; or

31.5.4 where there is a genuinely justifiable case to extend to maintain continuity of supply or site experience.

31.6 Any such extension shall be subject to:-

- adequate budget provision;
- the extension being priced at the original contract rates subject to any adjustment mechanism set out in the contract;
- the agreement of the supplier; and
- compliance with Procurement legislation.

31.7 Any proposed contract extension shall be approved by the Chief Finance Officer.

Consultants

31.8 It shall be a condition of the appointment and engagement of the services of any consultant, not being an officer of the Council, who is to be responsible to the Council for the supervision of a contract, or design of any scheme etc. on behalf of the Council that: -the appointment will be undertaken in accordance with these Rules which includes the use of appropriate framework agreements;

- consideration will be given to any requirement for vetting, data protection, intellectual property rights etc.;
- consideration will be given to the most appropriate form of payment, including based on inputs (usually time) or output based;
- the consultant will be prohibited from bidding for the work, service etc. and any subsequent stage unless this was the specific purpose of their appointment;
- that in supervising any contract on behalf of the Council the Consultant shall comply with these Rules as though he/she was a Director of the Council, subject to the modification that the procedure to be followed in inviting and opening tenders shall be approved in advance by the relevant Director;
- at any time during the period of carrying out the contract procedure during his/her appointment, the Consultant shall produce to the Chief Finance Officer or authorised representative, on request, all the records maintained by him/her in relation to the contract; and
- On completion of the appointment/contract he/she shall without delay transmit all records in relation to any contract to the relevant Director.

32 RISK ASSESSMENT AND CONTINGENCY PLANNING

32.1 For all contracts, contract managers must:-

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

33 CONTRACT MONITORING, EVALUATION AND REVIEW

33.1 Each Director responsible for the awarding of contracts, which provide for payment to be made by instalments, shall arrange for the keeping of a register, to the satisfaction of the Chief Finance Officer, to show the state of account on each contract between the Council and a contractor, together with any other payments and related professional fees.

33.2 Payments to contractors on account of contracts shall be made only on a certificate issued by the relevant person.

33.3 Subject to the provision of the contract in each case, every variation shall be authorized in writing by the relevant person. Each variation shall include an estimate of the increase or reduction in cost arising from that variation of the contract. Any variations must be within the scope of the contract.

33.4 When the net effect of such variations exceeds the following limits, this shall be reported as soon as possible to the Cabinet or relevant Committee of the Council:

33.5 for contracts up to £100,000 (in amount or budgetary provision) – 3% of the contract sum or budgetary provision (but not less than £1,000)

33.6 for contracts in excess of £100,000 (in amount or budgetary provision) - £3,000 + 1.5% of the excess of the contract sum or budgetary provision over £100,000.

33.7 Provided that it shall not be necessary to report such net effect in the case of contracts undertaken under agency or contractual arrangements on behalf of another local or public authority where that authority has approved the cost of the variation.

- 33.8 Where the relevant person issues a certificate and the amount to be paid on that certificate, when added to amounts previously certified for payment, would result in the contract sum or budgetary provision being exceeded, then the certificate shall be accompanied by a report fully explaining the position from the relevant person to the Chief Finance Officer.
- 33.9 The final certificate of completion of any contract shall not be issued until the relevant person has produced to the Chief Finance Officer a detailed final statement of account and all relevant documents, if required. The Chief Finance Officer shall, to the extent that is considered necessary, examine final accounts for contracts and shall be entitled to make all such enquiries and receive such information and explanations as may be required in order to be satisfied as to the accuracy of the accounts.
- 33.10 Every works contract and every other contract which is estimated to exceed £60,000 in value or amount shall, where appropriate, include provision for liquidated damages, except where the contract is a partnering contract entered into under the Council's procurement policy. Where there has been a delay in the completion of a contract and an extension of time is not appropriate to be authorised, the relevant person shall impose the liquidated damages clause in all instances, unless, after consultation with the Monitoring Officer, it is decided it is inappropriate to do so.
- 33.11 A report as to final costs under each contract shall, after agreement of the final account, be incorporated into the Post Implementation Review submitted to the Senior Management Team, Cabinet or relevant Committee by the appropriate Director after consultation with the Chief Finance Officer.
- 33.12 Claims from contractors in respect of matters not clearly within the term of any existing contract shall be referred to the Monitoring Officer for consideration of the Council's legal liability and, where necessary, to the Chief Finance Officer for financial consideration, before a settlement is reached.
- 33.13 Where a contractor enters into liquidation or receivers are appointed or the contractor makes arrangement or composition with his/her creditors, the relevant person shall report the full circumstances in writing to the Cabinet or relevant Committee of the Council as soon as they are known to him/her.

34 GLOSSARY

Procurement Schedule

A plan identifying the projects and contracts that are expected to be procured during the financial year. Where possible the Procurement Schedule should also identify the lead officer and an outline timetable. This should be signed-off by the relevant Operational and Specialist Lead, Directors and Council at the beginning of each financial year.

Contract Period

The period over which a contract is delivered. The period determined must comply with European and National legislation, allow for continuous improvement, enable appropriate exit strategies, and enable the contract to be packaged to encourage delivery in the most cost effective manner

Contracts Register

The register held by the Council containing of all written contracts entered into by the Council.

E-Procurement / e-tendering

An electronic procurement process using proprietary software or media to enable the tender/quotation process to be undertaken electronically. It provides all the controls applicable to manual tendering as required by these rules.

Procurement Regulations

The Legislation setting out the defined mandatory procurement procedures that must be followed when procuring supplies, services or works above the pre-determined threshold values in force for the time being that are.

Statutory-based Principles

The principles which impact on all procurement regardless of value. These must be adhered to and include principles of equality, non-discrimination, transparency, mutual recognition and proportionality.

Framework Agreement

Contracts awarded following a compliant tender exercise that provides for the 'call-off' of supplies, services or works against a supplier. The Framework provides a non-binding offer without obligation; a binding contract coming into effect once the Council initiates a 'call-off'

ITT

Invitation to Tender

Officers

Shall include, Directors, Lead Specialists and Specialists

Directors shall mean the Director of Customers and Commercial Services and / or the Director of Innovation and Resources,

Performance Bond

Applicable to contracts over £60,000 in value where there are potentially high levels of risk. The Council seeks security to mitigate such risk, and this is normally in the form of a parent company guarantee or a Performance Bond. The use of, and level of, retentions on other contracts shall be agreed with the Chief Finance Officer prior to the publication of the proposed terms and conditions within the tender documents. Performance Bonds will normally only be applied to building and facilities contracts.

Procurement

The mechanism and processes by which the Council acquires the supplies (goods), services and works necessary to achieve delivery of its objectives. It will include all associated performance measurement, monitoring and other controls necessary to complete such delivery.

Procurement Cards

Approved purchasing cards generally used as a mechanism for ordering and invoicing low value goods and services. Purchasing Cards are not credit cards.

Procurement Thresholds

The thresholds that apply for the purposes of the Public Contracts Regulations 2015, Utilities Contracts Regulations 2016, Concession Contracts Regulations 2016 and the Defence and Security Public Procurement Regulations 2011.

Regulations/PCR2015

The UK regulations implementing the EU public procurement directives, currently the Public Contract Regulations 2015.

RFQ

Request for Quotation

Risk Management

Risks associated with procurement exercises shall be identified, assessed and managed

Supplier

Any person, firm, organisation or body providing or potentially providing supplies (goods) services or works to the Council.

Value for Money

The optimum combination of quality and cost taking into account 'whole life costs'.

Whole Life Costs

The costs associated with a procurement from the initial definition of need to the actual procurement of the supplies services or works their delivery and operation through to the end of the useful life and/or disposal.

EXTERNAL ARRANGEMENTS

Partnerships

Why is this important?

1 Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – public agencies, private communities, 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.

2 Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

General

3 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

4 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.

5 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.

6 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) To be open about any conflict of interests that might arise
- (d) To encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors
- (e) To hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature
- (f) To act wherever possible as ambassadors for the project.

Key Controls

7 The key controls for Council partners are:

- (a) If appropriate, to be aware of their responsibilities under the Council's Financial Procedure Rules and the 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.

Responsibilities of the Chief Finance Officer

8 To advise on effective controls that will ensure that resources are not wasted.

9 To advise on the key elements of funding a project. They include:

(a) A scheme appraisal for financial viability in both the current and future years

(b) Risk appraisal and management

(c) Resourcing, including taxation issues

(d) Audit, security and control requirements

(e) Carry-forward arrangements.

10 To ensure that the accounting arrangements are satisfactory.

Responsibilities of Operational and Lead Specialists

11 To maintain through the Legal, Governance and Democracy Lead Specialist (Monitoring Officer) a register of all contracts entered into with external bodies in accordance with the procedures specified by the Chief Finance Officer.

12 To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Chief Finance Officer.

13 To ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council.

14 To ensure that all agreements and arrangements are properly documented and that they provide clarity as to the Council's role in the partnership, including where appropriate whether the Council is acting as Agent, Principal or Joint Principal and the basis on which these roles are undertaken.

15 To provide appropriate information to the Chief Finance Officer to enable a note to be entered into the Council's Statement of Accounts concerning material items.

External Funding

Why is this important?

16 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies such as the National Lottery and the Single Regeneration Budget 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.

Key Controls

17 The key controls for external funding are:

(a) To ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the Accountable Body are clearly understood

(b) To ensure that funds are acquired only to meet the priorities approved in the policy framework by the Council

(c) To ensure that any match-finding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements

(d) To ensure that the consequences for the Council, or for any partners for whom the Council may be acting as Agent, of exceeding the funding or expenditure requirements are clearly set out and understood.

Responsibilities of the Chief Finance Officer

18 To ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts.

- 19 To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.
- 20 To ensure that audit requirements are met.
- Responsibilities of the Operational and Specialist Leads*
- 21 To ensure that all claims for funds are made by the due date.
- 22 To ensure that the project progresses in accordance with the agreed timetable and that all expenditure is properly incurred and recorded.

Work for Third Parties

Why is this important?

23 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.

Key Controls

- 24 The key controls for working with third parties are:
- (a) To ensure that proposals are costed properly in accordance with guidance provided by the Chief Finance Officer.
- (b) To ensure that contracts are drawn up using guidance provided by the Chief Finance Officer and that the formal approvals process is adhere to
- (c) To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

Responsibilities of Chief Finance Officer

25 To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

Responsibilities of Operational and Specialist Leads

- 26 To ensure that the approval of the Cabinet or appropriate officer [if delegated] is obtained before any negotiations are concluded to work for third parties.
- 27 To maintain with the Monitoring Officer a register of all contracts entered into with third parties in accordance with procedures specified by the Chief Finance Officer.
- 28 To ensure that appropriate insurance arrangements are made.
- 29 To ensure that the Council is not put at risk from any bad debt.
- 30 to ensure that no contract is subsidised by the Council.
- 31 To ensure that, wherever possible, payment is received in advance of the delivery of the service.
- 32 To ensure that the Business Unit has the appropriate expertise to undertake the contract.
- 33 To ensure that such contracts do not impact adversely upon the services provided for the Council.
- 34 To ensure that all contracts are properly documented.
- 35 To provide appropriate information to the Chief Finance Officer to enable a note to be entered into the Statement of Accounts.

OFFICER EMPLOYMENT PROCEDURE RULES

1. Recruitment and appointment

(a) Declarations

(i) The Council will include a statement in applications for employment requiring any candidate for appointment as an officer 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 officer of the Council; or of the partner of such persons.

(ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant Director or an officer nominated by him/ her.

(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 support for any person for any appointment with the Council.

(iii) Nothing in paragraphs (i) or (ii) above will preclude a Councillor or officer from giving a written reference for a candidate.

2. Recruitment of head of paid service and chief officers

Where the Council proposes to appoint a chief officer within the meaning of the Local Authorities (Standing Orders) Regulations 1993 and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

(a) draw up a statement specifying:

(i) the duties of the officer concerned (job description); and

(ii) any qualifications or qualities to be sought in the person to be appointed (person specification);

(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

(c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

3.

(a) Where a post has been advertised as provided in standing order 2(b), the authority shall –

(i) interview all qualified applicants for the post, or

(ii) select a short list of such qualified applicants and interview those included on the short list.

(b) Where no qualified person has applied, the authority shall make further arrangements for advertisement in accordance with standing order 1(b).

4.

4.1 In this Part –

“the 1989 Act” means the Local Government and Housing Act 1989;

“the 2000 Act” means the Local Government Act 2000;

“the 2011 Act” means the Localism Act 2011;

“chief finance officer”, “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;

“executive” and “executive leader” have the same meaning as in Part II of the 2000 Act;

“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 authority’s area in accordance with the Representation of the People’s Acts;

“member of staff” means a person appointed to or holding a paid office or employment under the authority;

“the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;

“relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officers;

“relevant officer” means the chief finance officer, head of the authority’s paid service or monitoring officer, as the case may be; and

“proper officer” means an officer appointed by the authority for the purposes of the provisions in this Part.

4.2 Subject to paragraph 4. 3 and 4.7 the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority’s paid service or by an officer nominated by him/her.

4.3 Paragraph 4.2 shall not apply to the appointment or dismissal of, or disciplinary action against –

- (a) the officer designated as the head of the authority’s paid service;
- (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
- (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
- (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
- (e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

4.4

(1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment of an officer designated as the head of the authority’s paid service, the authority must approve that appointment before an offer of appointment is made to that person.

(2) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the head of the authority’s paid service, as the authority’s chief finance officer, or as the authority’s monitoring officer, the authority must approve that dismissal before notice is given to that person.

(3) Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 4.3, at least one member of the executive must be a member of that committee or sub-committee. The Human Resources Committee has power to establish the committee or sub-committee with delegated authority to discharge the functions in paragraph (2).

4.5

(1) In this paragraph, “appointor” means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the authority, that committee, sub-committee or officer, as the case may be.

(2) An offer of an appointment as an officer referred to in sub-paragraph(a), (b), (c) or (d) of paragraph 4.3 must not be made by the appointor until –

- (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
- (b) the proper officer has notified every member of the executive of the authority of –
 - (i) the name of the person to whom the appointor wishes to make the offer;

(ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and

(iii) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the proper officer; and

(c) either –

(i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither he/she nor any other member of the executive has any objection to the making of the offer;

(ii) the proper officer has notified the appointor that no objection was received by him/her within that period from the executive leader; or

(iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

4.6

(1) In this paragraph, “dismissor” means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.

(2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b),(c) or (d) of paragraph 4.3 must not be given by the dismissor until –

(a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;

(b) the proper officer has notified every member of the executive of the authority of –

(i) the name of the person who the dismissor wishes to dismiss;

(ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and

(iii) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the proper officer; and

(c) either –

(i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither he/she nor any other member of the executive has any objection to the dismissal;

(ii) the proper officer has notified the dismissor that no objection was received by him/her within that period from the executive leader; or

(iii) the dismissor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

4.7 Nothing in paragraph 4. 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by –

(a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or

(b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

5.

(1) A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.

(2) The authority 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.

(3) In paragraph (2) “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

- (4) Subject to paragraph (5) the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance in paragraph (2) with the following priority order –
- (a) A relevant independent person who has been appointed by the authority and who is a local government elector'
 - (b) Any other relevant independent person who has been appointed by the authority;
 - (c) A relevant independent person who has been appointed by another authority or authorities.
- (5) The authority is not required to appoint more than two relevant independent persons in accordance with Paragraph (4) but may do so;
- (6) The authority must appoint any Panel at least 20 working days before the relevant meeting.
- (7) Before taking a vote at the relevant meeting on whether or not to approve such a dismissal, the authority 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.
- (8) Any remuneration, allowances or fees paid by the authority 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 Localism Act 2011.
- (9) Matters of discipline and capability in respect of officers below Chief Officer shall be dealt with by the Chief Executive or Directors as appropriate under the National Joint Council for Local Government Services.
- (10) Councillors will not be involved in discipline (including dismissal), capability or redundancy matters, except to the extent specified in any nationally or locally agreed or adopted procedures. In the case of employees below chief officer level, this will usually mean that involvement is limited to acting as a witness in investigations or participating as a member of an appeals panel.

REMOTE MEETINGS PROTOCOL AND CHANGES TO SOUTH LAKELAND DISTRICT COUNCIL PROCEDURE

Rules

This Protocol and the resultant changes to South Lakeland District Council Procedure Rules are being put into place in light of the Coronavirus Act 2020 and The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020. These regulations enable all local authority meetings to be held remotely, including allowing remote access by members of the public. Virtual and Remote have the same meaning throughout this Protocol and within the Procedure Rules. These changes to the Procedure Rules are temporary and apply to Meetings taking place between the 4th April 2020 and the 7th May 2021.

This Protocol and Procedure Rules should be read in conjunction with the Authority's Standing Orders and Procedure Rules within the Constitution. The Regulations, made under section 78 of the Coronavirus Act 2020, apply notwithstanding any other legislation or current or pre-existing standing orders or any other rules of the Authority governing meetings and remain valid until 7th May 2021. This means that, wherever there is a conflict, these Remote Meetings Procedure Rules take precedence in relation to any remote meeting.

1. Notice of the Meeting, Summons and Place of the Meeting

1.1 The proper officer will give the requisite notice to the public of the time of the meeting, and the agenda. Guides have been produced regarding how to access meetings and can be found on the Council's website.

1.2 The 'place' at which the meeting is held may be at an Authority building or may be where the organiser of the meeting is located or may be an electronic or a digital or virtual location, a web address or a conference call telephone number; or could be a number of these combined. The meeting may also be held in a meeting room or Chamber with a proportion of the membership and any participating public additionally attending remotely.

1.3 The place of the meeting will be clearly referenced on the Summons for the meeting.

1.4 Members will be notified by email and the agenda and papers for the meeting will be available on the Council's website.

1.5 "Meeting" includes Cabinet, Committees or sub-committees of the Council as well as the Full Council itself.

1.6 The timings of the Meetings are as set out in the Council's Calendar of Meetings.

1.7 Virtual meetings' frequency can be altered, moved or cancelled without the requirement to provide further notice. Where adjournments are made, for whatever reason, the Council will endeavour to adjourn to a specific date.

Rule 1 Remote Access to Meetings, Notice, Summons and Place of Meeting – Changes to the Council's Procedure Rules

(a) For all purposes of the Constitution the term "meeting" is not limited in meaning to a meeting of persons all of whom, or any of whom, are present in the same place, for which purposes any reference to:

(i) "place" is to be interpreted as where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers; and

(ii) "open to the public" includes access to the meeting being through remote means including (but not limited to) video conferencing, live webcast, and live interactive streaming and where a meeting is accessible to the public through such remote means the meeting is open to the public whether or not members of the public are able to attend the meeting in person; and

(b) If the Chair is made aware that the meeting is not accessible to the public through remote means, due to any technological or other failure of provision, then the Chair shall adjourn the meeting immediately. If the provision of access through remote means cannot be restored within a reasonable period, then the remaining business will be considered at a time and date fixed by the Chair. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.

(c) Virtual meetings frequency can be altered, moved or cancelled without the requirement to

provide further notice. Where adjournments are made, for whatever reason, the Council will endeavour to adjourn to a specific date.

Amends SLDC Constitution Part 4 Rules of Procedure Rule 4 and 5 (Time and Place of Meetings and notice and summons to meeting) and Model Access to Information Procedure Rule 3 (rights to attend meetings)

2. Attendance at the Meeting and Quorum

A member of the Council (member in remote attendance) is classed as attending the meeting at any time if all of the conditions (2.1-2.3) below are satisfied;

These conditions are that the member in remote attendance is able at that time;

2.1 to hear, and where practicable see, and so be heard and, where practicable, be seen by, the other members in attendance,

2.2 to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting, and

2.3 to be so heard and, where practicable, be seen by any other members of the public, attending a meeting which includes that person attending by remote access.

2.4 Members and members of the press and public will be encouraged to use any video conferencing facilities provided by the Council to attend a meeting remotely.

2.5 If this is not possible, attendance may be through an audio link or by electronic means as referred to in Regulation 5(6)(c) of the Regulations.

2.6 The Chair will normally confirm at the outset and at any reconvening of a committee or cabinet meeting that they can see and hear all participating members (this is unlikely to be practical for a meeting of full council). Any Member participating remotely should also confirm at the outset and at any reconvening of the meeting that they can where practicable see and hear the proceedings and the other participants

Technology Interruption

2.7 If technology fails for a wholly or partially remote meeting, and the meeting is no longer open to the public, any decisions made could be challenged as unlawful.

2.8 It is important to note that the public accessing the meeting by remote means, as described here, is different from the public attending to exercise a right to speak. A technological failure removing the ability for the public to access the meeting by remote means renders the whole meeting incapable of proceeding (as described above). A member of the public who attends to exercise their right to speak and is unable to do so renders only their item incapable of proceeding if in the Chair's discretion this is considered appropriate.

2.9 In the event of any apparent failure of the video, telephone or conferencing connection of any member attending remotely, the Chair or Vice Chair (if the failure is that of the Chairs) should immediately determine if the meeting is still quorate: if it is, then the business of the meeting will continue; or if there is no quorum, then the meeting shall adjourn for a period specified by the Chair, expected to be no more than ten or fifteen minutes, to allow the connection to be re-established.

2.10 Should any aspect of a members remote participation fail, the Chair may call a short adjournment of up to five minutes or so to determine whether the connection can quickly be re-established, either by video technology or telephone in the alternative. If the connection is not restored within that time, the meeting should continue to deal with the remainder of the business whilst this happens, providing the meeting remains quorate and the public are able to hear.

2.11 In the event of connection failure, the remote Member(s) will be deemed to have left the meeting at the point of failure and if the connection cannot be re-established to those Member(s) within a reasonable time period to be determined by the Chair, then the presumption will be that the meeting should continue to deal with the item/s subject to rule 2.9 above regarding quorum.

2.12 If the connection is successfully re-established, then the remote Member(s) will be deemed to have returned at the point of re-establishment.

2.13 If a connection to a Member is lost during a meeting, the Chair will stop the meeting to enable the connection to be restored. If the connection cannot be restored within a reasonable time, the meeting will proceed, but the Member who was

disconnected will not be able to vote on the matter under discussion as they would not have heard all the facts.

Quorum

2.14 For a remotely attended meeting to be quorate, the Quorum figure Part 4 Rules of Procedure Rule 7 will apply with members being required to be in attendance at all times during the meeting. There will be a requirement for Nominated Officers to be aware of the number of members present at the virtual meeting and to be aware of any members who are disconnected or who drop out of the meeting. Members in attendance at the meeting will be monitored throughout the meeting by the Nominated Officer who will notify the Chair and Legal Governance and Democracy Specialist immediately if a member is disconnected or drops out of the meeting. If connection is lost then the process set out in 2.9 above will be followed.

Rule 2 Members in Remote Attendance – Changes to the Councils Procedure Rules

(a) A Member in remote attendance is present and attends the meeting, including for the purposes of the meeting's quorum, if at any time all three of the following conditions are satisfied, those conditions being that the Member in remote attendance is able at that time:

(i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other Members in attendance.

(ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and

(iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.

(b) A Member in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in (a) above are not met. In such circumstance the Chair may, as they deem appropriate;

(i) adjourn the meeting for a short period to permit the conditions for remote attendance of a Member contained in (a) above to be re-established; or

(ii) count the number of Members in attendance for the purposes of the quorum; and

(iii) continue to transact the remaining business of the meeting in the absence of the Member in remote attendance.

Amends SLDC Constitution Part 4 Rules of Procedure Rule 7 Quorum

Rule 3. Access to Information - Changes to the Councils Procedure Rules

3.1 For all purposes of the Constitution, the terms "notice", "summons", "agenda", "report", "written record" and "background papers" when referred to as being a document that is:

(a) "open to inspection" shall include for these and all other purposes as being published on the website of the council; and

(b) to be published, posted or made available at offices of the Authority shall include publication on the website of the Authority.

Amends SLDC Constitution Part 4 Rules of Procedure Rule 5 (notice and summons to meeting) and SLDC Constitution Part 4 Access to Information Procedure Rules (access to agenda and reports before the meeting)

4.Meeting Procedures and Voting

4.1 The Nominated Officer will manage the video, telephone or conferencing technology employed for remote access and attendance and to administer the public and Member interaction, engagement and connections on the instruction of the Chair.

4.2 The Authority will endeavour to put in place a solution that will enable Members participating in meetings remotely to indicate their wish to speak, replacing the physical practices or rules concerning raising one's hand or standing to be recognised or expressing a desire to speak.

4.3 In respect of Committees and at Cabinet meetings, it will assist the meeting if those Members

who wish to speak on a particular item could indicate their wish to speak to the Chair and to the Legal Governance and Democracy Specialist or Team Leader Case Management in advance of the start of the meeting where possible. Political groups are also encouraged to co-ordinate this activity wherever possible in respect of full Council/Authority meetings and other meetings likely to result in a high number of requests to speak. This is particularly important if Members are unable to participate via video conference.

4.4 The Chair will follow the rules set out in the Constitution when determining who may speak, as well as the order and priority of speakers and the content and length of speeches in the normal way.

4.5 The Chair, at the beginning of the meeting, will explain the protocol for member and public participation and the rules of debate. The Chair's ruling during the debate will be final.

4.6 The Chair will ask all members to confirm their name, ward and attendance at the start of the meeting and ask whether they can hear and are being heard by others in the meeting. At each opportunity in a meeting for members to ask questions, the Chair may ask each member in attendance in turn whether he or she has a question to ask. At the opening of debate on each item, the Chair may also ask each member in attendance in turn whether he or she would like to contribute to the debate. This is in order to facilitate active and orderly participation in the meetings by all members.

4.7 Members are asked to adhere to the following etiquette during remote attendance at a meeting:

Committee members are asked to join the meeting no later than 30 minutes before the start to allow themselves and the meetings facilitator or Nominated Officers the opportunity to test the equipment

Any camera (video-feed) should show a non-descript background or, where possible, and members should be careful to not allow exempt or confidential papers to be seen in the video-feed. Where possible members should sit in a well lit area and should be mindful of shadows and lighting so that where practicable their face can be seen.

All Members to have their microphones muted when not talking.

All Officers to have their videos turned off and microphones muted when not talking.

Rather than raising one's hand or rising to be recognised or to speak, Members should avail themselves of the remote process for requesting to be heard:

The use of the Chat facility is at the Chair's discretion and would only be used by members to indicate to the chair that they wish to speak. Members will unmute their microphone and ensure they turn their cameras on when the Chair invites them to speak.

The chat facility must not be used for private conversations between members.

Only speak when invited to by the Chair.

Only one person may speak at any one time.

When referring to a specific report, page, or slide, mention the report, page, or slide so that all members and the public have a clear understanding of what is being discussed at all times.

Members are reminded to speak clearly and slowly at all times.

Members are reminded to dress appropriately as they would for non virtual meetings

4.8 Where members of the public are exercising speaking rights at the meeting via remote attendance, the Chair will as part of their introduction explain the procedure for their participation which will reflect those relevant elements of the above. Members of the public must adhere to this procedure otherwise they may be excluded from the meeting.

4.9 When the Chair is satisfied that (if the rules of the meeting require) there is a proposer and seconder for the item being discussed and there has been sufficient debate the Chair will progress to making a decision.

Unless a Recorded Vote is called, the method of voting will be:

By the affirmation of the meeting if there is no dissent (by assent) *in relation to all Council meetings with the exception of Licensing, Planning and quasi judicial matters*. In cases of abstaining and/ or no assent of the meeting then a roll call will be carried out with Members indicating "for" "against" or "abstaining"

- *in relation to Licensing, Planning or other quasi-judicial matters*, each Member must confirm that they have heard **without interruption** the entire proceedings and full discussion in relation to the item and asking members to state 'for', 'against', or 'abstain' to indicate their vote when their name is called; and

- *in relation to all other Council meetings*, Members are to confirm that they are sufficiently informed to properly cast their vote and asking members to state ‘for’, ‘against’, or ‘abstain’ to indicate their vote when their name is called.

□ *the Monitoring Officer or Legal Governance and Democracy Specialist* clearly stating the result of the vote and the Chair then moving onto the next agenda item

While the minutes will record the decision of the meeting the names of the members for, against or abstaining will not be recorded unless Part 4 Rules of Procedure Rules 15.5 or 15.6 apply (Recorded Votes/Recorded Votes at Budget Meetings)

4.10 Details of how Members voted will not be kept or minuted unless a Recorded Vote is called.

Where a Recorded Vote is requested the Chair will ask members in turn to signify verbally whether or not they support that request. The Legal representative will then take a Recorded Vote.

Rule 4. Remote Voting – Changes to Procedure Rules

*Unless a recorded vote is demanded, [which may be confirmed by the requisite number of Members confirming the demand verbally when requested by the Chair,] the Chair will take the Vote by assent of the meeting or by roll call. In relation to Licensing, Planning or other quasi-judicial matters, each Member must confirm that they have heard **without interruption** the entire proceedings and full discussion in relation to the item and asking members to state ‘for’, ‘against’, or ‘abstain’ to indicate their vote when their name is called*

The Monitoring Officer or Legal Governance and Democracy Specialist will take the vote by roll-call and the number of votes for or against the motion or amendment or abstaining from voting will be Recorded.

Amends SLDC Constitution Part 4 Rules of Procedure Rule 15

5. Remote Attendance by Members of the Public (Please see further Public Participation Guidance)

5.1 Any member of the public participating in a meeting remotely in exercise of their right to speak at Council or in regulatory or other meetings must meet the same criteria as members of the Council. Members of the public attending a meeting remotely must, likewise, when they are speaking be able to be heard (where practicable be seen) by all other Members in attendance, and the remote participant must, in turn, be able to hear (and where practicable be seen) those other members participating and be so heard and, where practicable, be seen by any other members of the public attending the meeting.

5.2 Please see links to to the Guides to Public Participation in Council meetings.

5.3 The Nominated Officer or meeting facilitator (see below) Officer will invite registered speakers to join by phone and, following their presentation, will remove them from the remote meeting

5.4 A breakdown of the technology should not disadvantage the member of the public in remote attendance wherever possible. To that end a member of the public participating in a meeting remotely in exercise of their right to speak will be asked to submit their representation in writing, or by video to officers before the meeting, so that in the event of a breakdown of technology the representation can be read out by an officer at the meeting or the video played.

Rule 5. Remote Attendance by Members of the Public Amendments to the Councils Procedure Rules

(a) A member of the public entitled to attend the meeting in order to exercise a right to speak at the meeting is in remote attendance at any time if all three of the following conditions are satisfied, those conditions being that the member of the public in remote attendance is able at that time:

(i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, Members in attendance;

(ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any other members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and

(iii) to be so heard and, where practicable, be seen by any other members of the

public attending the meeting.

(b) A member of the public in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in Standing Order 5(a) above are not met. In such circumstance the Chair may, as he or she deems appropriate:

(i) adjourn the meeting for a short period to permit the conditions for remote attendance contained in Standing Order 5(a) above to be re-established;

(ii) suspend consideration of the item of business in relation to the member of public's attendance until such time as a following item of business on the agenda has been transacted and the conditions for the member of the public's remote attendance have been re-established or, on confirmation that this cannot be done, before the end of the meeting, whichever is the earliest; or

(iii) continue to transact the remaining business of the meeting in the absence of the member of the public in remote attendance.

(iv) a member of the public who has registered to speak will be asked also to provide a written copy of their submission in advance of the meeting or video.

Amends SLDC Constitution Part 4 Rules of Procedure Rule 9 (questions by the public),

Amends the scheme for public participation in respect of planning, licensing and the General Public Participation Scheme and Cabinet Procedure Rule 1.7

6. Declarations of Interest

6.1 In the event that a member has a disclosable pecuniary interest or otherwise leaves the meeting due to an interest that remote member must exit the communication link whilst the relevant item is being considered. The Nominated Officer will contact the member to request they rejoin the meeting once the business to which they held the interest has been transacted.

Rule 6 Members excluded from the meeting

Where a Member is required to leave the meeting, the means of remote attendance and access is to be severed whilst any discussion or vote takes place in respect of the item or items of business which the member or co-opted member may not participate.

Amends SLDC Part 4 Rules of Procedure Rule 19 (Member Conduct)

7. Access by the Press and Public to Information

7.1 Members of the public may access minutes, decisions and other relevant documents through the Council's website. The definition of access to information and available to the public is the same as at Rule 3 above.

7.2 A document being open to inspection includes being published on the website of the Council.

7.3 All documents to be presented at the meetings will be available on the website of the Council and be with the meeting papers.

Requests for access to the list of background papers and other relevant documents should be by email or by post to committeeservices@southlakeland.gov.uk

8. Confidential or Exempt issues

Exclusion of Public and Press

8.1 There are times when council meetings are not open to the public, when confidential, or "exempt" issues (as defined in Schedule 12A of the Local Government Act 1972) are under consideration. Where the technology is available, the Democratic Services Officer or meeting facilitator will ensure that there are no members of the public in remote attendance or remotely accessing the meeting are able to hear or see the proceedings once the exclusion has been agreed by the meeting.

8.2 Any Remote Member should confirm by verbal declaration, prior to participating in any confidential and/or exempt item of business, that they are in a secure private location and that there are no other persons present (or other recording devices) who are not entitled to be (either hearing or seeing) consideration of such items and that no one else is able to hear the proceedings from the device being used by that Remote Member and that no recording is being made. Any member in remote attendance who failed to disclose that there were in fact persons present who were not so entitled would be in breach of their Code of Conduct responsibilities.

9.Training

9.1 The Council accepts that there are technical and staffing implications connected with the introduction of remote attendance.

9.2 There will clearly be a need to provide appropriate training for officers and members who might become involved in remote attendance, both to familiarise them with the requirements of the legislation and to cover the practical issues involved.

10.Data Protection Implications

10.1 A Council may use information about Elected Members, members of the public and businesses to enable it to carry out specific functions for which a Council is responsible and to provide a statutory service. A Council publishes a record of all Council decisions and meetings, as well as any background information and reports that inform decisions.

10.2 A Council keeps records about members of the public (both residents and people living outside the District), Businesses, Council Employees and Elected Members. These may be written down (manual records), or kept on a computer (electronic records).

Processing of personal information is lawful to the extent that it is:

necessary for the compliance with a legal obligation (Article 6(1)(c) General Data Protection Regulation (EU) 2016/679 (GDPR)) to which a Council is subject. Including:

The Local Government Act 1972

Local Government Act 1985

Coronavirus Act 2020; and

The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.

necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in a Council (Article 6(1)(e) General Data Protection Regulation (EU) 2016/679 (GDPR)), namely activities that support and promote democratic engagement (Section 8 of the Data Protection Act 2018).

In addition to holding personal information in paper and online forms, by telephone and email a Council will process personal information through audio and video recordings of Committee meetings using the collaboration and conversational platform Microsoft Teams.

A Council may share personal information both internally and externally as described below:

The general public as: the majority of Council meetings are transacted in public;

agendas and reports for all Council and Committee meetings are made available to the public in advance of the meeting; and

minutes and details of decisions are also published on the relevant Council website once available.

When the law requires a Council to pass on information under special circumstances

Crime prevention or the detection of fraud as part of the National Fraud Initiative

A Council will keep personal information as long as required by law or by a Council's specific business requirements. Each Council has a Records Retention Policy and Schedule in place setting out the types of records they hold, and how long they we hold them

Addendum to the Public Participation Guidelines

1. The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 allows councils to conduct remote meetings on a temporary basis, between 4 April 2020 and 7 May 2021.

2. Any member of the public participating in a meeting remotely in exercise of their right to speak must, when they are speaking be able to be heard (and where practicable be seen) by all Members in attendance, and the remote participant must, in turn, be able to hear (and where practicable be seen) by those Members participating, be so heard and, where practicable, be seen by any other members of the public attending the meeting.

3. The Council is using the Microsoft Teams platform and for anyone with the right to make a representation they will be dialled into the meeting to be heard. It has not been practicable to make provision for those making representations to be seen.

4. It is advisable to prepare yourself to access the meeting 30 minutes before the notified start time for the meeting.

General Public Participation Scheme and Public Participation at Planning Committee regarding specific planning

applications or enforcement agenda items and the 'Public Participation at Licensing Sub Committees regarding specific licensing applications' Process for Public Participants at Remote Meetings

5. The Guidelines of South Lakeland District Council's General Public Participation Scheme, 'Public Participation at Planning Committee regarding specific planning application or enforcement agenda items' guidelines and the 'Public Participation at Licensing Sub Committees regarding specific licensing applications' and the Protocol for Hearings still apply save that in respect of remote meetings this addendum scheme takes precedence in the event of any inconsistency.
6. Anyone wishing to make a representation should follow the guidelines contained therein, by contacting, in the first instance, the Committee Services Group, as indicated.
7. Please note that an agenda item for Planning and Licensing Committees will not automatically be deferred if someone who has registered to speak on an application is not available on the contact telephone number(s) provided. It is important therefore that you are watching the Meeting for its duration on the links provided to ensure your representation can be made.
8. Members of the public who register to speak, and have the right to do so, at a remote meeting will be asked also to provide a copy of their submission in writing in advance of the meeting so that, in the event of a **breakdown of the technology** and with the prior consent of those making the representation consideration can be given to it being read out by the Chairman this will be taken into account in reaching any decision to defer the item of business to the next meeting. All reasonable efforts will be made to facilitate those wishing to make representations to be heard at the meeting.
9. Any member of the public who has registered to speak (no later than 00.01) one minute past midnight two working days before the meeting will be provided with process for the day of the actual meeting. Please note that hearings heard by the Licensing Sub Committee meetings are different in that there is no right to public participation unless a valid representation has been made within the specific timescale. **Your contact telephone number(s) will be required to be provided so that our Officers can dial you into the meeting to make your representation.**
NB: Once you have accepted the call, you will be placed on mute. The Chair will inform you that it is your turn to speak you will be asked to unmute yourself. In order to do this, you will have to type *6 on the key pad on your phone, once you have done this you will be able to start speaking, the chair will confirm when you should begin your speech. If you have not unmuted yourself, you will be given instruction on how to unmute yourself by the meeting producer.
10. The meeting, in its entirety, will be streamed live and can be accessed by all members of the public via the hyperlink which will be displayed alongside the appropriate Agenda on the relevant page of the Council's Website. These details will also be provided to the speaker prior to the meeting by the Committee Services Group within communications regarding arrangements. A recorded version of the meeting will also be available to members of the public to view on the Council's Website following the meeting.
11. Where members of the public have registered to speak and it is their turn to make their presentation, the Chairman will ask the meeting producer to contact them by telephone at their chosen number in order to enable them join the remote meeting and address Members. At the end of the presentation, or the end of the member of the public's allotted time, the producer will disconnect the public speaker from the meeting. Should the member of the public so wish, they can continue to watch the live stream of the event via the relevant hyperlink.
12. Where responsible authorities/other persons have made a valid representation within licensing hearings, parties may be asked questions by the Committee or other parties and therefore the Chairman will exercise discretion as to when the party will be disconnected from the meeting as a speaker. The individual is encouraged to continue to watch the live stream of the event via the relevant hyperlink.
13. The Annex to the Council's Public Participation Guidelines is dis applied for Virtual Meetings this governs the use of mobile phones, social media, filming and recording at Council meetings. The Council cannot control third parties who may record the meeting and use the contents on social media platforms.
14. For the purposes of virtual meetings, references in South Lakeland District Council's General Public Participation Scheme and the 'Public Participation at Planning Committee regarding specific planning application or enforcement agenda items' guidelines and the Addendum Public Participation at Licensing Sub Committee regarding specific Licensing applications to 'chamber' or 'room' shall be interpreted as references to the place in which the virtual meeting is held.
15. The Privacy Notice will apply to all Virtual Meetings and information provided by public participants.
16. For those using an Apple Device to access the meeting, please note that Safari is not

compatible with Microsoft Teams, so you will not be able to watch the meeting using this web browser. If you wish to watch a virtual meeting on any Apple device (iPad, iPhone or Mac) you will need to download the Microsoft Teams App from the App Store, then click the link on the relevant SLDC webpage or Agenda and follow the instructions on screen. The Agenda is divided into two parts, with Part I items being considered in the presence of the press and public.

17. Part II Items will be considered in the absence of the press and public for the reasons indicated on the Agenda and relevant reports.

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18. It should be noted that discussions held in Part I are recorded and that the recordings are uploaded to the Council's Website.

19. In the event of problems, please contact committeeservices@southlakeland.gov.uk 01539 733333

Public Participation at Licensing Sub Committee regarding specific Licensing applications – Remote Meetings

The Licensing Sub Committee process for Licensing hearings has, in addition to the above, the following rules:-

20. The applicant/person who made relevant representations within any consultation period/responsible authority (and where there is a review of a premises licence, the holder of premises licence) and has registered to speak (no later than 00.01 one minute past midnight five working days before the meeting) will be allowed to speak at a Hearing in line with the updated agreed protocol for hearings.

21. Please note not all Licensing hearings are open to the public.

PART 5

CODES AND PROTOCOLS

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold [The Seven Principles of Public Life](#) also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority’s requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any

conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in virtual meetings, emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their **professional integrity**.

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- 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:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local 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.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority. 8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a councillor:

10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

10.3 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 that I have been offered but have refused to accept.

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses

and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"**Disclosable pecuniary interest**" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"**Partner**" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room/meeting unless you have been granted a dispensation. In addition, you may speak on the matter only if members of the public are also allowed to speak and having spoken you must leave the room/meeting. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as an Executive member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

Disclosure of Other Registrable Interests

6. Where a matter arises at a meeting which **directly relates** to one of your Other

Registrable Interests (as set out in Table 2), you must disclose the interest. If you have such an interest you must consider whether a reasonable member of the public, knowing all the facts, would think the interest such that it may influence the way you vote. If the ordinary person would think that the interest may influence your vote then you should not participate in the matter. In these circumstances you may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter. If it is a 'sensitive interest', you do not have to disclose the nature of the interest

The requirements to disclose an Other Registrable Interest and not participate in a decision directly relating to or affecting it, shall be applied in such a manner as to recognise that this Code should not obstruct a member's service on more than one local authority. For the avoidance of doubt, participation in discussion and decision making at one local authority will not by itself normally prevent you from taking part in discussion and decision making on the same matter at another local authority. This is on the basis that a reasonable member of the public will see no objection in principle to such service or regard it as prejudicing a member's judgement of the public interest and will only regard a matter as giving rise to bias in exceptional circumstances".

Disclosure of Non- Registrable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter 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 friend, relative, close associate; or
- c. a body included in those you need to disclose under Disclosable Pecuniary Interests as set out in **Table 1**

you must disclose the interest. In order to determine whether you may participate in the meeting—after disclosing your interest the following test should be applied:

9. Where a matter **affects** your financial interest or well-being so that a reasonable member of the public knowing all the facts would believe that it may affect your view of the wider public interest.:

you may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
Employment, office, trade, profession or vocation	<p>Any employment, office, trade, profession or vocation carried on for profit or gain.</p> <p>[Any unpaid directorship.]</p>
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	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor's knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(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.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i)) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

* '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 Registerable Interests

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- b) any body
 - (i) exercising functions of a public nature
 - (ii) any body directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

GUIDANCE ON CODE OF CONDUCT

This document has been produced by the Cumbria Monitoring Officers to offer guidance on the Code of Conduct for Members as adopted by the principal authorities with effect from 27th July 2021. The Code, amended from time to time applies to all Members and co-opted members of the principal authorities within Cumbria.

The Code does not apply to the actions of authorities as a whole, or to the conduct of its officers and employees.

Ultimately, it is the Members' responsibility to take specific advice from the Monitoring Officer where appropriate and to make a decision as to the most suitable course of action.

Code of Conduct

The Code of Conduct ("the Code") is not intended to be an exhaustive list of all the obligations that are placed on Members, but it is the responsibility of individual Members to comply with the provisions of the Code as well as such other legal obligations as may apply to them from time to time.

The Code is intended to be consistent with the seven principles as attached to the Code which define the standards that Members should uphold. A failure to act in accordance with these general principles may amount to a breach of the Code of Conduct. For example, by placing yourself in situations where your honesty and integrity may be questioned, your conduct may be conduct which could "bring your office or your Authority into disrepute".

When does the Code apply to you?

The Code applies to you whenever you act in your official capacity as a Member or co-opted member of the Authority. A co-opted member is a person who is not a Member of the Council but who is either a member of any committee or sub-committee of the Council, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council and who is entitled to vote on any question that falls to be decided at that meeting of that committee or sub-committee.

For the purposes of the Code, a "meeting" is a meeting of the Council, any of its committees, sub-committees, joint committees or joint sub-committees.

General Obligations under the Code

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend, a close associate, an employer or business carried on by you.

For example, your behaviour would be improper if you sought to further your private interests through your position as a Member.

You must not place yourself under a financial or other obligation to outside individuals or organisations that may influence you in the performance of your official duties.

It would not be appropriate to accept favours, gifts or hospitality from someone that may, at a later date, require something from the Council that you are in a position to influence. For example, you may be offered a discount by a business in the area which subsequently applies for planning permission and/or a licence. You may be on the relevant committee dealing with the application and, therefore, be in a difficult position.

You must not disclose any information given to you as a Member in breach of any confidence

There may be circumstances where you are required to do so by law but you should seek the advice of the Monitoring Officer if there is any doubt about this.

You must not disclose confidential information, or information which you believe to be of a confidential nature, except in any of the following circumstances:

- You have the consent of the person authorised to give it.
- You are required by law to do so.
- The disclosure is made to a third party for the purposes of obtaining professional advice (for example, your lawyer or other professional adviser) provided that person agrees not to disclose the information to any other person.
- The disclosure is in the public interest. This is only justified in limited circumstances, when all of the following four requirements are met:
 1. the disclosure must be reasonable
 2. the disclosure must be in the public interest
 3. the disclosure must be made in good faith
 4. the disclosure must be made in compliance with any reasonable requirements of your authority

In relation to the disclosure of confidential information in the public interest, the four requirements to be met are outlined in more detail below.

1. The first requirement, that the disclosure must be reasonable, requires you to consider matters such as:
 - Whether you believe that the information disclosed, and any allegation contained in it, is substantially true. If you do not believe this, the disclosure is unlikely to be reasonable.

- Whether you make the disclosure for personal gain. If you are paid to disclose the information, the disclosure is unlikely to be reasonable.
 - The identity of the person to whom the disclosure is made. It may be reasonable to disclose information to the police or to an appropriate regulator. It is less likely to be reasonable for you to disclose the information to the world at large through the media.
 - The extent of the information disclosed. The inclusion of unnecessary detail, and in particular, private matters such as addresses or telephone numbers, is likely to render the disclosure unreasonable.
 - The seriousness of the matter. The more serious the matter disclosed, the more likely it is that the disclosure will be reasonable.
 - The timing of the disclosure. If the matter to which the disclosure relates has already occurred, and is unlikely to occur again, the disclosure may be less likely to be reasonable than if the matter is continuing, or is likely to recur.
 - Whether the disclosure involves your authority failing in a duty of confidence owed to another person.
2. The second requirement, that the disclosure must be in the public interest, needs to involve one or more of the following matters or something of comparable seriousness, that has either happened in the past, is currently happening, or is likely to happen in the future:
- (a) A criminal offence is committed.
 - (b) Your authority or some other person fails to comply with any legal obligation to which they are subject.
 - (c) A miscarriage of justice occurs.
 - (d) The health or safety of any individual is in danger.
 - (e) The environment is likely to be damaged.
 - (f) That information tending to show any matter falling within (a) to (e) is deliberately concealed.
3. The third requirement, that the disclosure is made in good faith, will not be met if you act with an ulterior motive, for example, to achieve a party political advantage or to settle a score with a political opponent.
4. The fourth requirement, that you comply with the reasonable requirements of your authority, means that before making the disclosure you must comply with your authority's policies or protocols on matters such as whistle-blowing and confidential information. You must first raise your concerns through the appropriate channels set out in such policies or protocols.

In summary, to decide whether the disclosure is reasonable and in the public interest, you may need to conduct a balancing exercise weighing up the public interest in maintaining confidentiality against any countervailing public interest favouring disclosure. This will require a careful focus on how confidential the information is, on any potentially harmful consequences of its disclosure, and on any factors which may justify its disclosure despite these potential consequences.

In some situations, it is extremely unlikely that a disclosure can be justified in the public interest. These will include where the disclosure amounts to a criminal offence, or where the information disclosed is protected by legal professional privilege.

You must not bring your office or your Authority into disrepute

You must not bring your office or authority into disrepute whilst acting in your official capacity.

As a Member, 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 your office or your authority. Dishonest and deceitful behaviour in your role as a member may bring your authority into disrepute, as may conduct in your private life which results in a criminal conviction, such as dishonest, threatening or violent behaviour.

You must treat others with respect and promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their sex, race, age, religion, gender, sexual orientation or disability. You should respect the impartiality and integrity of the authority's statutory officers and its other employees.

Respect

You must treat others with respect. In politics, rival groupings are common, either in formal political parties or more informal alliances. It is expected that each will campaign for their ideas, and they may also seek to discredit the politics and actions of their opponents. Criticism of ideas and opinion is part of democratic debate, and does not in itself amount to failing to treat someone with respect.

Ideas and policies may be robustly criticised, but individuals should not be subject to unreasonable or excessive personal attacks. This particularly applies to dealing with the public and officers. Chairs of meetings are expected to apply the rules of debate and procedure rules or standing orders to prevent abusive or disorderly conduct.

Whilst there may be unreasonable demands on Members, Members should, as far as possible, treat people courteously and with consideration. Rude and offensive behaviour lowers the public's expectations and confidence in its elected representatives.

Equality

You must not do anything which may cause your authority to breach any equality laws. You must be careful not to act in a way which may amount to any of the prohibited forms of discrimination, or do anything which hinders your authority's fulfilment of its positive duties under equality laws. Such conduct may cause your authority to breach the law, and you may find yourself subject to a complaint that you have breached this paragraph of the Code of Conduct.

Bullying

You should not bully any person. As an elected Member you are in a position of authority and power over Council employees and others. Bullying is offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can make a person feel vulnerable, upset, humiliated, undermined or threatened. Power does not always mean being in a position of authority, but can include both personal strength and the power to coerce through fear or intimidation.

Bullying can take the form of physical, verbal and non-verbal conduct. Bullying may include, by

way of example:

- (a) physical or psychological threats;
- (b) overbearing and intimidating levels of supervision/instruction;
- (c) inappropriate derogatory remarks about someone's performance;

Legitimate, reasonable and constructive criticism of a worker's performance or behaviour, or reasonable instructions given to workers in the course of their employment, will not amount to bullying on their own.

Harassment

You should not harass any person. Harassment is any unwanted physical, verbal or non-verbal conduct that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. A single incident can amount to harassment.

It also includes treating someone less favourably because they have submitted or refused to submit to such behaviour in the past.

Unlawful harassment may involve conduct of a sexual nature (sexual harassment), or it may be related to age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, colour, nationality, ethnic or national origin, religion or belief, sex or sexual orientation. Harassment is unacceptable even if it does not fall within any of these categories.

Harassment may include, for example:

- (a) unwanted physical conduct or "horseplay", including touching, pinching, pushing and grabbing;
- (b) continued suggestions for social activity after it has been made clear that such suggestions are unwelcome;
- (c) sending or displaying material that is pornographic or that some people may find offensive (including e-mails, text messages, video clips and images sent by mobile phone or posted on the internet);

- (d) unwelcome sexual advances or suggestive behaviour (which the harasser may perceive as harmless);
- (e) racist, sexist, homophobic or ageist jokes, or derogatory or stereotypical remarks about a particular ethnic or religious group or gender;
- (f) outing or threatening to out someone as gay or lesbian;
- (g) offensive e-mails, text messages or social media content; or
- (h) mocking, mimicking or belittling a person's disability.

A person may be harassed even if they were not the intended "target". For example, a person may be harassed by racist jokes about a different ethnic group if the jokes create an offensive environment.

Impartiality and integrity of officers of the authority

You should respect the impartiality and integrity of the Authority's statutory officers and its other employees.

You should not approach or pressure anyone who works for, or on behalf of the authority to carry out their duties in a biased or partisan way. They must be neutral and should not be coerced or persuaded to act in a way that would undermine their neutrality. For example, you should not get officers to help you prepare party political material, or to help you with matters relating to your private business.

Although you can robustly 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, 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.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits on merit.

As an elected Member of the Council you are responsible for administering resources on behalf of the public of the area that you serve. You should administer these resources fairly and in accordance with the law. It is inappropriate for the Council's resources or powers to be used in such a way that the authority and its Members be left open to accusations that in appropriate influence played a part, for example, "it's not what you know, it's who you know!"

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

This requirement is linked to carrying out all duties in a fair and transparent manner. Members are able to be held to account for their actions and, this being the case, you must be open to and cooperate with any legitimate scrutiny that is to be applied.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

The law requires that Members give reasons for their decisions. This is so that the public we serve are able to understand why we have taken a course of action and, if necessary, exercise any right of challenge that is open to them.

You must declare any private interests, both disclosable pecuniary interests and any other registrable interests, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interest in a matter which conforms to the procedures within the code.

The Code of Conduct contains a scheme for the registration of interests. It exists to support openness and transparency; the public are able to see where you may have an interest. Secondly, the scheme of registration exists to protect individual Members against accusations of a conflict of interest etc. Lastly, the registration of disclosable pecuniary interests is required by law.

You must ensure, when using or authorising the use by others of the resources of your authority, that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

Where your authority provides you with resources (for example telephone, computer and other IT facilities, transport or support from council employees), you must only use these resources or employees for carrying out your local authority business and any other activity which your authority has authorised you to use them for.

You must be familiar with the rules applying to the use of these resources made by your authority. Failure to comply with the authority's rules is likely to amount to a breach of the code.

If you authorise someone (for example a member of your family) to use your authority's resources, you must take care to ensure that this is allowed by the authority's rules.

You should never use Council resources for purely political purposes, including designing and distributing party political material produced for publicity purposes.

You must promote and support high standards of conduct when serving in your office.

You have a duty to promote and support high standards of conduct and be consistent with the seven general principles attached to the Code.

INTERESTS

Register of interests

Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

You have two types of registrable interests -

- (a) A Disclosable Pecuniary Interest; and
- (b) Interests other than pecuniary interests that the Council has decided should be registered

Disclosable Pecuniary Interests

1. These are interests which must be notified to the Council's Monitoring Officer within 28 days beginning with the day on which you become a Member or co-opted member of the authority in accordance with the statutory requirements of the Localism Act 2011. These are enforced by criminal sanction, and failure to declare is a criminal offence.
2. You need to register your interests so that the public, authority staff and fellow Members know which of your interests might give rise to a conflict of interest. The register is a document that can be consulted when (or before) an issue arises, and so allows others to know what interests you have, and whether they might give rise to a potential conflict of interest.
3. The register also protects you. You are responsible for deciding whether or not you should declare 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 declared by you or other Members, 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 government is maintained.
4. A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, 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) of the following descriptions -
 - (a) Details of any employment, office, trade, profession or vocation carried on for profit or gain.

- (b) Details of any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. (This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (c) Details of any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority under which goods or services are to be provided or works are to be executed; and which has not been fully discharged.
- (d) Details of any beneficial interest in land which is within the area of the relevant authority.
- (e) Details of any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
- (f) Details of any tenancy where (to your knowledge) the landlord is the relevant authority; and the tenant is a body in which the relevant person has a beneficial interest.
- (g) Details of any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of the relevant authority; and either the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or if that share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For the purposes of the foregoing “relevant authority” means the District Council, and “relevant period” means the period of 12 months ending with the day on which you notify the Monitoring Officer of your disclosable pecuniary interest.

Notification of Other Interests

5. In addition to the disclosable pecuniary interests, you must, within 28 days of the Code being adopted by or applied to your authority; or your election or appointment to office (where that is later), notify the Monitoring Officer in writing of the details of your interests within the following categories, which the Council has decided must be included in the register of interests:

- (a) Details of any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the District Council;
- (b) Details of any body of which you are a member or in a position of general control or management and which –
 - (i) exercises functions of a public nature,
 - (ii) is directed to charitable purposes, or
 - (iii) is a body which includes as one of its principal purposes influencing public opinion or policy (this includes political parties or trade union);
- (c) Details of any persons from who you have a received a gift or hospitality with an estimated value of at least £50. (You must register any gifts and hospitality worth £50 or over that you receive personally in connection with your official duties.

What is a “body exercising functions of a public nature”?

6. Although it is not possible to produce a definitive list of such bodies, here are some criteria to consider when deciding whether or not a body meets that definition -

- Does that body carry out a public service?
- Is the body taking the place of local or central government in carrying out the function/
- Is the body (including one outsourced in the private sector) exercising a function delegated to it by a public authority?
- Is the function exercised under legislation or according to some statutory power?
- Can the body be judicially reviewed?

Unless you answer “yes” to one of the above questions, it is unlikely that the body in your case is exercising functions of a public nature.

Examples of bodies included in this definition: government agencies, other councils, public health bodies, council-owned companies exercising public functions, arms-length management organisations carrying out housing functions on behalf of your authority, school governing bodies.

If you need further information or specific advice, please contact your monitoring officer.

What do things mean?

Here are some definitions from the legislation that may help you. Ask for advice if necessary:

“the Act”	means the Localism Act 2011 ;
“body in which the relevant person has a beneficial	means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
“director”	includes a member of the committee of management of an industrial and provident
“land”	excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
“M”	means a member of a relevant authority;
“member”	includes a co-opted member;
“relevant authority”	means the authority of which M is a member;
“relevant period”	means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7) , as the case may be, of the Act;
“relevant person”	means - (i) M, (ii) M's spouse or civil partner, (iii) a person with whom M is living as husband and wife, or (iv) a person with whom M is living as if they were
“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.

Gifts and Hospitality

7. You must register the gift or hospitality and its source within 28 days of receiving it.
8. You should ask yourself would I have been given this if I was not on the Council? If you are in doubt as to the motive behind a gift or hospitality, we recommend that you register it or speak to the Monitoring Officer or your parish clerk where appropriate.

9. You do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept. However, you should always register a gift or hospitality if it could be perceived as something given to you because of your position or if your authority requires you to.

What if I do not know the value of a gift or hospitality?

10. The general rule is, if in doubt as to the value of a gift or hospitality, you should register it, as a matter of good practice and in accordance with the principles of openness and accountability in public life.
11. You may have to estimate how much a gift or hospitality is worth. Also, an accumulation of small gifts you received from the same source over a short period that add up to £50 or more should be registered.

Changes to Interests

12. You must, within 28 days of becoming aware of any new interest or change to any interest registered notify the Monitoring Officer of the details of that new interest or change.

Disclosure of Interests

13. Where you have a registrable interest in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of that interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

Sensitive interests

14. Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

What is sensitive information?

15. It may include your sensitive employment (such as certain scientific research or the Special Forces) or other interests that are likely to create serious risk of violence or intimidation against you or someone who lives with you.
16. You should provide this information to your monitoring officer and explain your concerns regarding the disclosure of the sensitive information; including why it is likely to create a serious risk that you or a person who lives with you will be subjected to violence or intimidation. You do not need to include this information in your register of interests, if your monitoring officer agrees but you need to disclose at meetings the fact that you have a disclosable pecuniary interest in the matter concerns.

Non participation in case of disclosable pecuniary interest

17. If you are present at a meeting of the Council, Cabinet or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting:

- You may not participate in any discussion of the matter at the meeting.
- You may not participate in any vote taken on the matter at the meeting.
- If the interest is not registered, you must disclose the interest to the meeting.
- If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

In addition, the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.

18. Where an executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the executive member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

Dispensations

19. At District level The Monitoring Officer or Standards Committee, or at Parish/Town Council level, the Clerk or the Council (dependent on procedures) may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest. These circumstances are where -

1. It is considered that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business.
2. That, without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business.
3. That, without a dispensation, no member of the Cabinet would be able to participate on this matter.
4. That the authority considers that the dispensation is in the interests of persons living in the authority's area
5. That the authority considers that it is otherwise appropriate to grant a dispensation.

NB 2 and 3 above would not apply to Parish/Town Councillors

Offences

20. It is a criminal offence to
- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
 - Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
 - Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
 - Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
 - As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
 - Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

Bias/Predetermination

Although not part of the code, members need to be clear that they are not biased going into the decision making process.

If you have a personal interest in a matter as a result of the matter affecting the well-being or financial position of yourself, member of your family or close association more than it would affect the majority of other people in the ward

or electoral divisions affected by the decision, or in the authority's areas or constituency then there may be potential for bias/predetermination.

The rules against bias say that there are three distinct elements. The first seeks accuracy in public decision-making and the second seeks the absence of prejudice or partiality on the part of you as the decision-maker. An accurate decision is more likely to be achieved by a decision-maker who is in fact impartial or disinterested in the outcome of the decision and who puts aside any personal prejudices.

The third requirement is for public confidence in the decision-making process. Even though the decision-maker may in fact be scrupulously impartial, the appearance of bias can itself call into question the legitimacy of the decision-making process. In general, the rule against bias looks to the appearance or risk of bias rather than bias in fact, in order to ensure that 'justice should not only be done, but should manifestly and undoubtedly be seen to be done.

To varying degrees, these 'requirements' might be seen to provide the rationales behind what are generally taken to be three separate rules against bias: "automatic" (or "presumed") bias, "actual" bias and "appearance" bias.

The rationale behind "automatic" or "presumed" bias appears to be that in certain situations (such as if you have a pecuniary or proprietary interest in the outcome of the proceedings then it must be presumed that you are incapable of impartiality. Since a motive for bias is thought to be so obvious in such cases, the decisions are not allowed to stand even though no investigation is made into whether the decision-maker was biased *in fact*. **In these circumstances you should not participate in a decision.**

The Localism Act 2011 has enshrined the rules relating to pre-disposition and predetermination into statute. In essence you are not taken to have had, or appeared to have had, a closed mind when making a decision just because you have previously done anything that directly or in-directly indicated what view you may take in relation to a matter and that matter was relevant to the decision.

So, you are entitled to have a pre-disposition one way or another as long as you have not pre-determined the outcome. You are able to express an opinion providing that you come to the relevant meeting with an open mind, able to take account of all of the evidence and make your decision on the day.

What does "affecting well-being or "financial position" mean?

The term "well-being" can be described as a condition of contentment and happiness. Anything that could affect your quality of life, either positively or negatively, is likely to affect your well-being.

A personal interest can affect you, your family or close personal associates positively and negatively. So if you or they have the potential to gain or lose from a matter under consideration, a personal interest would need to be declared in both situations.

Who is a member of your family or close association?

A member of your family should be given wide meaning. It includes a partner (someone you are married to, your civil partner, or someone you live with in a similar capacity), a parent, parent-in-law, a son or daughter, a stepson, or stepdaughter, the child of a partner, a brother or sister of yourself or your partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece and the partners of any of these people.

A person with whom you have a close association is someone that you are in either regular or irregular contact with over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone whom you know through general social contacts.

What if I belong to an authority without wards?

If you are a member of an authority that does not have wards, you will need to declare a personal interest whenever you consider a matter in a meeting of your authority if it affects the well-being or financial position of you, your family or people with whom you have a close association, more than it would affect other people in your authority's areas.

What if I am not aware of my personal interest?

Clearly you cannot be expected to declare something of which you are unaware. However you should not ignore the existence of interests which, from the point of view of a reasonable and objective observer, you should have been aware. If you become aware, or should have realised, that you have an interest during consideration of the item, you should immediately declare this and take the appropriate action.

When must I leave the room where the meeting is held? You must leave

immediately before any debate starts.

Non participation in case of pecuniary interest

Disclosable Pecuniary Interests

Subject to the following paragraph, below if you have a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting, then you should declare that interest to the meeting and should leave the room whilst any discussion or vote takes place.

If a dispensation has been granted to you in relation to a disclosable pecuniary interest then, subject to the terms of the dispensation, you may be relieved from the above restrictions but will still be required to declare the interest to the meeting.

Where you have a disclosable pecuniary interest in any business of the Council, you may attend a Meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the Meeting for the same purpose, whether under a statutory right or otherwise. Once any such representations etc have been made, the Member should leave the room whilst any discussion or vote takes place.

This would mean that as under current arrangements, Members will leave the room during an item in which they have a DPI.

In the interests of transparency it is good practice for you to make the nature of a disclosable interest known when such a matter arises at a meeting. You should identify the nature of the interest which you have in any matter so that is known and understood by all and is a matter of public record. If a declaration is not made, other than through the register, it would not necessarily be apparent to anyone who is present at the meeting why a particular Member is not participating or voting in any matter.

SOUTH LAKELAND DISTRICT COUNCIL ARRANGEMENTS FOR DEALING WITH STANDARDS ALLEGATIONS UNDER THE LOCALISM ACT 2011

1 Context

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of this authority *[or of a parish council within its area]* has failed to comply with the authority’s Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the authority *[or of a parish council within the authority’s area]*, or of a Committee or Sub-Committee of the authority, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member *[or a member or co-opted member of a parish council]* against whom an allegation has been made.

2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is contained in the Council Constitution and available for inspection on the authority’s website and on request from Reception at the Council Offices, South Lakeland House, Lowther Street, Kendal.

Each parish council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council’s Code of Conduct, you should do so by going to the website operated by the parish council and request the parish clerk to allow you to inspect the parish council’s Code of Conduct.

3 Making a complaint

If you wish to make a complaint, please write or email to –

Monitoring Officer
South Lakeland District Council,
South Lakeland House,
Lowther Street,
Kendal,
Cumbria, LA9 4UQ

Or –

monitoringofficer@southlakeland.gov.uk

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members’ interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the authority's website, and is available on request from Reception at the main council Offices.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

The Monitoring Officer will seek to identify any conflicts of interest which may arise at any stage of the process and put alternative arrangements in place as appropriate.

4 Will your complaint be investigated?

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 10 working days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

In certain cases the Monitoring Officer may refer particular complaints to the Standards Committee where he/she feels that it would be inappropriate for him/her to take a decision on it, for example where he/she has previously advised the member on the matter or the complaint is particularly sensitive.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Clerk before deciding whether the complaint merits formal investigation.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

5 How is the investigation conducted?

The Council has adopted a procedure for the investigation of misconduct complaints, which is contained in the final section of these arrangements.

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

6 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and, (following consultation with the Independent Person), if he/she is satisfied that it is sufficient, the Monitoring Officer will write to you and to the member concerned and to the Parish Council, where your complaint relates to a Parish Councillor, notifying you that he/she is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report.

7 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and, after considering the public interest will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

The Public Interest Stage

In every case where there is sufficient evidence to justify an investigation or formal hearing.

The Monitoring Officer must go on to consider (in consultation with the Independent Person) whether an investigation or formal hearing is required in the public interest.

It is not the case that an investigation or formal hearing will automatically take place once the evidential stage is met. An investigation or formal hearing will usually take place unless the Monitoring Officer is satisfied that there are public interest factors tending against such an investigation/hearing which outweigh those tending in favour. In some cases, the Monitoring Officer may be satisfied that the public interest can be properly served by offering the relevant elected Member the opportunity to have the matter dealt with by an alternative remedy rather than bringing the complaint before a formal hearing of the Standards Committee.

When deciding the public interest, Monitoring Officer should consider each of the questions set out below as paragraphs a) to e) so as to identify and determine the relevant public interest factors tending for and against investigation/hearing. These factors should enable the Monitoring Officer to form an overall assessment of the public interest.

The explanatory text below each question in paragraphs a) to e) provides guidance to the Monitoring Officer when addressing each particular question and determining whether it identifies public interest factors for or against investigation/hearing. The questions identified are not exhaustive, and not all the questions may be relevant in every case. The weight to be attached to each of the questions, and the factors identified, will also vary according to the facts and merits of each case.

It is quite possible that one public interest factor alone may outweigh a number of other factors which tend in the opposite direction. Although there may be public interest factors tending against an investigation or in a particular case, the Monitoring Officer should consider whether nonetheless an investigation/formal hearing should go ahead and those factors put to the Standards Committee for consideration when coming to its decision.

The Monitoring Officer should consider each of the following questions:

a) How serious is the breach of the Code?

- The more serious the breach, the more likely it is that a formal hearing is required.
- When assessing the seriousness of a breach, the Monitoring Officer should include in their consideration the elected Member's culpability and the harm caused, by asking themselves the questions at b) and c).

b) What is the level of culpability of the elected Member?

- The greater the Member's level of culpability, the more likely it is that an investigation is required.
- Culpability is likely to be determined by:
 - the Member's level of involvement;
 - the extent to which the breach of the Code was premeditated and/or planned;
 - the extent to which the Member has benefitted from the conduct;
 - whether the Member has previously breached the Code of Conduct;
 - whether the breach was or is likely to be continued, repeated or escalated;

c) What are the circumstances of and the harm caused to the complainant?

- The circumstances of the complainant are highly relevant. The more vulnerable the complainant's situation, or the greater the perceived vulnerability of the complainant, the more likely it is that a formal investigation or hearing is required.
- This includes where a position of trust or authority exists between the Member and complainant.
- It is more likely that a formal hearing is required if the conduct complained of was motivated by any form of prejudice against the complainant's actual or presumed ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity; or if the Member targeted or exploited the complainant, or demonstrated hostility towards the complainant, based on any of those characteristics.
- The Monitoring Officer also needs to consider if a formal hearing is likely to have an adverse effect on the complainant's physical or mental health, always bearing in mind the seriousness of the conduct complained of, the availability of special measures and the possibility of a formal hearing without the participation of the complainant.
- The Monitoring Officer should take into account the views expressed by the complainant about the impact that the conduct has had. In appropriate cases, this may also include the views of the complainant's family.
- However, the Monitoring Officer does not act for complainants or their families in the same way as solicitors act for their clients, and Monitoring Officers must form an overall view of the public interest.

d) What is the impact on the community?

- The greater the impact of the conduct complained of on the community, the more likely it is that an investigation or formal hearing is required.
- Community is not restricted to communities defined by location and may relate to a group of people who share certain characteristics, experiences or backgrounds, including an occupational group.

e) Is an investigation or formal hearing a proportionate response?

In considering whether investigation or formal hearing is proportionate to the likely outcome, the following may be relevant:

- (i) The cost, especially where it could be regarded as excessive when weighed against any likely penalty. The Monitoring Officer should not decide the public interest on the basis of this factor alone. It is essential that regard is also given to the public interest factors identified when considering the other questions in

paragraphs a) to e), but cost can be a relevant factor when making an overall assessment of the public interest.

(ii) Cases should be dealt with in accordance with principles of effective case management.

7.1 Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee and the Parish Council for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter for a local hearing.

7.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for local hearings, which is in the final section of these arrangements.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearings Panel concludes that the member did fail to

comply with the Code of Conduct, the Chair will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

8 What action can the Hearings Panel take where a member has failed to comply with the Code of Conduct?

The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may –

- 8.1 Publish its findings in respect of the member's conduct;
- 8.2 Send a formal letter to the Member;
- 8.3 Report its findings to Council or to the Parish Council for information;
- 8.4 Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.5 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.6 Instruct the Monitoring Officer to or recommend that the Parish Council arrange training for the member;
- 8.7 Remove or recommend to the Parish Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority or by the Parish Council;
- 8.8 Withdraw or recommend to the Parish Council that it withdraws certain facilities provided to the member by the Council; or
- 8.9 Exclude or recommend that the Parish Council exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

9 What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the member and to the Parish Council, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

The decision notice will include a brief statement of the 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. The decision notice will be published on the Council's website.

10 Who are the Hearings Panel?

The Hearings Panel is a Sub-Committee of the Council's Standards Committee. The Standards Committee has decided that it will comprise three members of the Council, appointed on a political balance basis.

The Independent Person is invited to attend all meetings of the Hearings Panel and his/her views are sought and taken into consideration before the Hearings Panel takes any decision on whether the member'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.

11 Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be "independent" if he/she –

11.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;

11.2 Is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the authority's area, or

11.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, "relative" means –

- 11.3.1 Spouse or civil partner;
- 11.3.2 Living with the other person as husband and wife or as if they were civil partners;
- 11.3.3 Grandparent of the other person;
- 11.3.4 A lineal descendent of a grandparent of the other person;
- 11.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
- 11.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
- 11.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

Please note, however, that transitional arrangements allow the Council to appoint a person as an Independent Person who, although not a member of the Standards Committee at the time of appointment (or thereafter), has held such a post during the 5 years ending 30 June 2012.

12 Revision of these arrangements

The Council's Standards Committee may by resolution agree to amend these arrangements, and the Council has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13 Appeals

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

Procedure for Investigations

SOUTH LAKELAND DISTRICT COUNCIL

PROCEDURE FOR INVESTIGATION OF MISCONDUCT COMPLAINTS

Article I. INTRODUCTION

1. This procedure applies to the investigation of misconduct complaints where a decision has been taken to refer for formal investigation.

Article II. APPOINTMENT OF INVESTIGATING OFFICER

2. Once a decision has been made to refer a complaint for local investigation, the Monitoring Officer will appoint an Investigating Officer in respect of the allegation, and instruct him/her to conduct an investigation of the allegation and to make a report to the Monitoring Officer. The Investigating Officer may be an Officer of the Council, the Officer of another Local Authority, or an external Investigating Officer.

The Investigating Officer may appoint persons to assist him/her in the conduct of his/her functions and may obtain such professional advice as may be necessary for the conduct of the investigation.

Article III. NOTIFYING THE MEMBER

3. The Monitoring Officer shall notify the Member in writing:
 - i. that the allegation has been referred for formal investigation;
 - ii. the identity of the person making the allegation [unless identification of the complainant might prejudice the investigation or put the complainant at risk];
 - iii. of the conduct which is the subject of the allegation;
 - iv. of the procedure which will be followed in respect of the allegation; and
 - v. of the identity of the Investigating Officer.

Article IV. NOTIFYING THE PARISH OR TOWN COUNCIL CLERK

4. Where the allegation relates to the conduct of a Member of a Parish or Town Council in his/her capacity as such, at the same time as notifying the Member, the Monitoring Officer will notify the Clerk to the Parish or Town Council concerned in writing of the investigation.

Article V. NOTIFYING THE COMPLAINANT

5. At the same time as notifying the Member, the Monitoring Officer will notify the person who made the allegation in writing of the matters set out at paragraph 3 i, iii – v.

Article VI. CONDUCT OF INVESTIGATION

6. [a] Purpose of the Investigation

The purpose of the Investigating Officer's investigation is to enable him/her to prepare and present to the Monitoring Officer a report with sufficient information to determine whether the Member has acted in breach of the Code of Conduct or local protocol and, where there has been a breach of the Code of Conduct or local protocol, whether any action should be taken in respect of the Member or in consequence of the breach, and what any action should be.

[b] Termination of the Investigation

The Investigating Officer may terminate his/her investigation at any point, where he/she is satisfied that he/she has sufficient information to enable him/her to report to the Monitoring Officer and to enable the Monitoring Officer to come to a considered decision on the report.

[c] Additional Matters

Where, in the course of his/her investigation, the Investigating Officer becomes aware of any other matter which appears to him/her to indicate a breach of the Code of Conduct or local protocol by the Member other than the breach which he/she is currently investigating the Investigating Officer shall either:

- i. [where the additional matter relates to an apparent breach of the Authority's Code of Conduct by a member of the principal authority] report the matter to the Monitoring Officer who will provide the Member with details of the matter in the form set out in paragraph 6 iii and iv above and invite the Member to provide a statement as to why the additional matter does not constitute a breach of the Code of Conduct. The Monitoring Officer will then determine, in consultation with the Independent Person, whether to request the Investigating Officer to investigate the additional matter;*
- ii. [where the additional matter constitutes an apparent breach of the Authority's protocols but not a breach of the Code of Conduct by a Member of the principal authority] report the matter to the Monitoring Officer who will provide the Member with details of the matter in the form set out in paragraph 6 iii and iv above and invite the Member to provide a statement as to why the additional matter does not constitute a breach of the Authority's local protocols. The Monitoring Officer, in consultation with the Independent Person, will then take a decision whether to request the Investigating Officer to consider the matter and report to the Monitoring Officer as appropriate.*
- iii. [where the additional matter relates to an apparent breach of the Code of Conduct or a local protocol by a Parish or Town Councillor] notify the Clerk to the Town or Parish Council of the additional matter and any action taken.*

- [d] Following notification to the Member, the Investigating Officer will identify an initial list of persons to be interviewed, organisations from whom information is to be sought and documents to be inspected as part of the investigation. The Investigating Officer may supplement or amend this list at any stage of the investigation.

[e] Production of Documents, Information and Explanations

- i. In the course of the investigation, the Investigating Officer and any person authorised on his/her behalf may make such enquiries of any person or organisation, and request any person or organisation to provide any document or information which is in his/her/its possession or control, or provide any explanation, as he/she thinks necessary for the purposes of carrying out the investigation.
- ii. In the course of the investigation, the Investigating Officer and any person authorised on his/her behalf may require any authority of which the Member is a member to provide any document which is in his/her/its possession or control which he/she thinks necessary for the purposes of carrying out the investigation.

[f] Interviews

- i. In the course of the investigation the Investigating Officer may request any person to attend and appear before him/her or otherwise provide any information, document or explanation for the purpose of paragraph 10[e], as he/she thinks necessary for the purposes of carrying out the investigation.
- ii. Representation
Any person who appears before the Investigating Officer can arrange to be accompanied at their own expense by a Solicitor or friend.
- iii. Notes of Interviews
Where practicable, following the interview the Investigating Officer shall produce a written note of the material points of the interview, provide two copies of that note to the person interviewed and ask them to return one copy signed as a correct record of the interview, with such corrections or amendments as they may feel necessary for that purpose.

DRAFT REPORT

11. [a] Where the Investigating Officer is satisfied that he/she has sufficient information to meet the requirement set out in paragraph 10[a], or has obtained as much information as is likely to be reasonably capable of being obtained, he/she will prepare a draft report setting out:
 - i. the details of the allegation;
 - ii. the relevant provisions of statute, of the Code of Conduct and any relevant local protocols;
 - iii. the Member's initial response to notification of the allegation [if any];
 - iv. the relevant information, advice and explanations which he/she has obtained in the course of the investigation;
 - v. a list of any documents relevant to the matter;
 - vi. a list of those persons whom he/she has interviewed and those organisations from whom he/she has sought information;
 - vii. a note of any person or organisation who has failed to co-operate with the investigation and the matter in which they have failed to co-operate;
 - viii. a statement of his/her draft findings of fact;
 - ix. the reasoning for his/her decision;

- x. his/her conclusion as to whether the Member has or has not failed to comply with the Code of Conduct for Members of any authority or a local protocol; and
 - xi. any recommendations which the Investigating Officer is minded to make to any authority concerned for reviewing or reconsidering any decision which was the subject of the breach of the Code of Conduct or local protocol, for rectifying any deficiency in the authority's decision-making procedures or for preventing or deterring any breach of the Code of Conduct or local protocol or to remedy the position of any person who may have suffered detriment or injustice as a result of the breach. *Where the allegation relates to a Parish or Town Councillor, such recommendations would be recommendations which the Investigating Officer would recommend be made to the Parish or Town Council.*
- [b] The draft report should also state that the report does not necessarily represent the Investigating Officer's final finding, and that the Investigating Officer will present a final report to the Monitoring Officer once he/she has considered any comments received on the draft report.
 - [c] The Investigating Officer shall then send a copy of his/her draft report in confidence to the Member and the Complainant and request that they send any comments thereon to him/her within 14 days.
 - [d] The Investigating Officer may send a copy of, or relevant extracts from his/her draft report in confidence to any person on whose evidence he/she has relied in compiling the draft report, and request that they send any comments thereon to him/her within 14 days.

FINAL REPORT

12. [a] After the expiry of that period [or such extended period as the Investigating Officer may allow], the Investigating Officer shall reconsider and amend his/her draft report in the light of any comments received, and produce and send to the Monitoring Officer his/her final report. The final report should state that the report represents the Investigating Officer's final findings and should have appended to it copies of any documents which the Investigating Officer has relied on in reaching his/her conclusions, such as background documents or telephone conversations, letters and notes of interviews with witnesses.

- [b] The Monitoring Officer will review the Investigating Officer's report and, if he/she is satisfied that the Investigating Officer's report is sufficient he/she shall then:
 - i. where the final report concludes that there has not been a failure to comply with the Code of Conduct for Members or a local protocol, will write to the Complainant and the Member concerned and to the Parish Council, where the complaint relates to a Parish Councillor, notifying them that he/she is satisfied that no further action is required and provide a copy of the final report.
 - ii. where the final report concludes that there has been a failure by the Councillor to comply with the Code of Conduct for Members or with a local protocol, he/she will either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.
- (c) If the report is dealt with by local resolution then that is the end of the matter.

- (d) If it is determined that there should be a local hearing then the procedure for Local Hearing will apply.

Procedure for Hearings

SOUTH LAKELAND DISTRICT COUNCIL

PROCEDURE FOR LOCAL HEARING OF ALLEGATIONS ABOUT THE PERSONAL CONDUCT OF COUNCIL MEMBERS

INTRODUCTION

1. Where there is no local resolution of complaints following evidence of a failure to comply with the Code of Conduct, the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.
2. The person[s] making the complaint will be referred to in this procedure as the Complainant and the person against whom the complaint is made will be referred to as the Member. The allegation will be heard by the Standards Committee or a Sub-Committee or Hearings Panel of the Standards Committee.

PRE-HEARING PROCESS

3. Upon receipt of the final report of the Investigating Officer including a finding that the Member failed to comply with the Code of Conduct for Members and it is considered that a local resolution is not possible and that the matter should be considered at a formal hearing the Monitoring Officer shall arrange for the Hearings Panel to consider the matter.
4. Where the Monitoring Officer is the Investigating Officer he/she must arrange for a separate legal advisor to the Panel to be appointed in respect of the allegation.

NOTIFYING THE MEMBER AND COMPLAINANT

5. Within five working days of the receipt of the Investigating Officer's report the Monitoring Officer shall send a copy of the report to the Member and the Complainant, making the provision of the report conditional upon any appropriate undertaking of confidentiality. The Chairman of the Standards Committee and Independent Person shall be informed of the allegation by the Monitoring Officer, as well as any Parish or Town Council Clerk where the allegation relates to conduct of a Member in his/her capacity as a member of a Parish or Town Council.
6. The Member shall be asked for a written response, within fifteen working days of the receipt of the report. The response shall set out the reply to the Investigating Officer's report and state whether or not he/she:
 - i. disagrees with any of the findings of fact in the Investigating Officer's report, including the reasons for any disagreement;
 - ii. wants to be represented, at his/her own expense, at the hearing by any other person;
 - iii. wants to give evidence to the Hearings Panel, either verbally or in writing;
 - iv. wants to call relevant witnesses to give evidence to the Hearings Panel;
 - v. wants any part of the hearing to be held in private;

- vi. wants any part of the Investigating Officer's report or other relevant documents to be withheld from the public.
7. The Member shall be informed that if, at the meeting of the Panel, he/she seeks to dispute any matter contained in the Investigating Officer's report without having previously notified the Monitoring Officer of the intention to do so the Committee may either [a] adjourn the meeting to enable the Investigating Officer to provide a response, or [b] refuse to allow the disputed matter to be raised.
8. Upon receipt, the Monitoring Officer shall invite the relevant Investigating Officer to comment, within ten working days, on the Member's response, and to say whether or not he/she:
 - i. wants to be represented or be present at the hearing;
 - ii. wants to call relevant witnesses to give evidence or submit written or other evidence to the Panel;
 - iii. wants any part of the hearing to be held in private;
 - iv. wants any part of the Investigating Officer's report or other relevant documents to be withheld from the public.
9. Upon receipt of the Investigating Officer's response, the Monitoring Officer will consider the responses of the Member and the Investigating Officer and request the Monitoring Officer to set a date for the hearing in consultation with the Chairman and all Members.
10. The Members and the Investigating Officer are entitled to request that any witnesses they want should be called. However, the Chairman of the Hearing may limit the number of witnesses to be called, if he/she believes the number requested is unreasonable and that some witnesses will simply be repeating the evidence of earlier witnesses, or else not providing evidence that will assist the Committee to reach its decision.
11. Nothing in this procedure shall limit the Chairman of the Hearing from requesting the attendance of any additional witnesses whose evidence he/she considers would assist the Committee to reach its decision.
12. The Monitoring Officer, in consultation with the Chairman and Independent Person, will:
 - i. confirm a date, time and place for the Hearing, which must be within three months from the date of the Investigating Officer's report was received;
 - ii. confirm the main facts of the case that are agreed;
 - iii. confirm the main facts that are not agreed;
 - iv. provide copies of any written evidence to the relevant parties;
 - v. confirm which witnesses will be called by the parties;
 - vi. provide the parties with a copy of the proposed procedure for the Hearing, specifying which parts of the matter, if any, may be considered in private; and
 - vii. ensure the appropriate information, with the agenda, is provided to everyone involved in the Hearing at least two weeks before the proposed date of the Hearing.

THE HEARING

13. The Hearings Panel shall decide, on a balance of probabilities, whether the complaint[s] is or are upheld upon the evidence presented to it.
14. Each Panel Member shall have one vote, and all matters/issues shall be decided by a simple majority of votes cast. If there are equal numbers of votes for and against, the Chairman shall have the second and casting vote.
15. The meeting of the Panel will be open to the public and press unless confidential information or exempt information is likely to be disclosed.

PROCEDURE AT THE HEARING

16. The initial order of business at the meeting shall be as follows:-
 - i. Establishing whether the Panel is quorate;
 - ii. Declarations of interest;
 - iii. Introductions
 - iv. Consideration as to whether to adjourn or to proceed in the absence of the Member, if the Member is not present;
 - v. Consideration of any procedural issues and, in particular, any representation from the Investigating Officer and/or the Member as to reasons why the Committee should exclude the press and public and determination as to whether to exclude the press and public.
17. The purpose of the Hearing is to determine the facts at issue and what action, if any, should be taken. An inquisitorial approach will be adopted by the Panel members in seeking information and clarifying facts and issues. The Chairman will control the procedure and evidence presented at the Hearing, including the questioning of witnesses.
18. The Panel members may at any time seek legal advice from their advisor. [Such advice will be notified to the public in the presence of the Investigation Officer and the Member.]
19. The procedure will be as follows, subject to the Chairman being able to make changes as he or she thinks fit in order to ensure a fair and efficient hearing.

PROCEEDING IN THE ABSENCE OF THE MEMBER

20. If the Member is not present at the start of the Hearing:
 - i. The Chairman will ask the Monitoring Officer whether the Member has indicated his/her intention not to attend the Hearing;
 - ii. The Hearings Panel shall then consider any reasons which the Member has provided for not attending the Hearing and shall decide whether it is satisfied that there is sufficient reason for such failure to attend;
 - iii. If the Panel is satisfied with such reasons, it shall adjourn the Hearing to another date;
 - iv. If the Panel is not satisfied with such reasons, or if the Member has not given any such reasons, the Panel shall decide whether to consider the matter and make a determination in the absence of the member or to adjourn the Hearing to another date.

21. **Presentation by the Investigating Officer**

- 21.1 The Investigating Officer will present the evidence which is relevant to the matter. The Investigating Officer may introduce any witness required to substantiate any matter contained in the report which has been disputed and present any other relevant evidence.
- 21.2 The Member or his/her representative may ask questions of the Investigating Officer or any witness.
- 21.3 The Panel members or Independent Person may ask questions of the Investigating Officer or any witness.

22. **Presentation by the Member**

- 22.1 The Member or his/her representative will present the evidence which is relevant to the matter. The Member or his/her representative may introduce witnesses or present any other relevant evidence.
- 22.2 The Investigating Officer may ask questions of the Member, or any witness.
- 22.3 The Panel members or Independent Person may ask questions of the Member or any witness.
- 22.4 The Investigating Officer and then the Member or his/her representative will be given the opportunity to sum up.

23. **Decision by the Hearings Panel**

- 23.1 The Panel will consider in private, with the Independent Person, all the evidence which it has heard in order to establish its findings of fact.
- 23.2 At any stage in the consideration of the matter the Panel may return to ask further questions of the Investigating Officer or the Member or seek further information. The other party will be given an opportunity to comment upon the questions asked or the responses made.
- 23.3 The Panel may seek legal advice at any time. Such advice may be given in the presence of the Investigating Officer and the Member if appropriate.
- 23.4 At the conclusion of their deliberations, the Chairman will advise the Member and the Investigating Officer of their findings and whether the Code of Conduct has been breached.
- 23.5 If the Panel concludes that the Member has acted in breach of the Code representations will be invited from the Investigating Officer and the Member as to what action, if any, it should take. The Panel may ask questions of the Member and the Investigating Officer.

24. The Panel, having heard any representations, will consider what actions, if any, to take. The findings that the Panel may make are:

- a) That there has been no breach of the Code;

- b) That the Member has failed to comply with the Code of Conduct, but that no action needs to be taken;
- c) That the Member has failed to comply with the Code of Conduct and the Panel will:
 - Publish its findings in respect of the Member's conduct;
 - Send a formal letter to the Member
 - Report its findings to the Council or Parish Council for information;
 - Recommend to the member's Group Leader (or in the case on an ungrouped member(s), recommend to Council or Committees) that he/she be removed from any or all committees or sub-committees of the Council;
 - Recommend to the Leader of the Council that the member be removed from the Executive or removed from particular Portfolio responsibilities;
 - Instruct the Monitoring Officer to recommend that the Parish Council arrange training for the member;
 - Remove or recommend to the Parish Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority or by the Parish Council;
 - Withdraw or recommend to the Parish Council that it withdraws certain facilities provided to the member by the Council; or
 - Exclude or recommend that the Parish Council exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

- 25. In deciding what penalty to set, the Committee will consider all relevant circumstances.
- 26. The Chairman will announce the decision of the Committee, the action, if any, it is proposed to take and the reasons for the decision.
- 27. The Committee will then consider in open session whether there are any recommendations which should be made to any Authority concerned arising from the consideration of the allegation.

APPEAL

- 28. There is no right of appeal against the decision of the Hearing Panel.

NOTICE OF FINDINGS

- 29. A full written decision in draft [including the reasons for it] will be prepared as soon as practicable. The draft decision will be forwarded to the Chairman of the Committee for approval.
- 30. Once approved and as soon as reasonably practicable after the Hearing the full written decision will be forwarded to the Member, the Independent Person, the Complainant, the Investigating Officer and any other Authority concerned.
- 31. If the Hearing Panel wishes to publish its finding, the Monitoring Officer, subject to paragraph 32, shall arrange for a summary of the findings to be published in such manner as the Hearings Panel may determine.
- 32. Where the Panel determines that there has not been a breach of the Code of Conduct, the notice shall:

- i. State that the Panel found that the Member had not failed to comply with the Code of Conduct and shall give its reasons for reaching that finding; and
 - ii. Not be published in the local newspaper if the Member so requests.
33. Where the Panel determines that there has been a failure to comply with the Code of Code but no action is required, the notice shall:
 - i. State that the Panel found that the Member had failed to comply with the Code of Conduct but that no action needs to be taken in respect of that failure;
 - ii. Specify the details of the failure;
 - iii. Give reasons for the decision reached; and
34. Where the Panel determines that there has been a failure to comply with the Code of Conduct and that a sanction should be imposed, the notice shall:
 - i. State that the Panel found that the Member had failed to comply with the Code of Conduct;
 - ii. Specify the details of the failure;
 - iii. Give reasons for the decision reached;
 - iv. Specify the sanction imposed;
35. Copies of the agenda, reports and minutes of a Hearing, as well as any background papers, apart from sections of documents relating to parts of the Hearing that were held in private, shall be available for public inspection for six years after the Hearing.

PROTOCOL ON GOOD PRACTICE IN LICENSING FOR MEMBERS DEALING WITH LICENSING ISSUES

1.0 INTRODUCTION

The Licensing Act 2003 and the Gambling Act 2005 have put local authorities firmly at the centre of decision making upon licensing for regulated entertainment, the provision of alcohol, late night refreshment and the Licensing of Gambling Establishments and Small Lotteries.

There are two main aims of this protocol. The first is to provide guidance to, and enable, councillors to represent their constituents, whether they be residents, local businesses etc. by acting as 'interested parties' at licensing hearings. The second aim is to provide guidance to those Members who are members of the Licensing & Licensing Regulatory Committee (and their sub-committees); by following this protocol, Members will help to avoid accusations of pre-determination, bias or maladministration.

The role of Elected Members as part of the Licensing Committee will involve balancing the multiple needs and interests of the local community, whilst prioritising the four Licensing Objectives of the Licensing Act 2003 and the three objectives of the Gambling Act 2005. In doing so the Elected Member must maintain his/her impartiality and, as public perception of probity is critical, his/her appearance of impartiality too, during the decision making process. This protocol is intended to ensure that this is achieved.

This protocol is part of the Council's Constitution and all members and officers are expected to comply strictly with its provisions. Any breach of the protocol will be referred to the Monitoring Officer. If the breach is also a breach of the Code of Conduct for Members the matter will be dealt with accordingly.

This protocol is in addition to and takes account of the ethical framework introduced by the Local Government Act 2000 (as amended).

This protocol can be changed at any time by resolution of Council.

2.0 GENERAL ROLE AND CONDUCT OF COUNCILLORS

2.1 Councillors and Officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate, whilst officers are responsible to the Council as a whole. The Council's reputation as a successful Licensing Authority can only be based upon a mutual trust between councillors and officers and understanding of each other's positions. This relationship, and the trust which underpins it, must never be abused or compromised.

2.2 Legislation emphasises the overriding requirement that the public are entitled to expect the highest standards of conduct and probity by all persons holding public office and in particular that when dealing with licensing matters only issues relating to the licensing objectives are taken into account and when dealing with gambling matters only issues relating to the licensing objectives of the Gambling Act 2005 are taken into account. There are statutory provisions and codes that set standards which must be followed if the public perception of the integrity of public service is to be maintained and improved.

2.3 Members must, at all times, comply with the provisions of the Code of Conduct for Members which has been adopted by the Council and sets out the required standards of conduct for councillors. The Code not only covers issues central to the preservation of an ethical approach to council business but also appropriate relationships with other members, staff and the public which will impact on the way in which members participate in the licensing process. Of particular relevance to councillors serving on the Licensing Committee and Panels is the provision which reads:

"Selflessness: Holders of public office should act solely in terms of the public interest"

2.4 Officers involved in the processing and determination of licensing matters must act in accordance with the Council's Code of Conduct for Employees.

2.5 Despite the provision of the Code of Conduct for Members and the Code of Conduct for Employees, Members and officers involved in licensing matters should not accept any gifts or hospitality. If, however, a degree of hospitality is unavoidable it should be ensured that such hospitality is minimal and its receipt is declared as soon as possible. Members and officers should notify the Monitoring Officer of such hospitality. In all cases details must be entered in:

- The Members' Register of Interest; or
- The Officers' Register of Gifts and Hospitality

2.6 Officers must always act impartially.

2.7 The Council is committed to a culture of continuous improvement in all of its services and will ensure that all Officers and Members involved in the licensing process receive proper training/development to ensure that they are able to undertake their respective roles.

2.8 Members will be required to attend initial training/development sessions when first serving on the Licensing Committee/Licensing Regulatory Committee (normally within three months of appointment). Refresher training will be offered to members every year, and members will be required to attend. Members who do not participate in training will be excluded from serving on Licensing Panels determining licensing applications and other associated matters until the requirement has been met. If a Member fails to undertake any of the mandatory training within 12 months from the date on which it fell due, they will be considered to have resigned their position on the Licensing Committee (and Licensing Regulatory Committee) and the appropriate Group Leader will be notified that a vacant post requires filling.

2.9 Training will be delivered in a variety of ways so as to make it as accessible as possible for members. A combination of e-learning modules, one-to-one sessions and group sessions will be used. In addition to on-going training/development sessions, Members will be updated regularly on changes to legislation, procedures and policies.

2.10 Training/development courses will continue to be provided from time to time to ensure that Members maintain the necessary skills and expertise to fulfil the licensing functions to the best of their ability and in accordance with all relevant requirements.

2.11 Members of the Licensing Committee may be asked to serve on a Panel and will be required to attend all training/development sessions as detailed above.

3.0 REGISTRATION AND DECLARATION OF INTEREST

3.1 Members and Officers undertaking the Council's licensing functions have a duty to act fairly and without bias at all times and to be seen to be so doing. All steps should therefore be taken to ensure that their actions do not infer impropriety of any sort.

3.2 The Localism Act 2011 and the Code of Conduct for Members place requirements on Members about the registration and declaration of their interests and the consequences for the member's participation in the consideration of an issue, in the list of those interests. These requirements must be followed scrupulously and members should review their situation regularly. Guidance on the registration and declaration of interests may be sought from the Council's Monitoring Officer, although ultimate responsibility for fulfilling the requirements rests individually with each member.

3.3 A Register of Members' Interests is maintained by the Monitoring Officer and is available for public inspection and on the Council's website. A Member must provide the Monitoring Officer with written details of any disclosable pecuniary interests within 28 days of election or appointment to office. Any changes to those interests must be similarly notified within 28 days of the Member becoming aware of such changes.

3.4 The Localism Act 2011 requires that, unless a dispensation has been granted, a Member who has declared a disclosable pecuniary interest should not participate in any discussion or vote of the matter at a meeting. The Council's constitution also requires members to leave the room when such a matter is under discussion.

3.5 Members with a disclosable pecuniary interest may utilise any general dispensation given to members to speak in a public participation item, but will be required to leave the meeting for the remainder of the agenda item.

4.0 LICENSING SUB-COMMITTEES – BIAS AND PREDETERMINATION

4.1 Introduction

4.1.1 Bias has been defined as "an attitude of mind which prevents the decision-maker from making an objective determination of the issues that he/she has to resolve". The important concept as regards bias is that there is no need for proof of actual or potential bias for there to be 'procedural impropriety' shown. It is sufficient that there is an appearance of bias. Accordingly, the test for bias is 'whether a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility of bias'.

4.1.2 Further, where the decision to be made is quasi-judicial, as at Licensing Sub-Committee, the key issue to ensure the legality of the decision is to consider whether there may be a "public perception of a

probability of unconscious bias". This brings into consideration the previous dealings of Members of the Licensing Sub-Committee and views expressed by them. Members should therefore avoid participating as a Member of Licensing Sub-Committee where previous voting or statements of belief may alter that "objective impression conveyed".

4.1.3 'Bias' also includes the situation where it is felt the decision-maker has pre-determined the case upon his/her own prejudices. In the local government context, the most obvious example of pre-determination is where the impression is clearly given to persons (such as member of public or a lobbyist) beyond conveying a mere pre-disposition, that 'the Member or authority will approach the matter with a closed mind and without impartial consideration of all relevant issues. In short, to avoid a claim of pre-determination, you must be able to say with honesty that your mind is open and that you will determine the matter on the evidence, regardless of any pre-disposition that you may have conveyed.

4.1.4 To help avoid accusation of pre-determination and ensure that Ward Members are free to represent their constituents as 'interested parties', Ward Members will not sit on Licensing Sub-Committee where that Sub-Committee is considering an application in that member's ward.

4.2 Difference between the disclosable pecuniary interests provisions of the Code of Conduct, and Bias at Common Law

4.2.1 Bias at common law and disclosable pecuniary interests under the South Lakeland District Council Code of Conduct for Members are related but do differ as concepts and in their effect. Although the wording and apparent objectives are similar, the test for common law bias has a lower threshold. Bias at common law includes those areas where the potential Licensing Sub-Committee member has raised a real danger of a perception that s/he has prevented him or herself from being able to make an impartial determination of the issues. This is also known as fettering one's discretion. Interests under the Code of Conduct, however, only concern themselves with the definition of a disclosable pecuniary interest as prescribed by legislation, and any other registrable interests that the Council has said should be declared.

4.2.2 In terms of effects, a Member who has a disclosable pecuniary interest may not, unless they have a dispensation, take part in the Licensing Sub-Committee or attend the hearing at all. Whereas, a Member who has fettered his/her discretion through common-law bias may not sit as part of the Licensing Sub-Committee but may act on behalf of (or as) an 'interested party'.

5.0 APPLICATIONS SUBMITTED BY THE LOCAL AUTHORITY

5.1 The Council could apply for their own Premises Licences. Such applications must be, and be seen to be, dealt with fairly. During such an application process it is therefore important to be aware of any potential appearance of bias.

6.0 LOBBYING OF/BY COUNCILLORS

6.1 Local democracy: The Licensing Act 2003 and The Gambling Act 2005 set out the grounds for making representations on licence applications and limits the parties which may make such representations. It should be borne in mind that one of the key aims of the Licensing Act 2003 and the Gambling Act 2005 is to localise decision making or 'democratise' the process and members are therefore legitimately concerned with their locality and the needs/wishes of its constituents, including both the needs for entertainment and employment, as well as the undesirability of crime and public nuisance. Local councillors can either sit as part of the Licensing Committee/Sub-Committee or can represent the interests of their constituents by acting as 'interested parties', as long as they do not have any disclosable pecuniary interest in the matter.

6.2 The Code of Conduct: If the matter to be decided at a licensing hearing relates to the Member's membership of a lobby or campaign group, an interest should be declared in line with the principles detailed within South Lakeland District Council Code of Conduct. This might, for example, include a situation where the Member is a part of campaign group which promotes rural pubs and the licence application requires a licence for such a premises. Whilst the Code of Conduct does not require the Member to withdraw from a meeting unless there is also a disclosable pecuniary interest, so as to avoid perceptions of bias in such a situation the Member shall not sit on the Sub-Committee determining the application. However, this would not preclude the Member attending the meeting either as the licence applicant, or being/representing an 'interested party'.

6.3 As stated earlier in this Protocol, unless a Member has a dispensation, if they have a disclosable pecuniary interest in a matter then they must not be present in the meeting in any form. Should s/he be the

licence applicant or be/represent an 'interested party' then an agent should be utilised at the meeting instead, to present the member's view.

6.4 It should be noted that regulatory matters such as licensing are particularly sensitive. Members should adopt a particularly cautious approach to such matters.

6.5 Appearance of bias: Whilst lobbying of members is legitimate and certain members may take representations to the Licensing Committee/Sub-Committee on behalf of 'interested parties', it is crucial for the Licensing Authority and its Committee/Sub-Committee to ensure that there is neither actual nor the appearance of bias in its decision making.

6.6 To avoid an appearance of bias:

- No Member sitting on the Licensing Sub-Committee can represent one of the interested parties or the applicant. If s/he wishes to do so s/he must excuse him/herself from membership of the Sub-Committee which is considering the application and address the Sub-Committee as an 'interested party' or as the applicant's representative/witness.
- If a Member who sits on the Licensing Sub-Committee is approached by persons wishing to lobby him/her as regards to the licence application then that Member must politely explain that they cannot discuss the matter and refer the lobbyist to his/her Ward Member or the Licensing Officer who can explain the process of decision making. If the Member who sits on the Licensing Sub-Committee wishes to represent them then s/he will need to excuse him/herself from the Licensing Sub-Committee.
- Political group meetings should never be used to decide how any members on the Licensing Sub-Committee should vote. The view of the Ombudsman is that using political whips in this manner may well amount to findings of maladministration.
- Councillors must not be members of the Licensing Committee/Sub-Committee if they are involved in campaigning in respect of the particular application being considered.
- Other members (i.e. those which do not sit on the Licensing Sub-Committee) need to be careful when discussing issues relating to matters which may come before the Licensing Sub-Committee members as this can easily be viewed as bias/pressure and may well open that Sub-Committee Member to accusations of such.
- Members must not pressurise Licensing Officers to make any particular decisions or recommendations as regards applications (such as the ability to decide whether a representation is frivolous or vexatious). This is also reflected in the Member and Officer Protocol contained within the Council's Constitution.

6.7 It should be noted that a Member for a ward, which would be directly affected by the application, is most at risk of being accused of bias. Such members are also most likely to be put under pressure to represent local 'interested parties' (i.e. objectors/supporters) or indeed 'responsible authorities' as regards a licence application. It is for this reason that, whilst there are no statutory requirements for ward members to excuse themselves from such a licence application, those whose ward is likely to be affected by the application will not sit on the Licensing Sub-Committee considering the application but s/he may wish to act as/or represent an 'interested party'.

7.0 PRE-APPLICATION/PRE-DECISION DISCUSSIONS

7.1 Discussions between the licence applicant and the Licensing Authority prior to the submission of an application (or prior to a decision being made) are often helpful to both parties. For example, a premises licence applicant may ask for advice on how to complete an 'operating schedule'. However, discussions with a member of the licensing committee can often be viewed by objectors as a form of lobbying and the elected member must ensure that they do NOT take part in any pre-application/pre-decision discussions and that applicants are referred to the Licensing Officer.

8.0 ROLE OF THE LICENSING OFFICER

8.1 Licensing Officers have no ability under the Gambling Act 2005 to make representations or to be party to the hearing. This is different for the Licensing Act 2003 as the Licensing Officer or the members of the licensing team can act as a responsible authority on behalf of the Licensing Authority. If this happens segregation needs to take place between the two roles and for this process to be transparent.

There is no legal provision for Licensing Officers to make recommendations to the Licensing Sub-Committee in terms of the outcome of the Committee hearing as is seen in planning cases. However, a summary report of the application, the representations, and the Officer's comments as to how these relate to the Licensing Act 2003, the Gambling Act 2005 and the Guidance and the local Licensing Policy Statement and/or Gambling Statement of Principles, may be provided.

9.0 DECISION MAKING

9.1 Reasons for decisions made must be clearly documented so that those affected can understand why the decision was reached. It is critical that such reasons demonstrate that the decision has been made according to the Licensing Objectives of the Licensing Act 2003 and The Gambling Act 2005 as well as the Licensing Authority's Licensing Policy Statement and Gambling Statement of Principles. Whilst the Government's Guidance accompanying the Licensing Act 2003 indicates some other factors which may influence decisions (e.g. live music/cultural considerations) these will always be subservient to the Licensing Objectives and the Licensing Policy Statement and Statement of Principles.

10.0 SITE VISITS

10.1 A Member of the Licensing Sub-Committee appointed to consider a licensing application may request a site visit. A request must be in writing and state the reasons for requesting a site visit which must be one of the following:

- A site visit would assist the Licensing Sub-Committee to assess the impact that the premises might have on premises of interested parties and the submitted plans are not capable of doing this;
- A site visit would enable the Sub-Committee to assess the internal layout of premises and the submitted plans are not capable of doing this; and
- There are other exceptional circumstances which, following consultation with the Licensing Officer, it is considered appropriate to undertake a visit.

10.2 On the request of a Sub-Committee Member the Licensing Officer will decide whether or not to hold a site visit after consultation with the other two Sub-Committee members.

10.3 When a site visit is to be undertaken they shall be conducted in the following way

- The Licensing Officer will, where necessary, make arrangements for the inspection of the premises with the applicant;
- The visit will take place after the meeting has opened.
- The site visit will be chaired by the Sub-Committee chair, but it will not be a formal meeting;
- Licensing Officers will attend to advise and answer questions;
- Upon arrival at the site, members will receive an introductory briefing from the Licensing Officer about the site, the proposal and the reason for the visit;
- Members will view the application and the submitted plans;
- On site discussions will relate solely to the purpose of the inspection. Formal consideration of all the issues relevant to the application takes place at the Sub-Committee hearing;
- No communication will take place between members and any other parties save for the Licensing Officer. There will be no discussions on the merits or otherwise of the application; and
- Members who have not been able to attend the site visit will not be able to participate in the Sub-Committee hearing, unless they are familiar with the site.

CODE OF PRACTICE FOR MEMBERS AND OFFICERS DEALING WITH PLANNING MATTERS

This Code of Practice supplements the Council's Code of Conduct for Members and where appropriate Members should refer to the Code of Conduct which is set out in the Council's Constitution. The advice of the Legal, Governance and Democracy Lead Specialist (Monitoring Officer) or Deputy Monitoring Officer may be sought on the interpretation of the Code of Conduct or this Code.

1. INTRODUCTION

1.1 Planning affects land and property interests, including the financial value of land and the quality of their settings. It is not an exact science. It is often highly contentious because decisions affect the daily lives of everyone and the private interests of members of the public, landowners and developers. Opposing views are often strongly held by those involved. A key role of the planning process is balancing the needs and interests of individuals and the community.

1.2 The planning system can only function effectively if there is trust among those involved. There must be trust between Members and Officers and between the public and the Council. The Committee on Standards in Public Life recommends that each local authority's practices and procedures should be set out in a local code of planning conduct to avoid allegations of malpractice in the operation of the planning system. That Committee has also set out principles which are to govern the conduct of Members and Officers of Councils as follows:-

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 declare and resolve any interests and relationship.

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.

1.3 The Council is committed to open, fair and transparent decision-making. Planning decisions should be made impartially, with sound judgement and for justifiable reasons.

1.4 This Code of Practice sets out practices and procedures that Members, whether or not they are on Planning Committee, and Officers of the Council shall follow when involved in planning matters. Planning matters include the consideration of planning applications, the preparation of development plans and other planning policy and the enforcement of planning control.

1.5 Failure to follow this Code without good reason, could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual Members and Officers. Breaches of this Code may also amount to breaches of the Council's Code of Conduct for Members. If in doubt about what course of action to take, a Member or Officer should seek the advice of the Monitoring Officer.

1.6 This Code of Practice sets out principles to guide Members and Officers in determining planning applications and making other decisions within the terms of reference of the Planning Committee. Although of particular relevance to members of the Planning Committee it applies to all members of the Council who may become involved in planning and development matters.

2. THE ROLE AND CONDUCT OF MEMBERS AND OFFICERS

2.1 Members and Officers have different, but complementary roles. Both serve the public but Members are responsible to the electorate, while Officers are responsible to the Council as a whole. The role of a member of the Planning Committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.

2.2 Whilst all Members have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to Planning Committee Members. A key role of the planning system is the consideration of development proposals against the wider public interest.

2.3 Members' decisions shall not discriminate in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Members must, therefore, consider all of the material issues in the light of Development Plan policies, Government advice and their own individual judgement and make a decision in the interests of the area as a whole.

2.4 Whilst Members should take account of all views expressed, they shall not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.

2.5 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.

2.6 Officers in their role of advising Members shall provide:-

2.6.1 Impartial and professional advice;

2.6.2 Consistency of interpretation of planning policy; and

2.6.3 Complete written reports covering all necessary information for a decision to be made.

2.7 The Council endorses the statement in the Royal Town Planning Institute ("RTPI") code that, 'RTPI members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions', and extends it to apply to all Officers in the authority advising on planning matters.

2.8 That the Council may not always follow the advice of their Planning Officers is perfectly proper. The Planning Officer too, may have a change of opinion, but this must be on the basis of professional judgement, and not because the Council, its Members or other Officers, have prevailed upon the Planning Officer to put forward his or her professional view as something other than it really is.

2.9 The Council's Development Management Group Manager is a member of the RTPI and has direct access to elected members as their professional adviser on planning matters. Under the RTPI's Code of Conduct he shall not put his name to any reports which are contrary to his own bona fide professional opinion.

2.10 Officers shall follow the guidance on their standards of conduct as set out in the Employee Code of Conduct in the Council's Constitution.

2.11 Members should treat with extreme caution any offer of gifts and hospitality which is made to them personally. The normal presumption should be that such offers must be courteously declined. Any gifts of hospitality of a value of £50 or more which are offered, whether or not accepted, must be declared in the Members' Register of Interests Form as "Other Registrable Interests."

2.12 Similarly, Officers shall politely decline offers of hospitality from people with an interest in a planning proposal. If receipt of hospitality is unavoidable, Officers must ensure it is of a minimal level and forward to the Monitoring Officer a completed Record of Gifts and Hospitality Received. If hospitality is declined

Officers must submit a Declined by Employees Declaration Form as set out in the Code of Conduct of South Lakeland District Council Employees to the Monitoring Officer as soon as possible.

3. INTERESTS OF MEMBERS AND OFFICERS

3.1 As a minimum, the integrity of the planning system requires openness on the part of Members. The planning system must operate fairly and be seen to operate fairly. Where Members have interests which may be thought likely to influence their decision, the fact should be declared at the meeting. Where the interest is such that members of the public may feel that the member will not be able to approach matters with an open mind and consider the application on its planning merits, Members should consider withdrawing from the Committee for that item.

3.2 These principles apply equally to members who are not members of Planning Committee. Members who have such interests should consider whether it is appropriate for them to participate in the planning process, and in any event, should declare such interest at any meeting which they may attend or in any letter which they may write. Members should seek guidance from Officers.

3.3 The Code of Conduct for Members provides guidance as to Disclosable Pecuniary Interests and Other Registrable Interests which may affect a member's ability to take part in the decision-making process. However, Members may have other interests which may influence their decision which will not amount to interests for the purposes of the Code. In order to maintain the integrity of the planning system, members should be careful to ensure that such interests do not unduly influence their decisions. Examples of such interests are:-

- 3.3.1 from ward concerns;
- 3.3.2 from membership of other Committees of the Council;
- 3.3.3 from membership of Cumbria County Council;
- 3.3.4 from membership of the Lake District National Park Authority of the Yorkshire Dales National Park Authority;
- 3.3.5 from membership of Parish or Town Councils;
- 3.3.6 from membership of other public or community bodies;
- 3.3.7 from membership of voluntary associations and trusts (including where appointed by the Council);
- 3.3.8 from a connection with a particular policy initiative of the Council;
- 3.3.9 from membership of clubs, societies and groups; and
- 3.3.10 from hobbies and other leisure interests.

3.4 Such interests may mean that a Member of Planning Committee is involved with a planning application before the matter comes before the Planning Committee. Such involvement need not on its own debar a Member of Planning Committee from participating in making the planning decision when the matter is considered by Planning Committee providing that the Member has not already decided how they will vote on the matter before the Committee. Members of Planning Committee should, however, always consider carefully whether in any particular case they could reasonably be seen to approach the planning merits of the application with an open mind. If the Member considers that this is not possible, he/she should withdraw from the chamber during consideration of that item. This is subject to proviso that if he/she has registered to speak he/she may use the public participation scheme to address the Planning Committee on the agenda item prior to withdrawing from the chamber

3.5 Officers who are advising Planning Committee should make an appropriate declaration in the event that their own private interests create an actual or perceived conflict of interest. If such conflict of interest arises an officer with such interest should not advise Planning Committee and leave the room whilst Members are discussing and voting on an agenda item that relates to such private interest. Further guidance in this regard is set out in the Code of Conduct of South Lakeland District Council Employees.

4. DEVELOPMENT PROPOSED BY THE COUNCIL OR SOUTH LAKES HOUSING

4.1 Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself. The Council has the right to nominate councillors onto the board of directors of

South Lakes Housing. South Lakes Housing from time to time submits proposals that are decided by the Council.

4.2 Proposals submitted by the Council or South Lakes Housing shall be considered in the same way as those by private developers. If South Lakes Housing submits a planning proposal which is then considered by Planning Committee, any Members of the Planning Committee who are on the Board of South Lakes Housing shall declare such interest and take no part in the discussion and determination of that proposal. Such Members must leave the chamber during the discussion of the matter.

4.3 Officers who are involved in the preparation of development proposals shall not advise on, or take any part in the consideration of, planning applications in respect of such proposals.

5. STATUTORY DUTIES

5.1 The Council is also subject to a number of statutory duties which it must comply with when carrying out its statutory functions. These will apply to the planning function except when such matters are clearly immaterial because they are not capable of relating to the use of development land. Examples of these duties include:

5.1.1 Section 149 of the Equality Act 2010 provides that:

A council must, in the exercise of its functions, have due regard to the need to:-

- (a) eliminate discrimination, harassment, victimisation and any other conduct which is prohibited by or under the Equality Act 2010;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a protected characteristic and persons who do not share it.

5.1.2 The above powers relate to the following protected characteristics:-

- (a) Age;
- (b) Disability;
- (c) Gender reassignment;
- (d) Marriage and civil partnership;
- (e) Pregnancy and maternity;
- (f) Race (including colour, nationality and ethnic or national origins);
- (g) Religion or belief;
- (h) Sex; or
- (i) Sexual orientation.

5.1.3 Section 6(1) of the Human Rights Act 1998 provides that:

“It is unlawful for a public authority to act [or fail to act] in a way which is incompatible with a Convention right.”

5.1.4 Section 3(1) of the Local Government Act 1999 provides that:

“A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.”

5.1.5 Section 17(1) of the Crime and Disorder Act 1998 provides that:

“Without prejudice to any other obligation imposed on it, it shall be the duty of a local authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.”

6. LOBBYING OF AND BY MEMBERS

6.1 Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal will often seek to influence the decision by an approach to their local member

or members of a Planning Committee. However, reacting to lobbying can lead to the impartiality of a Member being called into question and require that Member to declare an interest.

6.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the Planning Officer all need to be considered before a Member is in a position to make a balanced judgement on the merits of the case. Members should provide Officers with copies of any lobbying material they may have received, whether in favour or against a proposal upon which they may rely on making a decision.

6.3 The time for individual Members of the Planning Committee to make a decision on a proposal is at the Planning Committee meeting when all available information is to hand and has been duly considered.

6.4 A Planning Committee member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to Officers). Even though they may agree with a particular view, Planning Committee members should take care about expressing an opinion indicating they have made up their mind before the decision-making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if Members do not retain open minds and are not genuinely susceptible to persuasion at the decision-making meeting. Members who are lobbied should:

- 6.4.1 make clear that they reserve their final decision on a proposal until the committee meeting;
- 6.4.2 only give procedural advice;
- 6.4.3 consider referring those lobbying to the relevant Officer who can provide further advice; and
- 6.4.4 not seek to meet an applicant or potential applicant alone.

6.5 Members of the Planning Committee shall not organise support or opposition for a proposal or lobby other Members. Members shall not put improper pressure on Officers for a particular recommendation.

6.6 Subject to paragraph 6.7 below, the local ward Member who is not a member of the Planning Committee will be allowed to attend and speak at the decision-making meeting if he/she has registered to speak under the Public Participation Scheme (in accordance with the prescribed deadlines) but not vote.

6.7 A local Member (whether or not he/she is a Member of Planning Committee) who has a Disclosable Pecuniary Interest in an application, within the meaning of the Members' Code of Conduct should not attend the relevant agenda item of the meeting of the particular Planning Committee unless he/she has been granted a dispensation.

6.8 It should be noted that all Members and Co-Opted Members have been given a general dispensation by Standards Committee to remain in the chamber to make representations under the Council's Planning public participation scheme. Such dispensation does not apply to the remainder of the agenda item and upon completing his/her address the member will be required to leave the chamber for the remainder of the agenda item.

6.9 Members of a Planning Committee must be free to vote as they consider appropriate on planning matters. A Member cannot be instructed how to exercise their vote on a planning matter.

6.10 Members should inform the Monitoring Officer where they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn provide appropriate advice.

7. PRE- AND POST- APPLICATION DISCUSSIONS AND NEGOTIATIONS

7.1 Discussions between an applicant and the Council, prior to the submission of an application can be of considerable benefit to both parties and is encouraged. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important part of the planning process. However, they should take place within clear guidelines, as follows.

7.2 It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the Officer only, and are provisional.

7.3 Advice should be consistent and based upon the Development Plan and any other material considerations. There should be no significant difference of interpretation of planning policies by individual planning officers.

7.4 A written note or audio recording should be made of all potentially contentious meetings, or from the point at which it becomes obvious that a meeting has become contentious. Two or more Officers should attend potentially contentious meetings. Where only one Officer is present and it becomes apparent that the meeting is becoming contentious it should be re-arranged to enable another one or more Officers is able to attend. A note should also be taken of potentially contentious telephone discussions.

7.5 Members need to preserve their role as impartial decision makers and should not take part in pre or post submission discussions and negotiations with applicants regarding development proposals. Should there be occasions when Members are involved, it should be part of a structured arrangement with Officers, including a senior Planning Officer. Members must avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants or at any time prior to the decision being made.

7.6 Members may receive information from applicants and give information to applicants and members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any significant information containing which may be relevant to the planning merits received by Members should be provided to the Officers dealing with the application. Members who are approached for planning, procedural or technical advice should refer the applicant to the relevant Officer.

8. OFFICER REPORTS TO COMMITTEE

8.1 Planning Officers will submit written reports to the Planning Committee on planning applications to be determined by the Council. The reports will give the background to the application including any relevant planning history of the site, a description of the proposals and their likely effects, and the relevant Development Plan and Government policy considerations, together with any other material considerations. Where a planning application requires an environmental impact assessment the Planning Officer shall include in his/her report a summary of the environmental statement, comments by bodies consulted and representations from members of the public together with his/her own comments. The reports will include a summary of representations made about the application. The Planning Officer in his/her report will give a reasoned assessment of the proposals and a justified recommendation.

8.2 Members are expected to have read all of the reports on the agenda for a Planning Committee meeting in advance of the meeting. Officers will summarise the contents of the reports and highlight any updates which have arisen since the agenda was published. Any such updates will be minuted.

8.3 The Planning Officer will have available for inspection by members the full planning application, environmental statement (where required) and representations from bodies consulted and members of the public.

9. PLANNING CONSIDERATIONS

9.1 Planning decisions should be made on the basis of planning considerations and should not be based on immaterial considerations. It is the responsibility of Officers in preparing reports and recommendations to Members to highlight the material planning considerations and identify those matters which are not material planning considerations.

9.2 The risk of costs being awarded against the Council on appeal is not itself a material planning consideration. Personal considerations and, save as referred to below, purely financial considerations are not on their own material. They can only be material in exceptional situations and only in so far as they relate to the use and development of land, such as the need to raise income to preserve a listed building which cannot otherwise be achieved.

9.3 The planning system does not exist to protect private interests of one person against the activities of another or the commercial interests of one business against the activities of another. The basic question is not whether owners and occupiers of neighbouring properties or trade competitors would experience financial or other loss from a particular development. The correct question is whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.

9.4 Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is founded upon valid planning reasons which can be substantiated.

9.5 Planning legislation, as expanded by Government Guidance and decided cases, defines which matters are material considerations for the determination of planning decisions. There is much case law on

what are material planning considerations. The consideration must relate to the use and development of land. Material planning considerations include:-

- 9.5.1 the Development Plan;
- 9.5.2 Government Guidance (contained in such documents as Planning Practice Guidance, National Planning Policy Framework, Mineral Policy Guidance Notes, and Ministerial announcements);
- 9.5.3 Supplementary Planning Documents adopted by the Council;
- 9.5.4 non-statutory planning policies adopted by the Council;
- 9.5.5 the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas;
- 9.5.6 the statutory duty to pay special attention to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses;
- 9.5.7 representations made by statutory consultees and other persons making representations in response to the publicity given to applications, to the extent that they relate to planning matters;
- 9.5.8 planning obligations (given unilaterally or by way of agreement) under section 106 of the Town and Country Planning Act 1990;
- 9.5.9 the Council Plan;
- 9.5.10 Community Infrastructure Levy Payments which would be due from the developer;
- 9.5.11 New Homes Bonus which would arise from the development.

9.6 It will be inevitable that all the considerations will not point clearly to whether to grant or refuse. Having identified all the material planning considerations and put to one side all the immaterial considerations, members must come to a carefully balanced decision which can be substantiated, if challenged on appeal.

10. THE DECISION MAKING PROCESS

10.1 Where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise. Where an environmental impact assessment is required, the Planning Committee shall take the information provided in the report into consideration when determining the application. If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.

10.2 Where the Planning Committee decide to adopt the recommendation of the Planning Officer that will be reflected in the minute, together with any additional reasons determined by the Committee.

10.3 If the Planning Committee is minded to refuse or grant an application contrary to Officer recommendation, it should consider whether to defer the application to the next available committee, before making the final decision. This will allow Members to obtain further advice on the proposed reasons for acting contrary to the recommendation based on material planning considerations. If such a decision is made it must be clearly minuted, expressed clearly and be based upon sound planning reasons supported by evidence.

10.4 The reasons for the Committee's decision to defer any proposal should also be recorded.

11. SITE VISITS BY THE COMMITTEE

11.1 A site visit may be held if the Planning Committee considers it will assist members in reaching their decision. This would be, for example, where the impact of the proposed development is difficult to visualise from plans and supporting material.

11.2 The role of the applicant during a site visit shall only be to secure access to the site in accordance with health and safety provisions. The applicant shall not participate in any discussions on site but may be asked to provide factual information. Objectors and supporters will not be invited to attend a site visit or participate in any discussions on site.

11.3 On assembling at the site, at the time specified, the Chairman will explain the purpose and procedures of the site visit so that all are aware that it is a fact finding exercise only and that no decision will be taken until the committee meeting. The Planning Officer, will explain the application as it relates to the

site and relevant viewpoints. Following any questions to the Planning Officer, or clarification sought on matters which are relevant to the site inspection, the Chairman will bring the site visit to a close.

11.4 When a site visit is held prior to the meeting of the Planning Committee it is desirable that all Members attending the Planning Committee should have attended the site visit. Members voting on a planning application without having attended the visit to the particular site may give the impression that they have not taken the opportunity to be fully informed about the application. Information gained from the site visit should be reported back to Committee so that all members have the same information.

11.5 Planning Committee Members should not enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless they feel it is essential to visit the site other than through attending the official site visit. Any such Member should firstly have spoken to the Planning Officer about their intention to do so (and a note of this discussion should be placed on the planning file). If such visit takes place the Member should explain the circumstances relating to the visit at the discussion of the application at the Planning Committee.

12. PUBLIC REPRESENTATIONS ON PLANNING APPLICATIONS

12.1 Wherever possible, objections or representations to planning applications should be made in writing. Written representations received will be made available for public inspection and objections summarised and reported to the Planning Committee. Members will be given the opportunity to inspect all letters received before the decision on the application is made.

12.2 The Council has a Scheme for Public Participation at Planning Committee and this is set out in the Council's Constitution.

13. REVIEW OF DECISIONS

13.1 The Local Government Association recommend that Members should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision-making and help with reviews of planning policy.

13.2 Visits to application sites previously considered by the Council shall be organised in tandem with visits to current application sites, as appropriate. Briefing notes shall be prepared in each case. Attendance at the review site visits shall be restricted to Members of the Planning Committee and the local Ward Member(s).

14. TRAINING

14.1 Mandatory training for members of Planning Committee is held for all Members new to the Committee, and also as refresher training for existing Committee members, on an annual basis. Members cannot participate in decision-making at meetings dealing with planning matters if they have not attended the mandatory planning training prescribed by the Council.

14.2 Other topical planning sessions are organised from time to time. Members should endeavour to attend such sessions, particularly if these are designed to extend Members' knowledge of planning law, procedures, Codes of Practice and the Development Plan and thus assist Members in carrying out their role properly and effectively.

CODE OF CONDUCT FOR SOUTH LAKELAND DISTRICT COUNCIL EMPLOYEES

1.0 INTRODUCTION

The public is entitled to expect the highest standards of conduct from all employees who work for local government. This Code outlines existing laws, regulations and conditions of service and provides guidance to employees in their day-to-day work.”

2.0 SCOPE OF THE CODE

This Code applies to all employees of South Lakeland District Council.

3.0 PRINCIPLES OF THE CODE

The Code lays down the minimum standards expected from employees, the aim is to help, maintain and improve standards whilst protecting employees from misunderstanding and criticism. This code is underpinned by the 7 principles set out by the Committee on Standards in Public Life. The seven principles are Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership

4.0 STANDARDS

South Lakeland District Council employees are expected to give the highest standard of service to the public and where it is a part of their duties to provide appropriate advice to councillors and fellow employees they must do so with impartiality. An employee must not compromise, or attempt to compromise, the impartiality of anyone who works for or on behalf of the authority, either directly or as a response to pressure from others. An employee should not attempt to force employees to take action or change advice if doing so would prejudice their professional integrity. All employees are expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service, impropriety or breach of procedure.

5.0 DRESS AND APPEARANCE

Employees at work are representing the Council and should dress smartly and in a professional manner. Where uniforms or personal protective clothing is provided this must be worn in the correct way with the S.L.D.C. logo clearly visible and kept in a good condition.

6.0 HOSPITALITY AND GIFTS

Employees must be aware that it is a serious criminal offence for them to corruptly 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 their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

Any deliberate breach of this may result in an appropriate level of disciplinary action as specified in the Council’s Disciplinary Procedure. The disciplinary process would need to be followed to investigate any alleged act of corruption before a disciplinary sanction is imposed. The Council may involve the Police to investigate alleged criminal offences with regard to rewards that have been corruptly obtained.

Hospitality: Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented. Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear that the hospitality is corporate rather than personal. Where visits to inspect equipment, etc. are required, employees should ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions. Where a person or body having or seeking business with, or a decision offers hospitality, particularly to an individual employee they should be particularly sensitive as to its timing in relation to decisions which the Authority may be taking.

Hospitality should only be accepted where it is on a scale appropriate to the circumstances and not extravagant and where it is apparent that no cause could reasonably arise for adverse criticism about the acceptance it should be properly authorised and recorded **with the Monitoring Officer** and employees should seek authority from their Operational or Specialist Lead.

Employees must refuse offers of hospitality where any suggestion of improper influence would be inferred, when hospitality has to be declined those making the offer should be courteously but firmly informed of the procedures and standards operating within the Authority. Such offers should be notified to and recorded **with the Monitoring Officer**.

Gifts: The Authority does permit employees to keep insignificant items of token value such as pens, diaries, calculators etc. up to £25. Gifts of some significance over £25 should be recorded with **the Monitoring Officer**. Employees should not accept significant personal gifts or any amounts of money from contractors, outside suppliers or members of the public.

Any significant gifts or money received by an employee should be returned, together with a polite letter explaining why it cannot be accepted. This letter should be copied to the employee's Operational or Specialist Lead or Director.

Employees accepting any offers of hospitality or gifts (within the guidelines described above) should ensure that full details are recorded on the Record of Gifts and Hospitality Received/Declined By Employees Form (Appendix B). This form should also be used to provide details of any offers of hospitality or gifts that are declined by an employee. The form, once completed should be approved by the relevant Operational or Specialist Lead and forwarded to **the Monitoring Officer**.

7.0 SPONSORSHIP

7.1 Receiving

Where an outside organisation wished to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

7.2 Giving

Where the Authority wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager, of any such interest. Similarly, where the Council through sponsorship grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict or interest involved.

All disclosures should be made in writing to your manager as appropriate.

8.0 PERSONAL INTEREST IN DECISION MAKING OR WORKING PRACTICES

The registration of interests protects the employee by giving early warning of any possible areas of conflict of interest and provides assurance to the public that the employee is acting transparently. Only registration of personal interest in areas where there are clear grounds for concern that such an interest could give rise to accusations of partiality in decision making and working practice of the authority are required.

Employees must register, within 28 days of taking up their appointment or of those interests arising, in writing to the Monitoring Officer or the Chief Executive as appropriate, any interest set out in the **Non-financial & Financial** categories below,

8.1 Non-financial

If you are in a position to influence or advise the Council, or any of its Committees or Sub-Committees (e.g. regarding an application for grant aid from an organisation with which you have some involvement)

Membership of any organisation (such as lodge chapter, society or trust) which is not open to the public that includes in the grant of membership an obligation on the part of the member, a requirement to make a commitment (whether by oath or otherwise) of allegiance to that organisation and includes a commitment of secrecy about rules of membership or conduct i.e. a secret society. A Lodge, chapter, society, trust, gathering or meetings as defined above, should not be regarded as a secret society if they form part of a generally recognised religion.

8.2 Financial

This applies if you are a member or in a position of control or management in bodies exercising functions that are of a public nature.

Any business employees might own or have a share in, where that shareholding is greater than £25,000 or have a stake of more than 1/100th of the value or share capital of the company.

Any contracts between the authority and any company employees have an interest in, as above.

Land or property that an employee may have a beneficial interest in that falls within the authority's area and which may cause a conflict with the Council's interests.

9.0 DISCLOSURE OF INFORMATION

The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. The Authority itself may decide to be open about other types of information when the law permits such disclosure. Employees must be aware of which information their Authority is and is not open about, and act accordingly.

Employees should not use any information obtained in the course of employment for personal gain or benefit, nor pass it on to others who might use it in such a way other than might reasonably be expected in the course of their duties. All confidential or exempt information and material must be treated as such unless it becomes public in the course of the Council's business. Employees must be aware of their responsibilities in relation to data protection and is responsible for the information they gather, retain and have access to during the course of their work and must treat it in line with data protection requirements.

In particular:

- Information received by an employee from an elected member or employee which is private or personal to that individual should not be divulged by the employee without prior approval of the Councillor or member of staff, except where such disclosure is required or sanctioned by the law, or is required legitimately by the employee or Member to carry out their role within the Council, or the person concerned has agreed to it.
- Information concerning any service user's private affairs shall not be supplied to any person outside the employment of the Council unless the consent of the service user concerned is obtained first.
- No employee shall communicate to the public/media the proceedings of the private part of any Council, other Committee/Sub-Committee meetings or Executive meeting, nor the content of any private document relating to the Council unless required by law or expressly authorised to do so.
- Personal or private information gained during employees' work must be kept safe secure and confidential.
- Details of the publication of information arising from committees etc. and about the disclosure of any other types of information specific to your function. Employees should have particular regard to the provision of the Data Protection Act and the supply of information to third parties about individuals, both staff and members of the public. If there is any doubt about the disclosure of any type of information, your manager should be consulted.
- All the above must be read in conjunction with the Council's Whistleblowing Policy and the Information Security Policy and Internet and Email Acceptable Use Policy.

10.0 POLITICAL NEUTRALITY

Employees serve the Authority as a whole and it follows that they must serve all councillors and not just those of the controlling group, and must ensure that the individual rights of all councillors are respected. Subject to the Authority's conventions, employees may also be required to advise political groups, they must do so in ways, which do not compromise their political neutrality. More guidance in this respect is set out in the Guidance for Member and Officers contained elsewhere in Part 5 of the Constitution (see link below).

<http://www.southlakeland.gov.uk/your-council/councillors-and-decisions/council-constitution/>

Employees, whether or not politically restricted, must follow every lawfully expressed policy of the Authority and must not allow their own personal or political opinions to interfere with their work.

11.0 POLITICALLY RESTRICTED POSTS

Posts that this authority recognises as politically restricted posts are attached in appendix A. Employees who occupy a politically restricted post are disqualified from becoming or remaining a member of any local authority or of the House of Commons or the European Parliament.

This restriction does not apply to membership of a Parish or Town Council. Therefore an Employee in a politically restricted post could become or remain a member of a Parish or Town Council. Such membership is only likely to be feasible in the capacity of an independent member. In such circumstances however careful consideration would have to be given to minimising the potential for conflicts of interest as regards employment by the Council and membership of the Parish/Town Council. Advice should be sought around the appropriateness of membership.

There are prescribed restrictions on political activity and restrictions will automatically be deemed to be incorporated in individual contracts of employment, including prohibition from:

- Announcing, or causing or permitting the announcement of the employee's candidature for election to the House of Commons, the European Parliament or a local authority.
- Speaking to the public or publishing written work with the apparent intention of affecting public support for a political party.
- Acting as an election agent.
- Canvassing on behalf of a political party.
- Being an officer or member of a committee of a political party or branch of a political party if the duties would require the employee to participate in the general management of the party or branch with persons outside the party. There is no restriction on being a member of a political party.

'**Twin-tracking**', is when a local authority employee is also an elected Member of another local authority. Twin-tracking involving those holding 'politically restricted posts' is restricted by the Local Government and Housing Act 1989 Part I, which prohibits such activities.

12.0 RELATIONSHIPS

12.1 Councillors

Employees are responsible to the Council through its senior managers. For some, their role is to give advice to councillors and senior managers and all are there to carry out the Council's work. Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided. Employees that have a close personal relationship and feel that this may prejudice their duty to the Council should disclose this to their manager in writing and seek advice about how to deal with the situation.

12.2 The Local Community and Service Users

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the Authority.

12.3 Contractors

All relationships of a business or private nature with external contractors or potential contractors or employees, who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare this to the appropriate level of management. If there is an interest/potential conflict the responsibilities should be transferred to a more senior officer.

Orders and contracts must be awarded on merit by fair competition against other tenders, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process.

12.4 Recruitment

Employees involved in recruitment should ensure that appointments are made on the basis of merit. It would be unlawful for an employee to make an appointment, which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant or have a close personal relationship outside work with him/her.

For clarification, a “close personal relationship” will not be deemed to exist simply because an applicant is known to the interviewer through a current or previous working relationship. However, a working relationship should be disclosed to other members of the interviewing panel prior to the interview.

Similarly, employees should not be involved in decisions relating to discipline promotion or pay adjustments for any other employee who is a relative or partner etc.

13.0 SECONDARY EMPLOYMENT

Employees are not precluded from seeking secondary employment but, should not undertake employment outside the Council which conflicts with the Authority’s interests or weakens public confidence in the conduct of the Authority’s business. For this purpose secondary employment includes unpaid work e.g. an unpaid directorship of a charity or voluntary work

Employees are required to inform their manager in writing of any secondary employment that is intended to be undertaken, which will only be denied if there is a conflict of interest. The manager should consult his/her Director before making a decision. A copy of the decision should be forwarded to Human Resources.

Any work produced in the normal work with the Council may be subject to copyright. Intellectual property rights produced during the course of your employment belong to the Council.

14.0 USE OF FINANCIAL RESOURCES

Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and do everything possible to avoid legal challenge to the Authority.

Further guidance is contained within the Council’s financial regulations.

15.0 EQUAL OPPORTUNITIES

South Lakeland District Council accepts that it has a duty of responsibility to work towards the elimination of unfair discrimination. As the Council is an equal opportunities employer it is committed to the promotion of equality of opportunity in employment and acknowledges its obligations under The Equality Act 2010.

All the above should be read in conjunction with the Council’s Equality and Diversity in the Workplace Policy.

16.0 USE OF CONTRACTORS

16.1 Relationships

The procedures by which the Council selects the suppliers of goods and services are defined in the Contract Procedure Rules.

Contracting Organisations and Agencies supplying staff to carry out work for the Council should be aware of the standards, which are required of employees of the Council. This Code of Conduct should be made available by the contractor or agency to all of its employees who will carry out work on behalf of the Council. This will prevent any embarrassment or offence arising over the issues of gifts or hospitality and will indicate the standards the Council will require of the contractor’s employees when acting on its behalf.

16.2 During the tendering process

Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Authority. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.

Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.

17.0 CONTRACTING ORGANISATION OR AGENCY EMPLOYEES

Employees of the Contracting Organisation or Agency who become aware of possible malpractice within the Council should raise the problem, in writing, with their Line Manager, Director or Monitoring Officer. The above should be read in conjunction with the Council’s Whistleblowing Policy and Anti-Fraud and Corruption Policy.

Employees of the Contracting Organisation who become aware of possible malpractice within their own organisation should use their own internal procedures for reporting the matter. However, if the issue is not resolved and is affecting the delivery of the Council's services, then the problem should be raised as above.

18.0 REPORTING PROCEDURE

18.1 Internal

The Employee's Code of Conduct ensures that there are appropriate internal procedures for reporting issues covered by the Public Interest Disclosure Act 1998. The Monitoring Officer has a duty to ensure that actions taken by or on behalf of the Council are within the law and will not give rise to maladministration or injustice.

Any employee wishing to raise concerns about possible malpractice should follow the procedure outlined in the Whistle Blowing Policy.

Any breach of this Code of Conduct may result in an appropriate level of disciplinary action as specified in the Council's Disciplinary Procedure.

18.2 External

This Code of Conduct is intended to provide employees with an avenue to raise concerns within the Council.

Employees that take the matter outside the Council need to ensure that they do not disclose information in a way which is not protected by the Public Interest Disclosure Act 1998 and may wish to seek independent legal advice before taking any further action.

19.0 LINKS TO OTHER POLICIES/GUIDELINES

Other Council policies that may be relevant include:

- Anti-Bribery, Fraud and Corruption Policy (includes Money Laundering)
- Disciplinary Policy
- Grievance Policy
- Financial & Contract Procedure Rules/Standing Orders
- Information Security
- Internet Email Acceptable Use Policy
- Whistleblowing Policy

20.0 REVIEW

This code will be reviewed by October 2015 or earlier in the light of operating experience and/or changes in legislation.

APPENDICES TO THIS DOCUMENT:

- A. Register of Politically Restricted Posts
- B. Record of Gifts and Hospitality Received/Declined by Employees

APPENDIX A REGISTER OF POLITICALLY RESTRICTED POSTS

Chief Executive

Director of Strategy, Innovation and Resources

Director of Customer and Commercial Services

Chief Finance Officer (Section 151 Officer)

Assistant Director Performance and Innovation

Assistant Director Strategic Development

Assistant Director Neighbourhood Services

Financial Services Manager

Legal, Governance and Democracy Lead Specialist (Monitoring Officer)

Public Protection Manager

Human Resources Manager

Communities and Leisure Manager

Communications and Customer Relations Manager

Senior Communications Officer

Communications Officer

Development Strategy Manager

Development Management Group Manager

Electoral Services Manager

Electoral Services Officer

Electoral Services Assistant

Senior Committee Services Officer

Committee Services/Scrutiny Officer

Assistant Committee Services Officer

Partnerships and Organisational Development Manager

Corporate Support Officer

Member Services Assistant

Senior Solicitor

Solicitor(s)

APPENDIX B

**South Lakeland District Council
Record of Gifts and Hospitality Received/Declined By Employees
Declaration Form**

Date of Offer of Gift or Hospitality

Employee Name

Directorate

Donor / Host (Name & Address)

Details of Gift or Hospitality

Estimated Value £

Accepted/ refused

Any Comment

Signed (Officer)

Date

Signed (Assistant Director)

Date

Please forward the completed form to the Monitoring Officer, where it will be retained for audit purposes.

SOUTH LAKELAND DISTRICT COUNCIL PROTOCOL ON MEMBER/EMPLOYEE RELATIONS

1. INTRODUCTION

1.1 The purpose of this Protocol is to guide Members and Employees of the South Lakeland District Council (“the Council”) in their relations with one another.

1.2 Given the variety and complexity of such relations, the Protocol does not seek to be prescriptive and it may not cover all situations. However, it does seek to provide guidance on some of the issues that most commonly arise. The approach to these issues will serve as a guide to dealing with other issues.

1.3 The Protocol is a written statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty.

1.4 It also seeks to reflect the principles underlying the respective rules of conduct that apply to Members and Employees. Its purpose, therefore, is to enhance and maintain the integrity (real and perceived) of the council by demanding very high standards of personal conduct.

1.5 Members and Employees are servants of the public and they depend on each other in carrying out the work of the Council. Members are responsible to the electorate and serve only so long as their term of office lasts, while Employees are responsible to the Council. Their job is to give advice to the Council, as well as to individual Members, and to carry out the Council’s work under the direction and control of the Council and its various bodies.

1.6 Mutual respect between Members and Employees is essential to good local government. However, close personal familiarity between individual Members and Employees can damage this relationship and prove embarrassing to other Members and Employees.

1.7 The relationship has to function without compromising the ultimate responsibilities of Employees to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that Employees can legitimately provide to Members. The Protocol seeks to set a framework that assists the working relationships between Members and Employees.

2. ROLES OF MEMBERS

Members undertake many different roles. Broadly these are:

2.1 Members express political values and support the policies of the political party to which they belong (if any).

2.2 Members represent their ward and are advocates for the citizens who live in the area.

2.3 Members are involved in active partnerships with other organisations as community leaders.

2.4 Members contribute to the decisions taken in full Council and in various bodies on which they serve, as well as committees, outside bodies and organisations to which they are nominated by the Council.

2.5 Members help develop and review policy and strategy.

2.6 Members monitor and review policy implementation and service quality.

2.7 Members are involved in quasi-judicial work through their membership of regulatory committees.

3. ROLES OF EMPLOYEES

Briefly, Employees have the following main roles:

3.1 Managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services.

3.2 Providing advice to the Council and its various bodies and to individual Members in respect of the services provided.

3.3 Initiating policy proposals.

3.4 Implementing agreed policy.

3.4 Ensuring that the Council always acts in a lawful manner.

4. RESPECT AND COURTESY

4.1 For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and Employees. This plays a very important part in the Council's reputation and how it is seen in public. It is very important that both Members and Employees remember their respective obligations to enhance the Council's reputation and to do what they can to avoid criticism of other Members, or other Employees, in public places.

4.2 A Member who is unhappy about the actions taken by, or conduct of, an Employee should:

- Avoid personal attacks on, or abuse of, the Employee at all times;
- Ensure that any criticism is well founded and constructive
- Never make a criticism in public, and
- Take up the concern with the Employee privately.

4.3 Undue Pressure

4.3.1 It is important in any dealings between Members and Employees that neither should seek to take unfair advantage of their position.

4.3.2 In their dealings with Employees (especially junior Employees) Members need to be aware that it is easy for them to be overawed and feel at a disadvantage. Such feelings can be intensified where Members hold senior positions on the Council.

4.3.3 A Member should not apply undue pressure on an Employee either to do anything that he is not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services.

4.3.4 Similarly, an Employee must neither seek to use undue influence on an individual Member to make a decision in his favour, nor raise personal matters to do with their job, nor make claims or allegations about other Employees.

4.3.5 The Council has formal procedures for consultation, grievance and discipline, and Employees have the right to report possible wrongdoing under the Council's procedures

4.4 Familiarity

4.4.1 Close personal familiarity between individual Members and Employees can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details.

4.4.2 Such familiarity could also cause embarrassment to other Members and/or other Employees and even give rise to suspicions of favouritism.

4.4.3 For these reasons close personal familiarity must be avoided.

4.5 Breach of Protocol

4.5.1 If a Member considers that he has not been treated with proper respect or courtesy he may raise the issue with the Employee's line manager. If direct discussion with the manager does not resolve the complaint it should be referred to the Assistant Director or Director responsible for the employee concerned. Breach of the Protocol may give rise to disciplinary proceedings against an Employee if the circumstances warrant it.

4.5.2 If an employee considers that a Member has contravened the protocol he should consult his line manager who will if necessary involve the Assistant Director or Director. In certain circumstances breach of the Protocol may also constitute a breach of the Members' Code of Conduct. If the breach is sufficiently serious this may warrant a formal reference to the Monitoring Officer as a complaint to be considered for potential investigation by the Standards Committee. Many complaints will be capable of informal resolution. The Monitoring Officer will assist in this process if necessary.

5. PROVISION OF ADVICE AND INFORMATION TO MEMBERS

5.1 Members are free to approach Employees of the Council to provide them with such information and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent.

5.2 Employees should always endeavour to respond to requests for information promptly and should in any event inform the Member if there is likely to be any appreciable delay in dealing with an enquiry. As a minimum the timescale for responding to correspondence should be observed i.e. either a full response or, if this is not possible, an acknowledgement that fully explains what is happening within 3 working days of the receipt of the enquiry.

5.3 The legal rights of Members to inspect Council documents are covered partly by statute and partly by common law.

5.4 The Access to Information Procedure Rules of the Constitution explains the position with regard to access to papers relating to the business of a Council body.

5.5 The exercise of the common law right depends upon a Member's ability to demonstrate a "need to know". In this respect a Member has no right to "a roving commission" to examine any documents of the Council. Mere curiosity is not sufficient. Requests made for information should be made in the first instance to the relevant Director or Assistant Director who may be give suitable directions as to how the request shall be dealt with.

5.6 The information sought by a Member should only be provided if this can be done without causing undue strain on the Council's resources. For their part, Members should seek to act reasonably in the number and content of the requests they make.

5.7 It is important for Employees to keep Members informed both about the major issues concerning the Council and, more specifically, about issues and events affecting the area that he represents. Local Members should be informed about proposals that affect their ward and should also be invited to attend Council initiated events within their ward.

5.8 If a Member asks for specific information about Council business and it appears possible or likely that at a subsequent meeting an issue could be raised or question asked on the basis of the information provided, then the appropriate Cabinet Member or Committee Chairman concerned should be advised about the information provided.

5.9 Employees have to advise Members from time to time that a certain course of action cannot be carried out. Members sometimes assume that this is a case of Employees deliberately obstructing the wishes of politicians. In fact this is hardly ever the case. Employees are employed to give unbiased professional advice even if it is not what Members want to hear. They do this as much for the protection of Members as for any other reason. However, the mark of an effective Employee is that if they do have to give negative advice, this will be accompanied by suggestions as to how Members might achieve some or all of their objectives in other ways. Such Employees are invaluable to any Council.

5.10 Members may be entitled under the Freedom of Information Act 2000 ("FOI") to receive information which falls outside their common law rights based on the "need to know". Employees are encouraged to supply documents to Members without the need for a formal FOI request if it is apparent from the Member's enquiry that any individual would be entitled to receive such documentation. The Council's Principal Performance & Intelligence Officer will be able to advise in consultation if necessary with the Monitoring Officer on whether any request would fall within FOI.

6. CONFIDENTIALITY

6.1 In accordance with the Code of Conduct for Members, a Member must not disclose information given to him/her as Member in breach of any confidence.

6.2 Confidential Part II Committee papers are to be treated as confidential information unless Members resolve not to exclude press and public. Members are reminded that the author of the report makes the initial decision as to whether or not the papers are to be treated as confidential. The decision as to whether they remain confidential is for Members. Other information may be confidential because to disclose it would be against the Council's or the public interest. Information may also be confidential because of the circumstances in which it was obtained.

6.3 Information and correspondence about an individual's private or business affairs will normally be confidential.

6.4 Employees should make it clear to Members if they are giving them confidential information. If a Member is not sure whether information is confidential, he or she should ask the relevant Employee, but treat the information as confidential in the meantime.

6.5 Any Council information provided to a Member must only be used by the Member in connection with the proper performance of the Member's duties.

6.6 If a Member requires any advice regarding confidential information he or she should consult the Monitoring Officer.

7. PROVISION OF SUPPORT SERVICES TO MEMBERS

7.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, word processing, printing, photocopying, transport, etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

7.2 Correspondence

Official letters on behalf of the Council should in the vast majority cases be sent in the name of the appropriate Employee, rather than over the name of a Member. There are very limited circumstances where a letter sent in the name of a Member is perfectly appropriate, for example, representations to a government minister in which case it is acceptable for letters to appear in the name of the Chairman, Leader the Deputy Leader or other Executive Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

7.3 Media

Communication with the media can be an important part of a Member's workload. In general, Members provide comment and views while Employees provide factual information. If a Member is unsure about the circumstances of a particular issue he should contact the appropriate Director or Assistant Director concerned or ask the Communications and Public Relations Manager to do so.

8. THE COUNCIL'S ROLE AS EMPLOYER

8.1 In their dealings with Employees, Members should recognise and have regard to the Council's role as employer. Members should be aware that Employees could rely on inappropriate behaviour of a Member in an employment case against the Council.

9. POLITICAL ACTIVITY

9.1 There are a number of constraints that apply to an Employee who occupies a post that is designated as "politically restricted" under the terms of the Local Government and Housing Act 1989.

9.2 In summary, such Employees are prevented from:

9.2.1 being a Member of Parliament, European Parliament or local authority (save for a Parish or Town Council);

9.2.2 acting as an election agent or sub-agent for a candidate for election.

9.2.3 being an officer of a political party or any branch of a political party or a member of any committee or sub-committee of such a party or branch, if his duties would be likely to require him to:-

(a) participate in the general management of the party or branch; or

(b) act on behalf of the party or branch in dealings with persons other than members of the party;

9.2.4 canvassing on behalf of a political party or a candidate for election

9.2.5 speaking to the public with the apparent intent of affecting public support for a political party; and

9.2.6 publishing any written or artistic work of which he is the author (or one of the authors) or acting in an editorial capacity in relation to such works, or to cause, authorise or permit any other person to publish such work or collection - if the work appears to be intended to affect public support for a political party.

9.3 An Employee in a politically restricted post could become or remain a member of a Parish or Town Council. Such membership is only likely to be feasible in the capacity of an independent member. In such circumstances however careful consideration would have to be given to minimising the potential for conflicts of interest as regards employment by the Council and membership of the Parish/Town Council. Advice should be sought around the appropriateness of membership.

9.4 It is common for party groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body. Employees may properly be called upon to support and contribute to such deliberations by party groups provided they maintain a stance which is politically impartial. Support may include a range of activities including briefings for Members

relating to their roles e.g. chairperson or spokesperson. Employees should be required to give information and advice to political groups on Council business only and not on matters which are purely of a party political nature. Such advice should be available to all party groups and not solely to the majority group. It is important that the political neutrality of Employees is preserved and that group confidentiality is maintained by Employees.

9.5 Usually the only Employees involved in attending group meetings will be the Chief Executive, Directors and Assistant Director and they will generally leave the meeting after making their presentation and answering questions.

9.6 Employees are employed by the Council as a whole. They serve the Council and are responsible to the Chief Executive and their respective Directors/Assistant Director, and not to individual Members of the Council whatever office they might hold.

9.7 Both Members and Employees are subject to their own Codes of Conduct which can be found in the Constitution. This Protocol provides guidance on working relationships between Members and Employees. It is essential that both are familiar with the detailed obligations in their respective Codes of Conduct which will prevail in the event of any conflict between the Codes and this Protocol.

10. Sanctions

10.1 Complaints about any breach of this Protocol by a member may be referred to the Monitoring Officer. It should be noted that certain breaches may also amount to breaches of the Code of Conduct for Members.

10.2 Complaints about any breach of this protocol by an Employee may be referred to the relevant manager of that Employee. Certain breaches may lead to disciplinary action.

11. CONCLUSION

11.1 By following good practice and securing sensible and practical working relationships between Members and Employees will enhance the delivery of high value quality services to the people of the South Lakeland. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its Members and Employees.

PROTOCOL FOR THE LEADER AND CHIEF EXECUTIVE

Overview

South Lakeland District Council is committed to the principles of good corporate governance and confirms its ongoing commitment and intentions through the development and continued maintenance of its local Code of Corporate Governance.

The working relationship between the Council's Leader and Chief Executive is vital to the continued success of South Lakeland District Council.

The purpose of this protocol is to assist the Leader and Chief Executive with forging and sustaining a successful working relationship by giving guidance on the commitments and expectations of their roles. It aims to provide a framework of good practice and it sits alongside other already agreed protocols which form part of the Council's Constitution.

Principles of Corporate Governance

- Leadership

The Council positively recognises and accepts the six core principles of good governance:-

Core principle 1

Focusing on the purpose of the authority and on outcomes for the community and creating and implementing a vision for the local area

Core principle 2

Members and Officers working together to achieve a common purpose with clearly defined functions and roles

Core principle 3

Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour

Core principle 4

Taking informed and transparent decisions which are subject to effective scrutiny and managing risk

Core principle 5

Developing the capacity and capability of members and officers to be effective

Core principle 6

Engaging with local people and other stakeholders to ensure robust public accountability

The concept of effective leadership, acknowledged as the over-arching principle to corporate governance, and the other principles can only be effectively achieved through:

- The Council providing a vision for its community and leading by example in its decision making and other processes and actions.
- Members and Officers conducting themselves in accordance with high standards of conduct.

Good governance

Good government is where political leadership and Officer support combine to be greater than the sum of the parts. Leaders and Chief Executives of local authorities should make sure that they work together well in the best interests of the Council and the people served by the Council.

Roles & Responsibilities

Councillors (Members)

The 51 Members of the Council are the democratically elected leaders of the local community of South Lakeland District and acting collectively as the Council form the representative body with all the powers and duties of a district local authority. Local authorities derive all their powers and duties from statute. The Council is therefore empowered and constrained by Acts of Parliament as to what it does on behalf of the local community and, to some degree, how it does it.

The Local Government Act 2000 prescribed specific options for local authorities' decision-making arrangements, with a view to creating more transparent political accountability, and this Council selected the Leader/Cabinet model.

The Council appoints the Leader of the Council who then chooses the Members who will form the Cabinet. Each Cabinet Member has a portfolio in line with the Council's key aims. All Members meet together as the Council to decide the Council's overall policies and set the budget each year. In addition to the appointment of the regulatory committees, Human Resources, Audit and Accounts and Standards Committees, the Council also appoints the Overview and Scrutiny Committees to scrutinise and hold to account the Cabinet.

Officers

The Officers are employed by the Council to assist and support Members in fulfilling their democratic community leadership role. Officers provide information and professional advice, and support to the Council. They also ensure that the decisions of the Council are carried out as promptly, efficiently and effectively as possible. It is important to note that unlike the Civil Service, which supports the Government of the day, the role of Officers, pursuant to the Local Government legislation, is to support the whole Council.

Councillor–Officer relationships

Within the Cabinet system the Leader of the Council is the most prominent and accountable Member of the Council. As Head of Paid Service, the Chief Executive is the most senior of all the employed staff and is responsible for ensuring the efficient day-to-day management of the authority. The relationship between the Leader and the Chief Executive is therefore of critical importance to the successful operation of the whole Council. Good communication and mutual courtesy and respect are critical in establishing and maintaining effective Member-Officer relations throughout the Council, and particularly so between the Leader and Chief Executive.

There are some simple things that can make it easier to establish relationships that work. There should be clarity about the respective roles of Councillors and Officers and this can only be achieved through discussion. Getting the Councillor–Officer relationship right requires that:

- both should aim to develop a relationship based on mutual respect
- Councillors should define the core values of the organisation
- Councillors should identify priorities, assisted by the Officers
- Officers should provide clear advice and offer alternative courses of action where they exist
- Councillors and Officers should communicate clearly and openly, avoiding ambiguity and the risk of misunderstanding
- Councillors and Officers should work in partnership to turn the core values and priorities into practical policies for implementation
- Officers should carry out the decisions of the Council to the highest standard of efficiency and effectiveness.

The relationship between Councillors and Officers is fully described in the Protocol for Members and Officers of South Lakeland District Council

Commitments

To encourage a constructive and effective working relationship between the Leader and Chief Executive, the following commitments are agreed:-

Principle: Members and Officers working together to achieve a common purpose with clearly defined functions and roles

The Leader and Chief Executive will:

- Clearly communicate their roles and responsibilities, via the Council's Constitution, and ensure they are updated/maintained as necessary – this will ensure Members, Officers, partners and the public are clear about what can be expected
- Clarify their respective roles early in the relationship and ensure a shared understanding of roles and objectives is maintained so that each knows what to expect of the other
- Support the Protocol on Member and Officer Relations
- Carry out their responsibilities to a high standard with an annual performance appraisal.

Principle: Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour

The Leader and Chief Executive will:

- Ensure their leadership exemplifies high standards of conduct and effective governance
- Ensure their leadership relationship is characterised by integrity, transparency, mutual respect and trust; and sets a tone for the organisation by creating a climate of openness, support and respect
- Feel free to speak to one another openly and honestly
- Be courteous and helpful
- Listen and make every effort to help
- Promote equality irrespective of race, religious belief, disability, gender, sexual orientation or age
- Not discriminate nor permit discrimination against anyone
- Provide information in clear and simple terms
- Welcome constructive feedback and work to continuously improve their working relationship

Declaration

We agree to the commitments listed above to ensure an effective working relationship. We propose to take steps to ensure we work together well in the best interests of the Council and the people served by the Council.

Leader of the Council

Chief Executive

Date

Date

on behalf of South Lakeland District Council.

1 Delivering good governance in local government (CIPFA, 2007)

2 Councillor's guide 2008-9 (IDeA, 2008)

CHAIRMAN'S PROTOCOL

1. Chairman's Profile

- (a) You should consider your political profile while carrying out civic duties as Chairman of the Council, as you need to be able to display even handedness when promoting the Council during your term of office. It would therefore not be appropriate to be associated with issues which could be considered as being contentious or accept invitations from people/organisations who may be involved with a dispute with the Council, or where there is a controversial issue and your attendance could add weight to their cause. You should also show no favour (or disfavour) to any political party.
- (b) When chairing a meeting, you should ensure that there is a fair debate.
- (c) You need to ensure that you have a good working knowledge of the Council's Procedural Rules relating to meeting protocol as this will enable you to deal with issues with authority. (However, the Monitoring Officer and Committee Services staff will be available to assist you if necessary).

2. Invitations

- (a) The guidance for organisations wishing to extend an invitation to the Chairman of the Council includes advice that invitations will be accepted on a first come, first served basis and they are encouraged to submit their invitations as soon as possible. In the event that you have accepted an invitation you should not, at a later date, decline it if another invitation which you prefer has been received.
- (b) Where the Chairman is unable to attend an event, they should ask the Vice-Chairman if they are able to attend.
- (c) Should the Vice-Chairman not be able to attend and the Chairman feels that the attendance of a representative of the Council is important, the Chairman should extend the invitation to an appropriate elected Member. In the event that neither the Chairman or Vice-Chairman are available to make this decision, the Monitoring Officer should decide in their absence.

3. Wearing the Chairman's Chain

The Chairman should wear their Chain of Office on the following occasions, if appropriate –

- At all meetings of the District Council
- At other meetings where he/she has been asked to preside as Chairman of the District Council
- When hosting social occasions and attending or representing the Council at formal civic functions within the county
- Attending the funeral of a serving or former District Councillor or employee of the Council who dies in service, if deemed appropriate and with the consent of the family.

4. Wearing the Vice-Chairman's Chain

The Vice-Chairman should wear their chain as above when deputising for the Chairman at an event. The Vice-Chairman may choose to wear their chain at an event, irrespective of whether the Chairman is also attending and wearing their chain of office, unless requested not to by the Chairman.

5. Support to Charities

- (a) The Chairman should have regard to any advice given by the Monitoring Officer and/or the Section 151 Officer in respect of any charities he/she supports and the Chairman's budget.
- (b) Should the Chairman decide to support one or more charities, they should be a registered charity. If, in the opinion of the Monitoring Officer and/or Section 151 Officer, a charity is considered to be unacceptable for legal or financial reasons, the Chairman shall have regard to this advice.

6. Prayers before Full Council meeting

The Chairman may decide to invite someone to take Prayers prior to the start of Full Council meetings. This can be an elected Member or another person of the Chairman's choice. It is up to the Chairman to extend the invitation to take prayers.

7. Chairman's Allowance

(a) The Chairman receives an annual allowance to cover any necessary costs incurred in carrying out their role, e.g. general expenses and the cost of receptions which they wish to host during their term of office.

(b) The Chairman has a responsibility to ensure that spending is within this budget and should abide by any rules, or guidance given by the Monitoring Officer and/or Section 151 Officer in this respect.

8. Chairman's Room

The Chairman's Room can be used by the Chairman to undertake their official duties. When not in use by the Chairman, the room will be used for other internal meetings and this will be managed through the Room Bookings system.

9. Acceptance of Gifts

(a) Any personal gifts exceeding £50 in value, received by the Chairman or Vice-Chairman must be declared in the normal way.

(b) Any gifts which are presented to the Chairman or Vice-Chairman on behalf of the District Council can be accepted and put on display in the Chairman's Room.

10. Pictures of the Chairman and/or Vice Chairman

It is not appropriate for pictures or images of the Chairman or Vice-Chairman acting in their official capacity to appear in any electoral publications.

11. Media

The Council's Communications Team is able to provide advice and support to the Chairman and/or Vice-Chairman when dealing with the media.

12. Members' Support Services

The Chairman will be supported by Members' Support Services and receive assistance with the following:-

(a) in receiving and following up invitations;

(b) arranging the Chairman's official functions and other occasions; and

(c) preparing and circulating to the Full Council meeting, a list of events attended since the last meeting.

13. Chairman's Briefings

(a) Prior to each meeting of the Full Council, a Chairman's briefing will be arranged with Senior Officers on the content of the agenda.

(b) During the year, the Chairman may also wish to be given briefings by officers on other issues as necessary.

A PROTOCOL ON THE MONITORING OFFICER

1. Introduction

This Protocol describes the principal functions of the Monitoring Officer and the manner in which the authority expects him/her to discharge those functions.

2. Functions

The principal functions of the Monitoring Officer shall be:

- (a) To report to the Council and to the Cabinet in any case where he/she is of the opinion that any proposal, decision or omission of the authority in respect of any reportable incident (being any matter which, in his/her opinion, has given rise to or is likely to or would give rise to any illegality, maladministration or breach of statutory code under Sections 5 and 5A of the Local Government and Housing Act 1989);
- (b) To investigate any matter which he/she has reason to believe may constitute, or where he/she has received an allegation that a matter may constitute, a reportable incident;
- (c) To act as the principal adviser to the authority's Standards Committee;
- (d) To maintain the register of members' interests;
- (e) To act as the proper officer for the preparation, publication and retention of records of decisions taken by or on behalf of the Council and the Executive;
- (f) Responsibility for Complaints relating to the conduct of members of the authority;
- (g) To consult regularly with the Chief Executive, the Assistant Director Resources and Internal Auditor to identify areas where the probity of the authority can be improved or better protected, and to take appropriate actions;
- (h) To deal with any complaint in respect of any breach of the authority's (or Parish/Town Council) Members' Code of Conduct, in accordance with the Council's Standards Arrangements;
- (i) A power to investigate any application for a dispensation and to report and recommend to the Standards Committee where such application is not delegated to him/her;
- (j) To ensure that members and officers of the authority are fully aware of their obligations in relation to probity;
- (k) To report to the Cabinet and to the Council on the resources which he/she requires for the discharge of his functions;
- (l) To report regularly to the Standards Committee on the performance of his/her functions and to make any recommendations which would better enable those functions to be performed;
- (m) To undertake all statutory Monitoring Officer functions in respect of Parish / Town Councils within the area of the authority and to provide support and advice to such Parish / Town Councils in maintaining probity, including:-
 - (i) advice on the requirement for members to notify the Monitoring Officer of any disclosable pecuniary interests or other interests and of any changes in such interests, that such declarations will form part of a public register, means of gaining access to that register (including publication on the website), and of any arrangements to ensure that Parish and Town Council Clerks are kept informed of any such declarations;
 - (ii) advice on dispensation requests which may be made to the Parish/Town Council;
 - (iii) advice on any provisions under which individual complaints of misconduct by members may be referred or delegated to the Monitoring Officer and the Standards Committee for investigation and determination, and any arrangements agreed by the Monitoring Officer and the Standards Committee for dealing with such complaints; and
 - (iv) advice to individual members on enquiries as to their obligations to declare or notify particular interests, on the need to apply for a dispensation, and on any consequent restrictions on the member's participation in consideration of the matter.

3. Resources

For the purpose of carrying out these functions, the Monitoring Officer shall be provided with the following resources:

- (a) The right of access to all documents and information held by or on behalf of the authority, including documents and information held by any officer or member of the authority. For the purpose of clarification, this right does not extend to documents and information held by or on behalf of any political party represented on the Council;
- (b) The right of access to any meetings of officers or members (or both) of the authority, whether or not such meetings include any other persons. For the purpose of clarification, this right does not extend to any meetings held by or on behalf of any political party represented on the Council;
- (c) The right to require any officer or member of the authority, or any contractor of the authority, to provide an explanation of any matter under investigation;
- (d) A right to report to the Council, the Standards Committee, and to the Executive, including a right to present a written report and to attend and advise verbally;
- (e) The right to require the assistance of any officer of the authority in carrying out an investigation and to delegate to that officer any of the powers of the post of Monitoring Officer;
- (f) A power to mediate a local resolution to any complaint of breach of the authority's Members' Code of Conduct, in accordance with the Council's Standards Arrangements;
- (g) The right of access to the Head of the Paid Service (the Chief Executive) and to the Assistant Director Resources;
- (h) The right, after consultation with the Head of the Paid Service (the Chief Executive) and the Assistant Director Resources, to notify the Police, the authority's auditors and other regulatory agencies of his/her concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions; and
- (i) The right to obtain at the authority's expense legal advice, either internally or from an independent external solicitor or barrister, on any matter which he/she believes may be a reportable incident, and sufficient financial resource to enable him/her to do so.

4. Discharge of Functions

- (a) It is recognised that the Monitoring Officer will be most effective if he/she is able to advise on any issue at an early stage of policy formulation or implementation. Accordingly, officers and members of the authority should routinely inform and consult the Monitoring Officer in respect of new policy proposals and action programmes;
- (b) The Monitoring Officer will seek to resolve potential reportable incidents by identifying alternative and legitimate means of achieving the objective of the proposal. Accordingly, officers and members of the authority may consult the Monitoring Officer in confidence in respect of any proposal, and the Monitoring Officer will only need to make a public report on the matter if the proposal were to be a potential reportable incident and the officer or member subsequently took any action to progress that proposal despite being advised to the contrary by the Monitoring Officer;
- (c) Where the Monitoring Officer receives a complaint of a potential reportable incident, he/she shall in appropriate cases seek to mediate the matter amicably, by securing that any failure of process or breach of code is rectified, and that the complainant is informed of the rectification. However, it is recognised that the Monitoring Officer may determine that the matter is of such import that a statutory report is the only appropriate response.
- (d) In appropriate cases, the Monitoring Officer may rely upon existing processes within the authority (such as internal appeals procedures or insurance arrangements) to resolve any potential reportable incident, but may intervene in such processes to identify that the particular matter is a potential reportable incident and to ensure the satisfactory resolution of the issue;
- (e) In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer shall be entitled to add his/her written advice to the report of any other officer of the authority; and
- (f) Notwithstanding the above, the Monitoring Officer retains the right to make a statutory report where, after consultation with the Chief Executive and the Assistant Director Resources, he/she is of the opinion that such is necessary in order to respond properly to a reportable incident.

5. Conflicts

Where the Monitoring Officer is in receipt of a complaint or is aware of a potential reportable event relating to a matter upon which he/she has previously advised the authority, he/she shall consult the Chief Executive who may then either refer the matter to the Deputy Monitoring Officer for investigation and report back to the Chief Executive or request a neighbouring authority to make their Monitoring Officer available to the authority to investigate the matter and report to the Chief Executive and/or the authority as appropriate.

INDEPENDENT PERSON PROTOCOL

This Protocol sets out the expected roles and responsibilities of South Lakeland District Council's Independent Person (IP) when they are carrying out their function in relation to the assessment of an allegation that a Member, or co-optee, of the District Council, or a Member, or co-optee, of a Town or Parish Council within the District, has failed to comply with the relevant Council's Code of Conduct.

In addition to the roles and responsibilities referred to in this Protocol, under the provisions of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, an IP may be appointed by the Council to a panel comprising five members of the Human Resources Committee and at least one other IP for the purposes of advising the District Council on matters relating to the dismissal of a statutory officer of the Council (i.e. Head of Paid Service, Chief Finance Officer or Monitoring Officer).

In addition, the District Council works with neighbouring authorities within Cumbria whose Independent Persons have also agreed to act as additional IPs if circumstances require it.

Principles

Roles and Obligations

1. The role of the IP is set down in legislation (section 28 of the Localism Act 2011).
2. The purpose of the IP role is to enable the public to have confidence in how the District Council deals with allegations of misconduct and to promote and maintain high ethical standards of conduct for members, ensuring they are adequately trained and understand the code of conduct.
3. The IP is expected to develop a sound understanding of the ethical standards framework as it operates within the Council.
4. The IP may be invited to attend or participate in training events organised or promoted by the Committee.
5. The Protocol covers both the IP and any reserve IP and any reference in this Protocol to the IP covers reference to a reserve IP, or IP from a neighbouring authority.
6. In carrying out the role, the IP will ensure that he/ she:-
 - (a) acts in accordance with -
 - (i) any relevant legislation or guidance and the respective Council's Code of Conduct in force at the time; and
 - (ii) the agreed processes/ procedures approved by the District Council's Standards Committee and the Council's Constitution; and
 - (b) acts impartially at all times, without political bias or prejudice and in accordance with the rules of natural justice; and
 - (c) maintains confidentiality at all times.

The Committee

7. The Monitoring Officer's (MO) role is to give advice to the Standards Committee.
8. The IP is not a member of the Council's Standards Committee (or Sub-Committee) but is welcome to attend all meetings and can be asked to give their views to the Committee.
9. The IP does not have any voting rights when attending a meeting of the Standards Committee and shall speak at the invitation of the Chairman.
10. The MO will consult the IP on complaints received in accordance with the Council's procedure.
11. While the MO will have regard to the views expressed by the IP, he/she is not bound to accept his/her views on the matter.
12. When deciding on how to progress with a complaint, the MO/IP should consider the following:
 - (a) Was the Member/ co-optee acting in their official capacity at the time of the alleged misconduct?
 - (b) Was the Member/ co-optee in office at the time of the alleged misconduct?

- (c) Can the complaint be considered as being of a very minor or trivial nature; frivolous or vexatious, malicious or politically motivated?
 - (d) Has the complaint been made within the appropriate time scales?
 - (e) Is there a potential breach of the Council's Code of Conduct?
 - (f) Is there public interest in the matter?
 - (g) Is there sufficient information to enable him/her to make a decision? If not, what information is required?
13. The MO will inform the IP at the earliest opportunity in the process of an investigation of the Council's expectations with regards to the timescales for their response during each stage.
14. At the resolution of the complaint, whether there is a formal investigation or not, the MO will advise the IP of the outcome of the complaint.

Conflicts of Interest and Confidentiality

15. The IP should inform the MO if they feel there are circumstances which would suggest that they had a conflict of interest e.g. being a friend of either the complainant or Member concerned; or have previously been involved in the matter.
16. If the IP has a conflict of interest e.g. through prior involvement with the issue, where necessary another IP will be consulted.
17. If the IP is conflicted out from dealing with the issue, the MO will consider making a request to use the services of an IP from another principal authority.
18. All contact with the IP should be made through the MO and should the IP be contacted directly by a complainant or Member, he/she should inform the MO immediately. Whether the subject member wishes to speak to the IP, the MO will try and facilitate this in a planned way between the IP and the member.
19. In terms of confidentiality, the IP must not discuss any matters about a complaint, either past or present, with the media or any other third party without appropriate advice having been taken.

Contact

20. The IP must provide the MO with appropriate methods of contact e.g. email and telephone numbers, and must make themselves available at all reasonable times.
21. On those occasions when the IP knows that they will not be contactable, he/she must inform the MO with as much reasonable notice as possible so that arrangements can be made for an IP from a neighbouring authority to be advised that he/she would be required to stand-in as necessary during this period.
22. The IP should be prepared to give the Standards Committee an independent view on the complaint and the merit of the evidence put forward as required to assist the Committee in coming to a decision on the matter.

MEMBER ROLE PROFILES

Members are elected by the public to represent them both inside the Council and outside the Council in the community. They are accountable to their communities and their communities should be able to judge their performance.

The following describes the role of a Member. It is reasonable to expect that, while a Member may specialise in certain aspects of the role and, indeed, this is something that should be encouraged, all Members will perform a broad spectrum of duties. A high performing Member would 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.

Purpose of the Role

1. To participate constructively in the good governance of the District and the wider area and be the ultimate collective decision and policy-makers across a number of strategic and corporate management functions.
2. To develop and maintain a working knowledge of the Council's services, management arrangements, powers/duties, and constraints
3. To contribute actively to the formation and scrutiny of the Council's policies, budget, strategies and service delivery including any related strategic plans to support the future development of the Council and its services (e.g. Customer Connect).
4. To represent effectively, as a community leader, the interests of the Member's Ward and deal with constituents' enquiries and representations acting as a community advocate and champion causes for constituents, both within and outside the Council, with particular emphasis on those that will improve the quality of life of the community and enhance the digital and customer service agenda of the Council.
5. To champion causes which best relate to the interests and sustainability of the community and campaign for improvement of the quality of life in the community in terms of equity, economy and the environment; deal with individual casework and act as an advocate for constituents including issues related to supporting the Localism agenda for the Council.
6. To represent the Council on any outside bodies to which the Member may be appointed, promoting maintaining the highest standards of conduct and ethics; balance different interests identified within the ward and represent the ward as a whole.
7. To engage in member development to enhance corporate and personal effectiveness, including attending and participating in any mandatory training courses, 'Away Days', workshops and other sessions either internally or externally provided, to enable you to fulfil the role of a Member, such training to include sessions in support of any developments within the Council.

Key Tasks

1. To fulfil statutory and any additional locally determined requirements of an elected Member of the Council and the Council itself, developing and maintaining effective professional working relations with relevant officers of the Council, in accordance with the Code of Conduct and Council Protocols, and participation in those decisions and activities reserved for the full Council – e.g., setting budgets.
2. To attend and participate effectively as a member of any committee or other body to which the Member is appointed including attendance at any related member development sessions for the work of the committee:
 - a) Appeals Sub-Committee for which selected;
 - b) Chair any ad-hoc Committees, Panels or Boards, where appointed;
 - c) Attend and participate in any Planning site visits, tender opening or other statutory or non-statutory visits or tasks, as required.
3. To participate in the activities of any outside body to which the Member is appointed, providing two-way communication between the organisations and presenting annually a report on the work of the body and its contribution to the District and the wider area. To develop and maintain a working knowledge of the

Council's policies and practices in relation to that body and the community's needs, aspirations and functions.

4. To participate, as appointed, in the area and service based consultative processes with the community and other organisations; contribute constructively to open government and democratic renewal through actively encouraging the community to participate in the government of the area; 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.
5. To work collaboratively with other members within the ward to represent the community to the Council and vice-versa through all appropriate means representing the interests of your Ward, dealing with constituents' inquiries and representations. You should be visible in and recognisable to your community; seek out membership or involvement in community based initiatives/groups in own Ward, and where necessary, provide guidance and leadership.
6. To promote community cohesion and equality and diversity in decision making.
7. To attend any mandatory Member training and endeavour to attend optional training offered to enhance and support the role of a Member.
8. To adhere to the Member and Officer Protocol at all times and to uphold the seven principles of public life.
9. To support the Council and the Member Support Steering Group in its work and, particularly, in its objective for SLDC Members to become '21st Century Councillors' and to achieve North West Employers Member Charters.
10. To ensure corporate responsibility for issues relating to the safeguarding of children and vulnerable adults, as well as personal responsibility to comply with all relevant safeguarding legislation, policies and action plans.

COUNCILLORS – SPECIAL ROLES AND RESPONSIBILITIES

LEADER OF THE COUNCIL - ROLE PROFILE

Purpose of the Role

1. To provide visible leadership in relation to citizens, stakeholders and partners in the overall co-ordination of Council policies, strategies and service delivery.
2. To contribute actively to the formulation and scrutiny of the Council's policies, budget, strategies and service delivery, including the digital and customer service developments.
3. To lead or contribute towards the development of local, regional, national and international policy and strategic partnerships.

Key Tasks

1. In accordance with the Code of Conduct, Leader and Chief Executive Protocol and other Council Protocols, to provide visible leadership within the Council and to the South Lakeland community, stakeholders and partners in the overall co-ordination and promotion of Council policies, strategies and service delivery and any related strategic plans to support the future development of the Council and its services (e.g. Customer Connect).
2. To lead and chair the Cabinet and be responsible for the preparation and proposal of the Budget and Policy Framework to the Council and to take responsibility individually and/or collectively for any specific portfolio, as well as acting as spokesperson for the Council. In the event that the Leader is not available to chair a Cabinet meeting, to arrange for the Chair to be taken by the Deputy Leader.
3. To represent the Council in the community and on strategic and regional partnerships and in discussions and negotiations with regional, national and international organisations and others, in relation to the pursuit of matters relevant to the district and Council functions and its community, including issues related to supporting the Localism agenda for the Council.
4. To take the overall lead for the development, monitoring and review of the Council Plan or delegate as appropriate to the Deputy Leader. To promote the vision, values and strategic objectives of the Council as set out in the Council Plan and other strategic plans and to champion them both within and outside the Council
5. To appoint a Deputy Leader and Members of the Cabinet, to allocate portfolio areas of responsibility and to appoint appropriate Members to outside bodies as required.
6. To manage the effectiveness of the Cabinet and its members and oversee delivery by them of their respective responsibilities and provide the support required to achieve their designated duties and responsibilities.
7. In the absence of a Cabinet Member, due to sickness, holiday or other extended periods, to undertake their duties and responsibilities, or to sub-delegate these to another Cabinet Member for a period as so defined.
8. To keep under review the Council's Corporate Governance arrangements including attendance at the Overview & Scrutiny Committee on matters relating to the Leader's portfolio.
9. To ensure the Council's image is promoted to best advantage by maintaining and developing effective professional working relationships and establish mutual respect with all Members and officers.
10. To be, via the Council's communications team, the primary contact for the media on matters relating to the Executive of the Council.
11. To communicate vision and policy direction to the Chief Executive, and to meet regularly (with or without Cabinet) with the Chief Executive, Directors, and other relevant senior officers to consider and recommend action within approved policies and strategies.
12. To ensure arrangements are in place to appraise the performance of the Chief Executive.
13. To assist in the preparation of responses to Government etc., consultation documents.
14. Actively engage in all mandatory training as agreed appropriate for the post and endeavour to attend all optional training offered to enhance and support the role of a Member.

15. To undertake the Performance Development Plan review of each Member within his/her Group if requested to do so.
16. To reinforce the need for all Group Members to attend mandatory training.
17. To lead by example with regards to the Code of Conduct demonstrating to Members within his/her group of the need to ensure good governance so as to best protect the reputation of the Council and limit any exposure to risk.
18. To support the Member Support Services Group in its objective for SLDC Members to become '21st Century Councillors' and to achieve North West Employers Member Charters.
19. To promote community cohesion and equality and diversity in matters relating to the portfolio.
20. To ensure corporate responsibility for issues relating to the safeguarding of children and vulnerable adults, as well as personal responsibility to comply with all relevant safeguarding legislation, policies and action plans.

DEPUTY LEADER OF THE COUNCIL - ROLE PROFILE

Purpose of the Role

1. To support the Leader of the Council and deputise in his / her absence

Key Tasks

1. In accordance with the Code of Conduct, Officer and Member Protocol and other Council Protocols, to assist the Leader in the formal processes and matters of leadership of the Council. These will include developing overall strategy, budgets, policy arrangements and service reviews, and representing the Council in the community and in discussions with regional, national and international organisations.
2. To promote the vision, values and strategic objectives of the Council as set out in the Council Plan and any related strategic plans to support the future development of the Council and its services (e.g. Customer Connect) and to champion them both within and outside the Council including issues related to supporting the Localism agenda for the Council.
3. To chair meetings of the Cabinet in the Leader's absence and to act as Deputy for the Leader as required.
4. To initiate and encourage public consultation on, and effective communication of, policies and strategies relevant to the portfolio.
5. To be responsible for the discharge of functions within a designated portfolio as delegated by the Leader and to be accountable to the Council on matters of significance relevant to the portfolio through clear reporting mechanisms.
6. To be collectively responsible with other Cabinet Members for the discharge of all Cabinet functions, as described in the Constitution.
7. To be, via the Council's communications team, the primary contact for the media on matters relating to the portfolio.
8. To work in partnership with, and represent the Council on external organisations and to report to the Council on the progress of the partnership(s) as necessary.
9. To work with other portfolio holders, other members of the Council and Managers as appropriate.
10. To assist in the preparation of responses to Government etc., consultation documents.
11. To attend O & S Committees on matters relating to a portfolio holder's area of responsibility and assist in any reviews related to the portfolio.
12. Actively engage in all mandatory training as agreed appropriate for the post and endeavour to attend all optional training offered to enhance and support the role of a Member.
13. To undertake the Performance Development Plan review of each Member within his/her Group if requested to do so by the Leader or specific Member.
14. To reinforce the need for all Group Members to attend mandatory training.

15. To lead by example with regards to the Code of Conduct demonstrating to Members within his/her group of the need to ensure good governance so as to best protect the reputation of the Council and limit any exposure to risk.
16. To support the Member Support Services Group in its objective for SLDC Members to become '21st Century Councillors' and to achieve North West Employers Member Charters.
17. To promote community cohesion and equality and diversity in matters relating to the portfolio.
18. To ensure corporate responsibility for issues relating to the safeguarding of children and vulnerable adults, as well as personal responsibility to comply with all relevant safeguarding legislation, policies and action plans.

CABINET MEMBER - ROLE PROFILE

Purpose of the Role

1. To take responsibility within the Cabinet on the basis of individual and/or collective responsibility for a portfolio of services or functions of the Council as directed by the Leader.
2. To contribute actively through the portfolio and membership of the Cabinet to the formulation and scrutiny of the Council's policies, budget, strategies and service delivery.

Key Tasks

1. In accordance with the Code of Conduct, Officer and Member Protocol and other Council Protocols, to participate in the Cabinet and to implement agreed policies by taking responsibility individually and/or collectively for any portfolio allocated by the Leader of the Council, including providing a lead on and proposing new policy, strategy, budget and service standards, and any related strategic plans to support the future development of the Council and its services (e.g. Customer Connect).
2. To promote the vision, values and strategic objectives of the Council as set out in the Council Plan and represent the Council in the Community including issues related to supporting the Localism agenda for the Council.
3. To initiate and encourage public consultation on, and effective communication of, policies and strategies relevant to the portfolio consulting and communicating with members of all political groups, council officers and key partners as appropriate to ensure decisions are well informed and that Council policies are widely understood and positively promoted.
4. To be responsible and accountable to the Leader and the Cabinet for the discharge of functions within a designated portfolio, as delegated by the Leader, having a clear understanding and an in-depth knowledge of the respective portfolio, the scope and range of the relevant services for which he/she is responsible and an awareness of current agreed policies in respect of those services.
5. To be collectively responsible with other Cabinet Members for the discharge of all Cabinet functions, as described in the Constitution.
6. To be, via the Council's communications team, the primary contact for the media on matters relating to the portfolio.
7. To work in partnership with, and represent the Council on external organisations and to report to the Council on the progress of the partnership(s) as necessary.
8. To be accountable to the Council on matters of significance relevant to the portfolio through clear reporting mechanisms.
9. To promote the development of new policies consistent with the strategic approach of the Council, and to champion them both within and outside the Council.
10. To work with other portfolio holders, other members of the Council and Managers as appropriate.
11. To assist in the preparation of responses to Government etc., consultation documents.
12. To attend O & S Committees on matters relating to a portfolio holder's area of responsibility and assist in any reviews related to the portfolio.
13. Actively engage in all mandatory training as agreed appropriate for the post and endeavour to attend all optional training offered to enhance and support the role of a Member.

14. To reinforce the need for all Group Members to attend mandatory training.
 15. To lead by example with regards to the Code of Conduct demonstrating to Members within his/her group of the need to ensure good governance so as to best protect the reputation of the Council and limit any exposure to risk.
 16. To support the Member Support Services Group in its objective for SLDC Members to become '21st Century Councillors' and to achieve North West Employers Member Charters.
 17. To promote community cohesion and equality and diversity in matters relating to the portfolio.
 18. To ensure corporate responsibility for issues relating to the safeguarding of children and vulnerable adults, as well as personal responsibility to comply with all relevant safeguarding legislation, policies and action plans.
15. Together with other Cabinet Members:
- To support the Cabinet Leader in the preparation of the Council's Budget and Policy Framework.
 - To be responsible for in-year decisions on resources and priorities, after appropriate consultation, to deliver and implement the budget and policies approved by full Council.
 - To provide the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
 - To lead on the development of overall, service related strategies and plans within the agreed annual budget allocation.
 - To lead on the achievement of the strategic objectives of the services within a designated portfolio, in accordance with Council priorities.
 - To represent the various services within a designated portfolio, both within and outside the Council as necessary, to enable the Council to deliver its objectives within corporate standards.
 - To take responsibility, as sub-delegated by the Cabinet Leader, for the functions within a portfolio of another Cabinet Member, for periods of holiday, sickness or other extended periods.

CHAIR OF THE COUNCIL ROLE PROFILE

Introduction

The Chair of Council and in their absence, the Vice Chair, is the civic leader and first citizen of the community.

The Chair of the Council is elected each year at the annual Council meeting. He or she chairs full Council meetings and represents the council at civic functions in the South Lakeland area and in neighbouring areas. He or she also attends local informal events at which the Council is asked to be present. The Chair should not be confused with the Leader or Deputy Leader of the Council who provide political leadership for the Council.

The Chair must be a serving district councillor. He or she must remain politically impartial and must not be a member of the cabinet.

Ceremonial duties

The Chair's ceremonial duties require that he or she must:

1. Be politically impartial and uphold the democratic values of the Council
2. Support the objectives and services of the district council
3. Represent the Council at civic and ceremonial events, acting on behalf of and supported by the whole Council in a non-partisan manner
4. Act as an ambassador for the council
5. Act as the principal spokesperson of the Council on civic and ceremonial occasions
6. Provide community leadership and promote active citizenship, fostering community identity and pride and promoting public involvement in the Council's activities
7. Invite individuals and representatives of key organisations to suitable events

Key responsibilities

The chair's key responsibilities require that he or she must:

1. Preside over Full Council meetings, acting impartially and ensuring that business is carried out efficiently and effectively whilst protecting the rights of individual members and the interests of the community
2. Uphold and promote the purposes of the Constitution and interpret the Constitution when necessary, working with officers to keep the Constitution under review to ensure it is relevant to the Council's needs
3. Promote public involvement in the Council's activities and ensure that at Council meetings, matters of concern to local communities can be debated by their District Council members
4. Promote and support good governance of the Council and its affairs

The Vice Chair acts on the Chair's behalf when the Chair is unavailable.

CHAIR OF COMMITTEE – ROLE PROFILE

Purpose of the Role

1. To effectively chair meetings as appointed by the council at the Annual General Meeting of South Lakeland District Council, including any working groups or external meetings for which the council are proactive partners.

Key Tasks

1. Leading the committee to enable it to fulfil its purpose, ensuring the Constitution and the rules of debate are followed effectively.
2. To ensure an effective relationship between the committee, officers and members of the public / press who may attend for Part 1 items
3. Chair committee meetings ensuring:
 - A balance is struck between time-keeping and space for discussions to ensure matters are dealt with in an orderly, efficient manner
 - Business is dealt with impartiality and objectivity within the meeting and decision-making is fair, balanced and transparent (save for items considered to be confidential in accordance with legislation)
 - Decisions, actions and deliberations are accurately minuted.
 - The implementation of decisions is clearly assigned and monitored.
4. Demonstrate the following qualities and skills when acting in this capacity:
 - The ability to facilitate focussed and relevant discussions, ensuring that all committee members are able to contribute and that no members are able to unduly dominate discussions at the expense of others
 - Good communication and interpersonal skills.
 - Impartiality, fairness, tact and diplomacy.
 - Ability to ensure decisions are taken and followed-up.
 - Possesses relevant knowledge of committee protocol and the Council Constitution.
 - Has the relevant skills to run a meeting well including effective time keeping.
 - A willingness to devote the necessary time and effort.
5. The Chair will communicate with the officers in the relevant department to discuss relevant matters which have come up in between meetings including holding a chair's briefing to allow for a discussion with the officers to raise any matters/concerns before the meeting begins, to allow the chair to be aware of any difficulties with an item on the agenda, and can try to push discussion along or point members in the right direction to come to a decision.
6. A chair must attend all relevant training including all mandatory training to ensure sufficient knowledge of the subject area for which they are chair in order to effectively run the committee.

VICE CHAIR OF COMMITTEE - ROLE PROFILE

Purpose of the Role

1. In addition to deputising for the chairs in the event of absence, they might be called on to undertake specific pieces of work on behalf of the committee or the organisation as a whole.

Key Tasks

1. Fulfil all the functions of the committee chair in the absence of the chair;
2. Advise, support and act as a 'critical friend' to the committee chair;
3. Act as an active member of the committee;
4. Undertake individual pieces of work on behalf of the committee and the organisation as a whole (e.g. representing at events and meetings, taking part in ad-hoc working groups and taking forward specific tasks).

PART 6

MEMBERS' ALLOWANCES SCHEME

MEMBERS' ALLOWANCES SCHEME FROM 01 APRIL 2021 – 31 MARCH 2025

The South Lakeland District Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003, hereby makes the following Scheme:-

1. This Scheme may be cited as the South Lakeland District Council Members' Allowances Scheme (the Scheme), and shall apply to the year commencing on 1 April 2021 for the 2021/2022, 2022/2023, 2023/2024 and 2024/2025 years (Period of the Scheme). The Scheme shall be reviewed in 2024/2025 financial year for another four years period and thereafter, on a four yearly review (subject to any request to review as outlined in the Scheme).

2. In this Scheme,

“Councillor” means a member of the South Lakeland District Council who is a Councillor;

“year” means the 12 months ending with 31 March

“co-opted member” means a person who is not a member of the Council but who is a member of a committee or sub-committee of the Council.

Basic Allowance

3. (1) Subject to paragraphs 8 to12, for each year, a basic allowance of up to from £4,201.14 shall be paid to each Councillor and in line with the agreed public sector pay award increase.

Special Responsibility Allowance

4. (1) for each year a special responsibility allowance shall be paid to those Councillors who hold the special responsibilities in relation to the authority that are specified in Schedule 1 of this Scheme; and
- (2) subject to paragraphs 8 to 12, the amount of each such allowance shall be as specified in the said Schedule 1.
- (3) with the exception of Group Leaders' Allowance, where a Councillor carries out more than one special responsibility, he/she will only be entitled to receive one allowance.

Child Carers' Allowance

5. (1) An allowance in respect of the cost of child care for children up to the age of 14 shall be paid to Councillors of a minimum of £3.00 per hour, up to a maximum of £15.00 per hour. The allowance shall be payable from the time the recipient leaves home to the time of return. There is no requirement for carers to be registered.
- (2) The allowance shall be payable when Councillors are required to arrange for child care when undertaking duties as a Councillor, in accordance with Regulation 7 of the Local Authority (Members Allowances) (England) Regulations 2003, upon production of proof of payment to the satisfaction of the Director of Strategy, Innovation and Resources. A list of approved duties is set out at Schedule 2 of the Scheme.

Dependant Carers' Allowance

6. (1) An allowance in respect of the cost of a dependant carer shall be paid to Councillors of a minimum of £3.00 per hour, up to a maximum of £15.00 per hour. The allowance shall be payable from the time the recipient leaves home to the time of return. There is no requirement for carers to be registered.
- (2) The allowance shall be payable when Councillors are required to arrange for dependent care when undertaking duties as a Councillor in accordance with Regulation 7 of the Local Authorities (Members Allowances) (England) Regulations 2003, upon production of proof of payment to the satisfaction of the Finance Lead Specialist and S151 Officer. A list of approved duties is set out at Schedule 2 of the Scheme.

Renunciation

7. A Councillor may by notice in writing given to the Finance Lead Specialist and S151 Officer elect to forego his or her entitlement or any part of his or her entitlement to an allowance under this Scheme.

Part-year Entitlements

8. (1) the provisions of this paragraph shall have effect to regulate the entitlements of a Councillor to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that Councillor becomes, or ceases to be, a Councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable;
- (2) if an amendment to this Scheme changes, the amount to which a Councillor is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods
- (a) beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or
- (b) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this Scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year;
- (3) where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that Councillor to a basic allowance shall be to the payment to such part of the basic allowance as bears to the whole the same proportion as the number of days during which his or her term of office subsists bears to the number of days in that year;
- (4) where this Scheme is amended as mentioned in sub-paragraph (2), and the term of office of a Councillor does not subsist throughout the period mentioned in sub-paragraph (2) (a), the entitlement of any such Councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which his or her term of office as a Councillor subsists bears to the number of days in that period;
- (5) where a Councillor has during part of, but not throughout, a year such special responsibilities as entitle him or her to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of the special responsibility allowance as bears to the whole the same proportion as the number of days during which he or she has such special responsibilities bears to the number of days in that year; and
- (6) where this scheme is amended as mentioned in sub-paragraph (2), and a Councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph (2) (a) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

Claims & Payments

9. The Basic and Special Responsibility Allowances will be paid automatically on a monthly basis unless the Councillor in question has renounced his entitlement to payment as set out in paragraph 7 above. Claims will be met for a period of up to 12 months from the date of the entitlement.

10. (1) payments shall be made in respect of basic and special responsibility allowance in instalments of one-twelfth of the amount specified in this scheme on the twentieth day of each month.
- (2) where a payment of one-twelfth of the amount specified in this Scheme in respect of a basic allowance or a special responsibility allowance would result in the Councillor receiving more than the amount to which, by virtue of paragraph 8, he or she is entitled the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.
- (3) All Councillors are reminded that the Council's policy in respect of the submission of receipts should be adhered to at all times in order that the Council may maximise the recovery of VAT.

Repayment of Allowance

11. Where payment of any allowance has already been made in respect of any period during which the Councillor concerned
- (a) ceases to be a member of the Council, or
- (b) is in any other way not entitled to receive the allowance in respect of that period,
- the Council may require that such part of the allowance as related to any such period be repaid to the Council.
12. Where a member of an authority is also a member of another authority, that member may not receive allowances from more than one authority in respect of the same duties.

Other Allowances

(1) Councillors and co-opted members may claim travelling and subsistence expenses undertaken in connection with or relating to those duties specified as an approved duty at Schedule 2 Part I of the Scheme in accordance with Regulation 8 of the Local Authorities (Members Allowances) (England) Regulations 2003. The rate of travelling and subsistence are set out in Part II of Schedule 2.

13. Co-optees' allowance

(1) For each year an allowance shall be payable, if claimed, to a person who is not a member of the Council but who is a member of a committee or sub-committee of the Council in respect of attendance at conferences and meetings, in accordance with Regulation 9 of the Local Authorities (Members Allowances) (England) Regulations 2003. This amount shall be £40.22 per meeting. Co-optees to the Council will be paid their allowances on a monthly basis subject to submitting a claim form.

(2) Where the appointment of the co-opted member begins or ends otherwise than at the beginning or end of a year, his or her entitlement shall be to payment of such part of the Co-optees' allowance as bears to the whole the same proportion as the number of days during which his term of office as member subsists bears to the number of days in that year.

(3) A co-opted member may by notice in writing given to the Finance Lead Specialist and S151 Officer elect to forgo his or her entitlement or any part of his or her entitlement to allowances.

(4) Co-optees allowances will be uplifted annually in line with the agreed public sector staff pay award during the Period of the Scheme.

14. Period of the Scheme

In agreeing this Scheme the Council accepted the recommendation of the Independent Remuneration Panel (IRP) that the Scheme should be in place for a period of four years from 01 April 2021 until 31 March 2025, subject to the agreed indexation and review: see section 16 below.

15. Indexation and Review of Allowances

In agreeing this Scheme, the Council accepted the recommendation of the IRP that the allowances payable should be uplifted annually by the agreed public sector staff pay award for the Period the Scheme. The Council accept that a review of the Scheme will be conducted during the Period of the Scheme if requested by Council Members, Officers and IRP Panel members if there are reasonable grounds for doing so. Reasonable grounds includes; changes to Member's roles, creation of additional Member's Portfolio roles or external factors such as
Local Government re-organisation

SCHEDULE 1

SPECIAL RESPONSIBILITY ALLOWANCE

The following are specified as special responsibilities in respect of which special responsibility allowances are claimable (in addition to the basic allowances) and the amounts of these allowances:-

		£ p.a.
Leader of the Council (With Portfolio)		Up to 12,120.00
Deputy Leader of the Council (With Portfolio)		7,171.00
Other Members of the Cabinet		6,060.00
Leader of the Opposition		1,863.00
Chairman of the Council		1,863.00
Chairman of the Planning Committee		2,794.50
Chairman of the Audit, HR, Lake Administration and Overview and Scrutiny Committees		1,863.00
Chairman of the Licensing, Licensing Regulatory and Standards Committees		931.50
Group Leaders	Number of Councillors in the Group at the preceding Annual Council meeting	
	2 – 5	372.00
	6 – 10	496.00
	11 – 15	621.00
	16 – 20	742.00
	21 – 26	871.00
	27 +	1,245.00
Members of the Shadow Cabinet (with the exception of the Leader of the Opposition)		505.00
Members of the Planning Committee (plus substitutes)		250.00

'Group' is as defined in the Local Government (Committees and Political Groups) Regulations 1990, and comprises of at least two Members.

SCHEDULE 2

Part I

List of Approved Duties where travel and subsistence, and child care and dependants' carers' expenses may be claimed.

(Note – Approved duty only applicable to Members of the relevant Committee, Sub-Committee, etc.)

List of Approved Duties

- (a) the attendance at a meeting of the authority or of any committee or sub-committee of the authority, or any other body to which the authority makes appointments or nominations, or of any committee or sub-committee of such a body;
- (b) the attendance at any other meeting, the holding of which is authorised by the authority, or a committee or sub-committee of the authority, or a joint committee of the authority and at least one other local authority within the meaning of section 270(1) of the Local Government Act 1972, or a sub-committee of such a joint committee, provided that:-
 - (i) where the authority is divided into two or more political groups it is a meeting to which members of at least two such groups have been invited; or
 - (ii) if the authority is not so divided, it is a meeting to which at least two members of the authority have been invited;
- (c) the attendance at a meeting of any association of authorities of which the authority is a member;
- (d) the attendance at a meeting of the Cabinet or a meeting of any of its committees, where the authority is operating executive arrangements; (To include:-
 - (1) Informal meetings of Cabinet Members called by the Leader;
 - (2) Leader and Portfolio Holders' briefings with officers;
 - (3) Portfolio Holders' attendance on site visits and meetings with other organisation in connection with their responsibilities; and
 - (4) Attendance by Portfolio Holders and their nominated Councillors at advisory and focus group);
- (e) travel and subsistence expenses are to be paid to those Members of the Shadow Executive attending formal meetings of the Cabinet, and other formal Council meetings to which they are invited in their role as Shadow Cabinet Members, and the attendance at up to 12 informal meetings of the Shadow Executive per Council year;
- (f) travel expenses are to be paid those members who attend a Parish or Town Council Meeting for their Ward save where they are also a member of that Parish or Town Council;
- (g) travel and subsistence expenses are to be paid to Members in respect of attendance at Local Area Partnerships and in connection with their duties;
- (h) the performance of any duty in pursuance of any standing order made under section 135 of the Local Government Act 1972 requiring a member or members to be present while tender documents are opened;
- (i) the performance of any duty in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises;
- (j) the carrying out of any other duty approved by the authority, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the authority or any of its committees or sub-committees. (These currently include the following):-
 - (1) The attendance by Chairman/Vice-Chairman of the Council/Committee at agenda briefing meetings with officers where this is held on a day other than the day of the relevant meeting;
 - (2) Council-run seminars and training events;
 - (3) Civic duties undertaken by the Chairman and Vice-Chairman of the Council;
 - (4) Site visits organised by Officers in respect of matters under consideration; and
 - (5) Visits to other authorities/ organisations where specifically authorised by Council/ Committee.

Part II

Travel

Public Transport will be paid at ordinary fare, standard class or cheapest fare for the journey whichever is the least amount.

The mileage rate for travel by car to be in accordance with the maximum rates set by HMRC without attracting a tax charge (currently 45p per mile), this to apply to the first 150 miles of a return journey regardless of the destination and 25p per mile thereafter.

Where the use of a taxi is unavoidable, the Council will reimburse the actual cost.

If because of a disability Members are driven to a meeting by their spouse/ partner it is appropriate for them to claim for double journeys in cases of long meetings. This will avoid the need for their spouse/partner to wait for the duration of the meeting.

The mileage rate for travel by bicycle and motorcycle to be in accordance with the maximum rates set by HMRC without attracting a tax charge (currently 20p and 24p per mile respectively).

When members car share to an Approved Duty the Mileage Allowance be increased by 5p per mile per passenger (maximum 4 passengers). Passengers may include Members and Officers of the Council

Appropriate incidental expenses, e.g. car parking charges, will be reimbursed on the production of receipts.

Subsistence

The Council will reimburse actual expenses incurred by Members on subsistence on the production of receipts, subject to a maximum of:

Period of Absence	Maximum Allowance
4 to 8 Hours	£9.91
Over 8 but less than 12 Hours	£14.17
Over 12 but less than 24 Hours	£26.70
Overnight Stay	Reasonable Actual Expenses

Bed & Breakfast	Reasonable Actual Expenses
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Note – the rates for travel expenses may change from 1 April 2021, in accordance with the rates issued by H.M. Revenue and Customs and subsistence in line with the increase in the Retail Price Index for the period from April 2021 to March 2024.

PART 7

COUNCIL DEPARTMENTAL STRUCTURE