

CONSTITUTION OF THE COUNCIL

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PART 1

SUMMARY AND EXPLANATION

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Summary and Explanation

The Council's Constitution

At its meeting on 19th December 2001 Rossendale Borough Council agreed the first Constitution of Rossendale Borough Council. The Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

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

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This is the third Constitution of Rossendale Borough Council which was approved by the Council at its meeting on 16th May 2007.

What is in the Constitution ?

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

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

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Full Council (Article 4)
- Chairing the Council (Article 5)
- The Cabinet (Article 6)
- Overview and Scrutiny Committees (Article 7)
- Regulatory Committees, Area Forums and Accounts Committee (Article 8)
- The Standards Committee and the Appointment and Appeals (Article 9)
- Joint Arrangements (Article 10)
- Officers (Article 11)
- Decision Making (Article 12)
- Finance, contracts and legal matters (Article 13)
- Suspension, interpretation and publication of the Constitution (Article 14)

How the Council operates

The Council is composed of 36 Councillors normally elected in thirds and, in usual circumstances, such Councillors serve for four years. The overriding duty and accountability of Councillors is to the whole community, but they have a special duty to their constituents in their Wards, including those who did not vote for them.

Councillors have to agree to follow a Code of Conduct for Councillors, Independent and other Voting Representatives to ensure high standards in the way they undertake their duties. The Code is based on the nationally prescribed model, which aims to ensure high ethical standards and increase public confidence in the integrity of their local Councillors and Co-opted members.

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The Standards Committee advises them on the Code of Conduct and ensures that they receive appropriate training.

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

- The Leader
- The Cabinet
- Regulatory Committees
- Overview and Scrutiny Management Committees
- Scrutiny Committees
- Area Forums
- Accounts Committee
- Standards Committee
- Appointment and Appeals Committee

Full Council also allocates responsibilities (Portfolios) within the Cabinet.

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

How decisions are made

Most day to day decisions are made by Senior Officers of the Council under delegated authority. The Council has a Cabinet and other Committees.

The Cabinet

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

Regulatory Committees

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Development Control Committee deals with Planning applications and related matters, and the Licensing Committee deals with issues such as Taxi licensing and other licensing matters.

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

Overview and Scrutiny

There is an Overview and Scrutiny Management Committee and three Scrutiny Committees which support the work of the Cabinet, and the Council as a whole. One Scrutiny Committee deals with Policy; one deals with Performance and the other with Audit. They are accountable to Full Council. They allow citizens to have a greater say in Council matters by discussing into matters of local interest. These can lead to reports and recommendations which advise the Cabinet, other Committees and the Council as a whole on its policies, budget and service delivery. The Overview and Scrutiny Management Committee and Scrutiny Committees also monitor the decisions of the Cabinet and other Council Committees. Members and the Committees can “call-in” a decision of a non-regulatory committee which has been made but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet or Full Council should reconsider the decision. They may also be consulted by the Cabinet and other Committees on forthcoming decisions and the development of policy. Another of their functions is to support the Cabinet in ensuring that the Council complies with its duties of best values and value for money. They have a key role to play in promoting and monitoring good performance management throughout the Council.

The Council’s Staff

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

Citizens’ Rights

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

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 Rossendale Borough Council.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

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

1.04 Interpretation and Review of the Constitution

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

2.01 **Composition and Eligibility**

- (a) **Composition.** The Council comprises 36 Members, otherwise called Councillors. One or more Councillor will be elected by the voters of each Ward in accordance with a scheme drawn up by the Local Government Commission for England and approved by the Secretary of State or the Electoral Commission as appropriate.
- (b) **Eligibility.** Only registered voters of the Local Authority Area or occupiers of land or other premises in the area or those living or working there who are not disqualified by the provisions of section 80 of the Local Government Act 1972 will be eligible to hold the office of Councillor.

2.02 **Election and Terms of Councillors**

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

2.03 **Roles and Functions of all Councillors**

(a) **Key Roles.**

All Councillors will:

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

(b) **Rights and Duties**

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (iv) No Councillor can issue an order for works to be carried out by or on behalf of the Council and nor can he/she claim any right to inspect or enter any land unless specifically authorised to do so by the Council.

2.04 Conduct

Councillors will at all times observe the Members’ Code of Conduct and any other Council Protocols or Codes of Conduct

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

2.05 Allowances

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

2.06 Members Working Groups

The Council has established the following Members Working Groups:

- Accommodation Working Group
- Car Parking Working Group
- Christmas Lights Working Group
- Constitution Working Group
- Grants Advising Group
- Member Development Working Group
- Rossendale Markets Liaison Group

The total number of Councillors on the quorum and Terms of Reference of each Members Working Group are not out in the Constitution.

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ARTICLE 3 - CITIZENS AND THE COUNCIL

3.01 **Citizens' Rights and Responsibilities**

Citizens have the following rights:-

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

- (b) **Information.** Citizens have the right to:
 - (i) attend meetings of the Council its Cabinet and its Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) see reports and background papers (excluding confidential or exempt information) and any records of decisions made by the Council, its Cabinet and Committees;
 - (iii) inspect the Council's accounts and make their views known to the external auditor;
 - (iv) inspect any document as set out in the Councils Publication Scheme;
 - (v) contact Councillors about all matters of concern to them;
 - (vi) obtain a copy of the Council's Constitution;
 - (vii) find out from the Forward Plan what key decisions are to be discussed by the Council, its Cabinet and Committees.

- (c) **Participation.**
 - (i) Citizens have the right to submit written questions to Council meetings and to ask questions at its Cabinet and Committee meetings and to be consulted on the level and quality of local services in accordance with the Council's Consultation Strategy.
 - (ii) Citizens may contribute to investigations by the Overview and Scrutiny Committee and Scrutiny Committees.

- (d) **Complaints.** Citizens have the right to complain to:
 - (i) the Council itself under its complaints scheme;
 - (ii) the Local Government Ombudsman after using the Council's own complaints scheme;

(iii) the Standards Board of England about a breach of the Councillors' Code of Conduct.

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

3.02 **Citizens' Responsibilities**

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

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

The Council welcomes participation by its citizens in its work. For further information on your rights as a Citizen please contact the Committee and Member Services Manager – on 01706 242423 or heathermoore@rossendalebc.gov.uk

3.03 The Procedure for Public Speaking at Meetings is as follows:

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PROCEDURE FOR PUBLIC SPEAKING

**Agreed by Council
24th November 2004**

**N.B. The Procedure for Public Speaking at the Development Control Committee was agreed by
the Audit Committee on 7th March 2005**



Members of the public have the right to speak or ask questions at many of the meetings of the Borough Council on issues listed on the agenda for the particular meeting. Time is also set aside at the beginning of most meetings for the public to ask questions.

This leaflet explains the rights of the public to speak at meetings of the Council and other Committees of the Council.

A separate leaflet explains the procedure for speaking at meetings of the Development Control Committee.

**IF YOU WOULD LIKE ANY FURTHER INFORMATION
OR HAVE ANY QUERIES, PLEASE CONTACT:**



Democratic Services Section
P.O. Box 74 Kingfisher Business Centre
Futures Park
Bacup
Lancashire
Tel: 01706 252422
Email: democracy@rossendalebc.gov.uk



DETAILS OF MEETINGS

Meetings are held at the Council Chamber, Hardmans Mill, New Hall Hey, Rawtenstall and usually start at 6.30pm, with the exception of Full Council and Area Forum meetings which start at 7pm. Details of meeting dates, times and venues are publicised on the Council's website www.rossendale.gov.uk ; outside the One Stop Shop in Rawtenstall and at Rawtenstall Library, or they can be obtained from the Democratic Services Section.

AGENDA PAPERS

Agendas are usually published on the Council's website 5 clear days before the meeting. For a meeting on a Wednesday the agenda should be available for inspection at the One Stop Shop, Rawtenstall on the preceding Tuesday. Public copies of the agenda are available at the meeting. Please contact Democratic Services if you require information before the meeting or a copy of the agenda. Some items of Council business are confidential and the information is not available to the public.

PUBLIC QUESTION TIME

At certain Committee meetings, members of the public have a right to ask questions.

Question time will normally last up to half an hour.

Please note that you will have to attend the meeting in order to put your question and that you should attend the Committee which is responsible for the issue you are interested in. If you are unsure which meeting you should attend please contact Democratic Services.

The Public Question Time does not apply to meetings of the Development Control and Licensing Committees.

PUBLIC RIGHT OF ADDRESS

In addition to Public Question Time the public also have a right to speak at meetings on items which appear on the published agenda and guidance is given below.

MEETINGS OF COUNCIL AND THE CABINET

At these meetings members of the public will only be entitled to speak at the Public Question Time item on the Agenda.

GUIDANCE

WHO CAN ASK A QUESTION?

Any person who lives or works in the Borough.

DO I NEED TO GIVE NOTICE THAT I WANT TO SPEAK OR ASK A QUESTION?

No, but it will help the Council prepare an answer to your question if you do submit it in writing. Normally, only one speaker will be allowed to address the meeting on an item. One person should act as spokesperson for a group with a common interest.

WHAT HAPPENS WHEN I ARRIVE?

You should arrive at the meeting at least 10 minutes before the start of the meeting. Please make yourself known to the Committee Administrator. This allows time for an explanation of the procedures. It is usual for items for which members of the public are attending to be taken early in the proceedings.

CONSIDERATION OF AN ITEM ON THE AGENDA WILL NORMALLY RUN THROUGH THE FOLLOWING STAGES:-

- First, the Chair will call for a report to be made (a Council Officer will normally have submitted a written report with the agenda and he or she will be called upon to speak upon the report).
- Second, the members of the public will be invited to speak.
- Next, members will debate the item.
- Following the debate, a decision will be made.

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HOW LONG MAY I SPEAK FOR?

A time limit of 3 minutes applies to each speaker, though this may be extended if the meeting agrees. Please note that a speaker can only usually only address Members once, unless it is in response to a question from a member, or the Chair allows you to address members again.

HOW SHOULD I ASK A QUESTION OR GIVE A STATEMENT?

Begin by giving your name and address and whether you are speaking as an individual member of the public or as a representative of a group.

It is useful to prepare notes in advance to ensure that all the important points are covered. Try and be brief and to the point.

Do not make derogatory or defamatory statements.

Bring an extra copy of any prepared statement for the Chair's information.

SOME QUESTIONS ARE NOT ALLOWED

You may not ask a question in furtherance of your own particular circumstances. These should be taken up with officers or Councillors outside of the meeting. Nor may people ask about a matter where there is a right of appeal to the courts, tribunal or to a Government minister. You may not ask a question about the service of any person employed by the Council.

The Chair may disallow any question that, in his or her opinion, is improper, vexatious irrelevant or otherwise objectionable. The Chair can also limit the number of questions that a person may ask. The answer may be given verbally or in writing.

Any question not dealt with at the meeting will normally be answered within 10 working days.



YOUR RIGHT TO
SPEAK AT MEETINGS
OF THE
DEVELOPMENT
CONTROL COMMITTEE

This leaflet explains how the Council's Development Control Committee works and how you can have your say upon an application of concern to you.

The Committee has to make decisions in the public interest and upon the merits of each application individually, upon the basis of what is relevant in the Development Plan and "any other material considerations". All representations made in writing will be taken into account in the written report, but this is another opportunity for you to make your view known.

**IF YOU WOULD LIKE ANY FURTHER INFORMATION
OR HAVE ANY QUERIES, PLEASE CONTACT:**

**P.O. Box 74 Kingfisher Business Centre
Futures Park
Bacup
Lancashire
Tel: 01706 252422
Email: 4Hdemocracy@rossendalebc.gov.uk**

Approved by the Audit Committee on 7th March 2005

DETAILS OF MEETINGS

Meetings of the Development Control Committee are held at the Council Chamber, Hardmans Mill, New Hall Hey, Rawtenstall and start at 6.30pm. Details of meeting dates, times and venues are publicised on the Council's website www.rossendale.gov.uk ; outside the One Stop Shop in Rawtenstall and at Rawtenstall Library, or they can be obtained from the Democratic Services Section.

AGENDA PAPERS

Agendas are usually published about 6 days before the meeting. Public copies of the agenda are available at the meeting. Please contact Democratic Services if you require information before the meeting or a copy of the agenda.

ABOUT THE MEETING

Please inform the Democratic Services Section by no later than 12 noon on the day of the Committee if you wish to speak on an application (one in favour and one against). It is recommended that you arrive about 10-15 minutes before the meeting. If several people are objecting to an application we will ask them to agree amongst themselves who will speak upon their behalf. If no agreement can be reached then the first party to have "registered" a wish to speak will be chosen.

THE PROCEDURE FOR SPEAKING ON PLANNING APPLICATIONS

The Team Manager Development Control will briefly identify, introduce and describe the application and refer to any new issues raised since the report was published.

The objector or a representative of all objectors will then address the Committee EITHER up to a maximum of three minutes OR a maximum of three minutes.

Members of the Committee may then, if necessary, through the Chair, question the objector to clarify any points, or issues already raised by the objector.

The applicants/supporters or their representative (if present) will then address the Committee EITHER up to a maximum of three minutes OR a maximum of three minutes.

Members of the Committee may then, if necessary, through the Chair, question the applicant/supports to clarify any points, or issues already raised by the objector.

The Team Manager Development Control will then bring any necessary information, in addition to that contained in his report to the Committee's attention.

Any Elected Member who is not a member of the Committee may, by prior agreement with the Chair, be allowed to address the Committee once per application, for a maximum of 5 minutes in each case.

The members of the Committee only then debate and decide upon the application. The public cannot take part in this debate and decision making.

After hearing the Committee's decision you are welcome to stay and listen to the discussion about other applications but if you wish to leave please do so as discreetly as possible so as not to unduly disturb and delay the Committee and other parties who may well be attempting to consider later applications.

AFTERWARDS

The Committee's decision is final, but applicants have the right of appeal to the First Secretary of State if their application is refused or if conditions are attached which they do not like. In this event, anyone who has written about the original application will be informed. Objectors have no right of appeal to the First Secretary of State against a decision to approve an application, but they can seek to have the decision quashed by application to the High Court by way of Judicial Review.

THE PROCEDURE FOR SPEAKING ON OTHER ITEMS ON THE PUBLISHED AGENDA

The Chair will call for a report to be made (a Council Official will normally have submitted a written report with the agenda and he or she will be called upon to speak upon the report).

Second, the members of the public will be invited to speak. A time limit of 3 minutes applies to each speaker, though this may be extended if the meeting agrees. Please note that a speaker can only usually only address Members once, unless it is in response to a question from a member, or the Chair allows you to address members again.

Next, members will debate the item.

Following the debate, a decision will be made.

HOW SHOULD I ASK A QUESTION OR GIVE A STATEMENT?

Begin by giving your name and address and whether you are speaking as an individual member of the public or as a representative of a group.

It is useful to prepare notes in advance to ensure that all the important points are covered. Try and be brief and to the point.

Do not make derogatory or defamatory statements.

Bring an extra copy of any prepared statement for the Chair's information.

SOME QUESTIONS ARE NOT ALLOWED

You may not ask a question in furtherance of your own particular circumstances. These should be taken up with officers or Councillors outside of the meeting. Nor may people ask about a matter where there is a right of appeal to the courts, tribunal or to a Government minister. You may not ask a question about the service of any person employed by the Council.

The Chair may disallow any question that, in his or her opinion, is improper, vexatious irrelevant or otherwise objectionable. The Chair can also limit the number of questions that a person may ask. The answer may be given verbally or in writing.

Any question not dealt with at the meeting will normally be answered within 10 working days.

4.01 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:-
- Best Value Performance Plan
 - Corporate Plan
 - Community and Engagement Strategy
 - Crime and Disorder Reduction Strategy
 - Plans and Strategies which together comprise the Local Development Framework
 - Housing Strategy
 - Food Law Enforcement Service Plan
 - Local Agenda 21 Strategy
 - Licensing Policy
 - Gambling Policy
 - Financial Strategy, including the Treasury Management Strategy and Annual Investment 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 Councils borrowing requirements, the control of its capital expenditure and the setting of virement limits.

4.02 Functions Terms of References of the Full Council

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

- i) **Constitutional**
- a) To adopt and amend the Council Constitution;
 - b) To adopt or amend the terms of reference and delegations of the Cabinet and Committees, and the Officer Delegation Scheme;
 - c) To elect the Chair of the Council (the Mayor) and Vice Chair of the Council (Deputy Mayor);
 - d) To appoint the Leader of the Council and Deputy Leader of the Council and the members of the Cabinet;
 - e) To determine which Council Committees the Council will have for the next Municipal year and the number of seats on them save for co-optees in relation to the Overview and Scrutiny Committee and the Scrutiny Committees;

- f) Make decisions about any matter which is the responsibility of the Cabinet or other Committee which is not in accordance, or not wholly in accordance with, the policy framework or budget;
- g) To receive notification from the Leaders of the Political Groups of the names of persons which their respective groups are appointed to fill in respect of seats allocated to them on the various committees and of any changes to the names of persons appointed to such committees and to appoint representatives to outside bodies;
- h) To appoint Chairs and vice Chairs of the various committees, and to make appointments to other internal bodies not affected by the political balance rules;
- i) To receive notification of the appointment by the minority Political Group(s) on the Council of the Leaders and Deputy Leaders of these Groups;
- j) To appoint representatives of the Council on the Joint Authorities and the spokespersons to answer any questions at Council on the functions of Joint Authorities;
- k) To make arrangements for the discharge of the Council's functions by another local authority;
- l) To change the name of the area and to confer the title of Honorary Alderman or the Freedom of the Borough;
- m) Where it relates to a Council function any function under a Local Act;
- n) The determination of an appeal against any decision made by or on behalf of the authority;
- o) The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area;
- p) The appointment of any individual:
 - (a) to any office other than an office in which he or she is employed by the authority;
 - (b) to any body other than -
 - (i) the authority;
 - (ii) a joint committee of two or more authorities; or
 - (c) to any committee or sub-committee of such a body and the revocation of any such appointment;

- q) Where it relates to a Council function, the making of arrangements with other local authorities for the placing of staff at the disposal of those other authorities.

ii) **Probity**

- a) To adopt the Council's Codes of Conduct for Members and Officers, to adopt or amend the Members Allowances Scheme

iii) **Policy**

- a) To approve or amend the Council's Policy Framework, having regard to the Council's Community and Engagement Strategy
- b) To approve any application to the Secretary of State for the transfer of housing land;
- c) To promote or oppose any legislation or to make or amend byelaws;
- d) To approve any plans or strategies which require approval by a Secretary of State;
- e) The duty to approve and publish a statement of principles under Section 349 of the Gambling Act 2005;

f) To consider whether to issue casino premises licences under Section 166 of the Gambling Act 2005.

g) To approve Development Plan Documents under Section 20 of The Planning and Compulsory Purchase Act 2004.

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iv) **Financial**

- a) To approve the Council's Revenue Budget and Capital Expenditure Programme;
- b) To set a Council Tax and calculate the Council Tax Base;
- c) To determine any matter involving expenditure not provided for in the Council's approved budget subject to any agreed virement arrangements;
- d) To determine the level of Council House Rents;
- e) To approve any plan or strategy for the control of the authority's borrowing or capital expenditure, including the adoption of a Treasury Management Policy Statement;
- f) To approve policies and practices regarding the granting of discretionary rate relief or remission of rates in accordance with section 47 of the Local Government Finance Act 1988;

- g) To deal with matters relating to Local Government Pensions referred to in the Local Authorities (Functions and Responsibility Regulations 2000 as amended) with the appropriate Officer who does not wish to exercise his or her delegated powers;
- h) To determine the level of fees for licences under Section 212 of the Gambling Act 2005.

v) **Electoral**

- a) To appoint a Returning Officer for Borough and Town Council elections;
- b) To appoint an Electoral Registration Officer;

c) To make recommendations concerning district boundaries, electoral divisions, ward or Polling Districts.

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c) . To make recommendations concerning district boundaries, electoral divisions, wards or Polling Districts.¶

vi) **Staffing**

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

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

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

viii) **General**

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

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4.03 **Council Meetings**

There are three types of Council meetings:

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

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

ARTICLE 5 - CHAIRING THE COUNCIL

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5.01 Role and function of the Mayor and Deputy Mayor

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

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

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

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ARTICLE 6 - THE CABINET

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6.01 **Cabinet**

The Council will appoint a Cabinet of eight Members

The functions of the Cabinet are set out in Part 3 of the Constitution

Each of the Cabinet Members shall have responsibility for a specific portfolio.

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ARTICLE 7 – OVERVIEW AND SCRUTINY COMMITTEES

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7.01 Appointment, Membership and Terms of Reference

The Council will appoint:

One Overview and Scrutiny Management Committee
One Policy Scrutiny Committee
One Performance Scrutiny Committee
One Audit Scrutiny Committee

The Audit Scrutiny Committee also acts as the Audit Committee.

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

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The Committee and Scrutiny Committees will be responsible for discharging functions conferred by Section 21 of the Local Government Act 2000 and any Regulations under Section 32 of the Local Government Act 2000.

7.02 General Role

Within their terms of reference these Committees may:

- i) Review and or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- ii) Make reports and/or recommendations to the Council and/or its Cabinet and other Committees and/or any Joint Committee in connection with the discharge of any functions and/or any other partner organisation;
- iii) Consider any matter affecting the area;
- iv) Exercise the right to Call-in decisions made by the Cabinet and the Council's non regulatory committees in accordance with the "Call-in" Procedure set out in the Procedure Rules within this Constitution.

7.03 Finance

The Budget for these Committees will be held by the Head of Planning, Legal & Democratic Services.

7.04 Annual Report

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

ARTICLE 8 – REGULATORY COMMITTEES, AREA FORUMS AND ACCOUNTS COMMITTEE

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8.01 Regulatory Committees

The Council will appoint:

1. A Development Control Committee to be responsible for dealing with planning applications and related matters.
2. A Licensing Committee, to have responsibility for licensing and associated regulatory matters.

8.02 Area Forums

The Council will appoint four Area Forums to enable local people to influence decisions about local services.

8.03 Accounts Committee

The Council will appoint an Accounts Committee. The Committee will comprise the Leader, Deputy Leader, Portfolio Holder for Finance and Risk Management, the Leader of the Opposition and the Deputy Leader of the Opposition.

Standards Board Panel

Procedure for Local Standard Hearings

1. Interpretation

- a) 'Member' means the member of the authority who is the subject of the allegation being considered by the Standards Board Panel, unless stated otherwise. It also includes the member's nominated representative.
- b) 'Investigator' means the Ethical Standards Officer (ESO) who referred the report to the authority, and includes his nominated representative. In the case of matters that have been referred for local investigation, references to the investigator mean the person appointed by the Monitoring Officer to undertake that investigation (which may include the Monitoring Officer, and his nominated representative).
- c) 'The Matter' is the subject matter of the investigator's report.
- d) 'The Panel' refers to the Standards Board Panel to which the Standards Committee has delegated the conduct of the hearing.
- e) 'The Committee Support Officer' means an officer of the authority responsible for supporting the Standards Board Panel discharge of its functions and recording the decisions of the Standards Board Panel.
- f) 'Legal advisor' means the officer responsible for providing legal advice to the Standards Board Panel. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.
- g) 'The Chairman' refers to the person presiding at the hearing.

2. Modification of Procedure

The Chairman may agree to vary this procedure in any particular instance where he is of the opinion that such a variation is necessary in the interests of fairness.

3. Representation

The member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Standards Board Panel, another person.

4. Legal Advice

The Standards Board Panel may take legal advice from its legal advisor at any time during the hearing or while they are considering the outcome.

5. Setting the Scene

At the start of the hearing, the Chairman shall introduce each of the members of the Standards Board Panel, the member (if present), the investigator (if present) and any other officers present, and shall then explain the procedure which the Panel will follow in the conduct of the hearing.

6. Preliminary Procedural issues

The Panel shall then deal with the following preliminary procedural matters in the following order:

a) Disclosures of interest

The Chairman shall ask members of the Standards Board Panel to disclose the existence and nature of any personal or prejudicial interests which they have in the matter, and to withdraw from consideration of the matter if so required.

b) Quorum

The Chairman shall confirm that the Standards Board Panel is quorate.

c) Hearing procedure

The Chairman shall confirm that all present know the procedure which the Standards Board Panel will follow in determining the matter.

d) Proceeding in the absence of the member

If the member is not present at the start of the hearing:

i) the Chairman shall ask the Monitoring Officer whether the member has indicated his intention not to attend the hearing;

ii) the Standards Board 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 Standards Board Panel is satisfied with such reasons, it shall adjourn the hearing to another date;

iv) if the Standards Board Panel is not satisfied with such reasons, or if the member has not given any such reasons, the Standards Board 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.

e) Exclusion of Press and Public

The Chairman shall ask the member, the investigator and the legal adviser to the Standards Board Panel whether they wish to ask the Panel to exclude the Press or public from all or any part of the hearing. If any of them so request, the Chairman shall ask them to put forward reasons for so doing and ask for responses from the others and the Standards Board Panel shall then determine whether to exclude the press and public from all or any part of the hearing.

7. A Failure to Comply with the Code of Conduct?

The Standards Board Panel will then address the issue of whether the member failed to comply with the Code of Conduct in the manner set out in the investigator's report.

a) The Pre-Hearing Process Summary

The Chairman will ask the legal advisor or the Committee Support Officer to present his report, highlighting any points of difference in respect of which the member has stated that he disagrees with any finding of fact in the investigator's report. The Chairman will then ask the member to confirm that this is an accurate summary of the issues and ask then member to identify any additional points upon which he disagrees with any finding of fact in the investigator's report.

i) If the member admits that he has failed to comply with the Code of Conduct in the manner described in the investigator's report, the Panel may then make a determination that the member has failed to comply with the Code of Conduct in the manner described in the investigator's report and proceed directly to consider whether any action should be taken.

ii) If the member identifies additional points of difference, the Chairman shall ask the member to explain why he did not identify these points as part of the pre-hearing process. He shall then ask the Investigator (if present) whether he is in a position to deal with those additional points of difference directly or through any witnesses who are in attendance or whose attendance at the hearing can conveniently be arranged. Where the Standards Board Panel is not satisfied with the member's reasons for failing to identify each additional point of difference as part of the pre-hearing process, it may decide that it will continue the hearing but without allowing the member to challenge the veracity of those findings of fact which are set out in the investigator's report but in respect of which the member did not identify a point of difference as part of the pre-hearing process, or it may decide to adjourn the hearing to allow the Investigator and/or any additional witnesses to attend the hearing.

b) Presenting the Investigator's Report

- i) If the investigator is present, the Chairman will then ask the investigator to present his report, having particular regard to any points of difference identified by the member and why he concluded, on the basis of his findings of fact, that the member had failed to comply with the Code of Conduct. The investigator may call witnesses as necessary to address any points of difference.
- ii) If the investigator is not present, the Standards Board Panel shall only conduct a hearing if they are satisfied that there are no substantial points of difference or that any points of difference can be satisfactorily resolved in the absence of the investigator. In the absence of the investigator, the Standards Board Panel shall determine on the advice of the Monitoring Officer which witnesses, if any, to call. Where such witnesses are called, the Chairman shall draw the witnesses attention to any relevant section of the investigator's report and ask the witness to confirm or correct the report and to provide any relevant evidence.
- iii) No cross-examination shall be permitted but, at the conclusion of the investigator's report and/or of the evidence of each witness, the Chairman shall ask the member if there any matters upon which the Standards Board Panel should seek the advice of the investigator or the witness.

c) The Member's Response

- i) The Chairman shall then invite the member to respond to the investigator's report and to call any witnesses as necessary to address any points of difference.
- ii) No cross-examination shall be permitted but, at the conclusion of the member's evidence and/or of the evidence of each witness, the Chairman shall ask the investigator if there are any matters upon which the Standards Board Panel should seek the advice of the member or the witness.

d) Witnesses

- i) The Standards Board Panel shall be entitled to refuse to hear evidence from the investigator, the member or a witness unless they are satisfied that the witness is likely to give evidence which they need to hear in order to be able to determine whether there has been a failure to comply with the code of conduct.
- ii) Any member of the Standards Board Panel may address questions to the investigator, to the member or to any witness.

e) Determination as to whether there was a failure to comply with the Code of Conduct

- i) At the conclusion of the member's response, the Chairman shall ensure that each member of the Standards Board Panel is satisfied that he has sufficient information to enable him to determine whether there has been a failure to comply with the code of conduct as set out in the investigator's report.
- ii) Unless the determination merely confirms the member's admission of a failure to comply with the Code of Conduct (as set out in Paragraph v(a)(i) above), the Standards Board Panel shall then consider in private whether the member did fail to comply with the Code of Conduct as set out in the investigator's report.
- iii) The Standards Board Panel shall take its decision on the balance of probability based on the evidence which it has received at the hearing.
- iv) The Standards Board Panel 's function is to make a determination on the matter. It may, at any time, seek additional evidence from the investigator, the member or a witness, or seek the legal advice from or on behalf of the Monitoring Officer. If it requires any further information, it may adjourn and instruct an officer or request the member to produce such further evidence to the Standards Board Panel.
- v) At the conclusion of the Standards Board Panel's consideration, the Standards Board Panel shall consider whether it is minded to make any recommendations to the authority with a view to promoting high standards of conduct among members.
- vi) The Standards Board Panel shall then recommence the hearing and the Chairman will state the Standards Board Panel's principal findings of fact and their determination as to whether the member failed to comply with the Code of Conduct as set out in the investigator's report.

f) If the Member has not failed to follow the Code of Conduct

If the Panel determines that the member has not failed to follow the Code of Conduct in the manner set out in the investigator's report, the Chairman should set out any recommendations which the Panel is minded to make to the authority with a view to promoting high standards of conduct among members and seek the views of the member, the investigator and the legal advisor before the Panel finalises any such recommendations.

g) If the Member has failed to follow the Code

If the Panel determines that the member has failed to comply with the Code of Conduct in the manner set out in the investigator's report, it will then proceed to consider whether it should impose any sanction in respect of the member and what (if any) would be the appropriate sanction to impose.

8. Action Consequent upon a Failure to Comply with the Code of Conduct

- a) The Chairman shall ask the investigator (if present, or otherwise the legal advisor) whether he wishes to make representations as to the imposition of a sanction.
- b) The Chairman will then ask the Member if he wishes to make representation as to the imposition of a sanction.
- c) The Chairman will then ensure that each member of the Standards Board Panel is satisfied that he has sufficient information to enable him/her to take an informed decision as to whether to impose a sanction and (if appropriate) as to the form of the sanction.
- d) Any member of the Standards Board Panel may address questions to the investigator or to the member as necessary to enable him to take such an informed decision.
- e) The Chairman should then set out any recommendations which the Standards Board Panel is minded to make to the authority with a view to promoting high standards of conduct among members and seek the views of the member, the investigator and the legal advisor.
- f) The Standards Board Panel shall then retire to another room to consider in private whether to impose a sanction, (where a sanction is to be imposed) what sanction to impose and when that sanction should take effect, and any recommendations which the Standards Board Panel will make to the authority.
- g) When the hearing recommences, the Chairman shall state the Standards Board Panel's decisions as to whether to impose a sanction and (where a sanction is to be imposed) the nature of that sanction, and when it should take effect, together with the principal reasons for those decisions, and any recommendations which the Standards Board Panel will make to the authority.

9. The Close of the Hearing

- a) The Standards Board Panel will announce its decision on the day of the hearing and provide the Committee Support Officer with a short written statement of their decision, which the Committee Support Officer will deliver to the member as soon as practicable after the close of the hearing.
- b) The Chairman will thank all those present who have contributed to the conduct of the hearing and formally close the hearing.
- c) Following the close of the hearing, the Committee Support officer will agree a formal written notice of the Standards Board Panel's determination and the Monitoring Officer shall arrange for the distribution and publication of that notice (or a summary of that notice, where required) in accordance with Regulation 8 of the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003.

ARTICLE 9 – THE STANDARDS COMMITTEE AND APPOINTMENT AND APPEALS COMMITTEE

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(b) Assisting Councillors, 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, Co-opted Members to train Councillors and Independent Members on matters relating to the Members Code of Conduct;¶

¶

(f) Granting dispensations to Councillors and co-opted Members from requirements relating to interests set out in the Members Code of Conduct;¶

¶

(g) Dealing with any reports from a case tribunal or interim case tribunal and any report from the Monitoring Officer on any matter which is referred by an Ethical Standards Officer to the Monitoring Officer;¶

¶

(h) Monitor the Constitution and make recommendations to Council in respect of any proposed amendments;¶

¶

(i) Consider and approve the Statement of Accounts;¶

¶

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9.01 Standards Committee

The Council will have a Standards Committee.

The Council will set up Standards Board Panels for dealing with local determinations in respect of cases into alleged breaches of the Code of Conduct.

The procedure for dealing with local determinations is:

9.02 The Composition

(a) **Membership.** The Standards Committee will comprise:

- Six Councillors who are not members of the Cabinet;
- Three independent persons who are not Councillors or Officers of the Council or any other body having a Standards Committee (Independent Members); Independent Members are entitled to vote at meetings;
- One Member of Whitworth Town Council who must be present when matters relating to Whitworth Town Council or their Members are being considered; the Town Council Member will be entitled to vote at meetings.

(b) **Membership.** Standards Board Panels will be made up from a pool of Members comprising the whole of the Standards Committee from which a Standards Board Panel of three may be drawn.

The Chair of each Panel shall normally be an Independent Member of the Standards Committee.

The Head of Planning, Legal & Democratic Services is given delegated power to select the Members of individual Panels.

9.03 Roles and Functions

The Standards Committee has the roles and functions set out in Part 3:

9.04 Appointment and Appeals

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

ARTICLE 10 – JOINT ARRANGEMENTS

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10.01 Arrangements to Promote Well Being

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

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

10.02 Joint Arrangements

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

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10.03 **Access to Information**

- (a) The Access to Information Procedure Rules in Part 4 of this Constitution (“Council Procedure Rules”) 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.

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

- (a) The Council may delegate non-Cabinet functions to another Local Authority or, in certain circumstances, the Cabinet of another Local Authority.
- (b) The Cabinet may delegate Cabinet functions to 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 Full Council meeting.

10.05 **Contracting out**

The Council (for functions which are not Cabinet functions) and the Cabinet (for Cabinet 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 the Deregulation and Contracting Out Act 1994 Section 70, 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 (see ‘Financial Regulations’ and ‘Contract Procedure Rule’s).

10.06 **Access to Information**

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

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¶
(a) The Council may delegate functions to another local authority or, in certain circumstances, the Cabinet of another local authority and also accept such a delegation from another local authority.
¶
(b) The decision whether or not to delegate functions to another local authority or to accept such a delegation from another local authority shall be reserved to the Full Council.¶

11.01 **Management Structure**

- (a) **General.** The Full Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The Full Council will engage persons for the following posts:
 - Chief Executive
 - Deputy Chief Executive
 - Executive Director of Resources
 - Head of Planning, Legal and Democratic Services
 - Head of Financial Services
- (c) **Head of Paid Service, Chief Finance Officer and Monitoring Officer.**

The Council will designate the following posts as shown:

<i>POST</i>	<i>DESIGNATION</i>
Chief Executive	Head of Paid Service
Head of Financial Services	Chief Finance Officer
Head of <u>Planning</u> , Legal and Democratic Services	Monitoring Officer

Such posts will have the functions described below.

11.02 **Functions of the Head of Paid Service**

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

11.03 **Functions of the Head of Financial Services**

- (a) **Ensuring Lawfulness and Financial Prudence of Decision Making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Head of Financial Services will report either to the Cabinet or to the Full Council and the Council's External Auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (b) **Administration of Financial Affairs.** The Head of Financial Services will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to Corporate Management.** The Head of Financial Services will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing Advice.** The Head of Financial Services will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Councillors and will support and advise Councillors and Officers in their respective roles.
- (e) **Give financial information.** The Head of Financial Services will provide financial information to the media, members of the public and the community.

11.04 **Functions of the Monitoring Officer**

- (a) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and the Head of Financial Services, the Monitoring Officer will report either to the Cabinet or the Full Council if he or she considers that any proposal, decision or omission would give rise or has given rise to unlawfulness or if any decision or omission would give rise or has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (b) **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (c) **Receiving reports.** The Monitoring Officer will receive and act upon reports made by Ethical Standards Officers appointed by the Standards Board for England and decisions of the Adjudication Panel
- (d) **Conducting investigations.** The Monitoring Officer will conduct or arrange for investigations into matters referred by Ethical Standards

Officers and make reports or recommendations in respect of them to the Standards Committee.

- (e) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Councillors.
- (f) **Restrictions on posts.** The Monitoring Officer cannot be the Head of Financial Services or the Head of Paid Service.
- (g) **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 public.

11.05 **Provision of sufficient resources to the Head of Paid Service, Head of Financial Services and Monitoring Officer**

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

11.06 **Conduct**

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

11.07 **Employment**

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

ARTICLE 12 – DECISION MAKING

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12.01 Responsibility for Decision Making

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

12.02 Principles of Decision Making

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

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

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12.03 Decision making by the Full Council

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

12.04 Decision making by the Overview and Scrutiny Management Committee and Scrutiny Committees

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

12.05 Decision making by the Cabinet and other Committees established by the Council

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

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

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

12.07 **Key Decisions**

A key decision is one that either:

- (a) is in value worth more than £100,000, or
- (b) has a significant impact because (for example) it either:
 - (i) affects individuals or organisations outside the Borough;
 - or
 - (ii) will have a long term (more than five years) or permanent effect on the Council or the Borough

ARTICLE 13 – FINANCE, CONTRACTS AND LEGAL MATTERS

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13.01 Financial Management

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

13.02 Contracts

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

13.03 Legal Proceedings

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

13.04 Authentication of Documents

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

13.05 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal and Democratic Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. Subject to Contract Procedure Rule 23.2, the affixing of the Common Seal will be attested by the Mayor or, in his or her absence, by the Deputy Mayor. In the absence of both the Mayor and Deputy Mayor the, Common Seal can be attested by the Chief Executive.

ARTICLE 14 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

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14.01 **Suspension of the Constitution**

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

14.02 **Interpretation**

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

14.03 **Publication**

- (a) The Monitoring Officer will give a printed copy of this Constitution to each Member of the authority upon delivery to him or her of that individual's declaration of acceptance of office on the Member's first being elected to the Council.
- (b) The Monitoring Officer will ensure that copies are available for inspection at Council Offices, libraries and other appropriate locations.
- (c) The Monitoring Officer will ensure that a summary of the Constitution is made widely available in print and on the Council's website within the Borough and is updated as necessary.

SCHEDULE 1: DESCRIPTION OF CABINET / EXECUTIVE ARRANGEMENTS

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

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

PART 3

RESPONSIBILITY FOR FUNCTIONS

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Terms of Reference
of
Committees

TERMS OF REFERENCE OF THE CABINET

1. **Role**

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

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

- a) Assets valued at over £100,000 by the Council's Valuer;
- b) All acquisitions and disposals of land, buildings or other property where the Council's Valuer values the land, buildings or other property at more than £250,000 but less than £1 million and it is proposed to accept the highest bid and the highest bid matches or exceeds the valuation of the Council's Valuer;
- c) All cases whatever the value where the buyer is either an Elected Member or an Officer;
- d) All disposals where the Council's Valuer values the property at over £100,000 and it is proposed to accept either a bid other than the highest or where the highest bid neither matches nor exceeds that of the Council's Valuer.

2. **Form and Composition**

The Cabinet will consist of the Leader together with seven other Councillors.

Leader

The Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office until:

- a) He or she resigns from the office;
- b) He or she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension);
- c) He or she is no longer a Councillor;
- d) The date of the next Annual Council Meeting at the end of the Municipal Year save that the Council may by resolution remove the Leader from office at an earlier date.

3. **Other Cabinet Members**

Other Cabinet Members shall hold office until:

- a) They resign from office;
- b) They are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension);
- c) They are removed from office either individually or collectively by resolution of the Council;

- d) They are no longer Councillors;
- e) The date of the next Annual Council Meeting at the end of the Municipal Year

4. **Proceedings of the Cabinet**

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

TERMS OF REFERENCE OF THE COUNCIL

As set out in Article 4.

TERMS OF REFERENCE OF THE DEVELOPMENT CONTROL COMMITTEE

- To deal with regulatory matters required by and flowing from the Town and Country Planning legislation (including [related Agreements under Section 106 of the Town and Country Planning Act 1990, and The Planning and Compulsory Purchase Act 2004](#)) and also enforcement matters, except those matters which are delegated to Officers.

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The Team Manager - Development Control has delegated power to determine all planning applications which accord with Policies adopted by the Council except for:

- All applications on Council – owned land by or on behalf of the Council, its partner organisation or other agents;
- All applications where the decision would be prejudicial to or in conflict with National or Development Plan Policy;
- All applications where it is known that the decision could give rise to substantial claims for compensation or purchase notices which might be difficult to defend;
- All applications where it is known that they are submitted by or on behalf of either Members or Officers (and their spouses/[partners](#));
- All applications which, in the opinion of the Team Manager - Development Control, are likely to be contentious or to give rise to significant, novel or unusual issues;
- All applications for development requiring an Environmental Impact Assessment;
- All applications where it is intended to overrule material planning objections from three or more separate addresses;
- All major applications for residential development for more than 0.5 hectares or 10+ dwellings (excluding reserved matters);
- All major applications for non-residential development for more than 1000m² or more or where the site will be one hectare or more;
- Any other application where a Councillor of the relevant ward in which the development is located requests in writing (within 14 days of being informed that the application has been submitted) that it should be determined at Committee.

TERMS OF REFERENCE OF THE ACCOUNTS COMMITTEE

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To deal with the following items:

To approve the Annual Accounts and Report of the Council (with delegated power);

To approve the Council's Statement of Accounts pursuant to Regulation 8(2) of the Accounts and Audit Regulations 1996.

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TERMS OF REFERENCE OF THE LICENSING COMMITTEE

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

- Waste Management Licences
 - Stage Play Licences
 - Places of Public Entertainment
 - Public Outdoor Entertainment
 - To raise objections to applications for licensed premises
 - Sale of intoxicating liquor and inspection of premises
 - Licences for House to House and Street Collections
 - Licensing of Hackney Carriage/Private Hire – Operators, Drivers and Vehicles
 - Lotteries, Amusements Act and Gaming Licences
 - Pet Shops Licences
 - Animal Boarding Establishment Licences
 - Guard Dog Licences
 - Game Dealers Licences
 - Scrap Metal Dealers Licences
 - Rag Flock and Other Materials Act
 - Riding Establishment Licences
 - Breeding of Dogs Act Licences
 - Late night refreshment House Licence
 - Acupuncture
 - Tattooing, Ear Piercing and Electrolysis
 - Second Hand Goods Dealers
 - Theatres Act
 - Cinematograph Acts
 - Fire Safety and Safety at Sports Grounds
 - Licences to Plant trees in highways
 - Licences re Caravan Sites and Control of Development Act, 1964 /sections 44 and 45
 - Dangerous Wild Animals
 - Take Away Food Shops
 - Liquor Licences (Licensing Act 2003)
 - Gambling Act 2005
- (1. Applications for a premises licence (where representations have been received and not withdrawn).
 2. Applications for a transfer of a licence (where representations have been received and not withdrawn).
 3. Applications for a transfer of a licence (where representations have been received from the Gambling Commission)
 4. Applications for a provisional statement (where representations have been received and not withdrawn)
 5. Review of a premises licence
 6. Applications for club gaming/club machine permits (where objections have been received and not withdrawn).
 7. Cancellation of club gaming/club machines
 8. Decisions to give a counter notice to a temporary use notice).

TERMS OF REFERENCE OF THE STANDARDS COMMITTEE

Roles and Functions

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 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 set out in the Members Code of Conduct;
- (g) Dealing with any reports from a case tribunal or interim case tribunal and any report from the Monitoring Officer on any matter which is referred by an Ethical Standards Officer to the Monitoring Officer;
- (h) Monitor the Constitution and make recommendations to Council in respect of any proposed amendments;
- (i) Consider and approve the Statement of Accounts;
- ~~(j) Monitor the whistle-blowing policy;~~ Deleted: i
- ~~(k) Monitor the Council's Corporate Governance arrangements;~~ Deleted: j
- ~~(l) To appoint a Standards Board Panel to hear and determine the outcome of local determinations and investigations;~~ Deleted: k
- ~~(m) Other functions delegated to the Committee by the Council in accordance with section 54(3) of the Local Government Act 2000, in accordance with any Regulations made under that Act as set out in Section 9.~~ Deleted: l

To exercise functions (a) to (g) in relation to Whitworth Town Council and the Members of Whitworth Town Council.

TERMS OF REFERENCE OF THE OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE

- To oversee the work of the Scrutiny Committees and Task and Finish Groups
- To receive reports from the Scrutiny Committees
- To consider final reports from the Task and Finish Groups
- To receive presentations from external organisations and partners
- To receive consultation documents as appropriate and agree a small working group to respond to specific documents, as necessary
- To assist the Council and the Cabinet in the Budget and Policy Frameworks
- To consider budget options as part of the budget consultation process
- To make recommendations to the Cabinet, Council and other organisations where appropriate
- To produce an Annual Report
- Liaise with external organisations whose operations affect the area to ensure that the interests of local people are enhanced by collaborative working
- Consider the Best Value Performance Plan and make recommendations on the plan to the Cabinet

TERMS OF REFERENCE OF THE POLICY SCRUTINY COMMITTEE

- Develop and review such policy matters referred to it by the Cabinet or Committees
- Consider and implement mechanisms to encourage and enhance community participation in the development of policy options
- Questions members of the Cabinet and/or Committees and or Officers about their views on issues and proposals affecting the area
- Monitor existing Council policies to ensure recommendations are being implemented
- Monitor the Forward Plan and agree those policies to be scrutinised prior to decision by Cabinet/Full Council
- Conduct research, undertake community and other consultation in the analysis of policy issues and possible options
- To make recommendations to the Cabinet, Council and other organisations where appropriate
- Question and gather evidence from any person (with his or her consent)

TERMS OF REFERENCE OF THE PERFORMANCE SCRUTINY COMMITTEE

- To monitor complaints handling
- To monitor Ombudsman Complaints
- To monitor and scrutinise Best Value Performance Indicators and other performance targets, Service Improvement Plans and policy objectives
- To consider and monitor the performance of the Cabinet and other Council Committees and Officers, as appropriate
- Scrutinise decisions referred to it under the 'Call-in Procedure'
- To scrutinise decisions made by the Cabinet and other Council Committees and Officers
- Question members of the Cabinet and Chairs of Committees, Chief Officers and Head of Service about their decisions and performance
- To make recommendations to the Cabinet, Council and other organisations where appropriate

- Review and scrutinise the performance of other public bodies whose operations affect the area and invite reports from them or request them to address the Performance Scrutiny Committee and local people about their activities and performance
- Question and gather evidence from any person (with his or her consent)

TERMS OF REFERENCE OF THE AUDIT SCRUTINY COMMITTEE

- To consider the head of internal audit's annual report and opinion, and a summary of internal audit activity (actual and proposed)
- To consider reports dealing with the management and performance of the providers of internal audit services
- To consider the external auditors annual letter, relevant reports and the report of those charged with governance
- To consider specific reports as agreed with the external auditor
- To consider summaries of specific internal audit reports, as requested
- To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale
- To liaise with the Audit Commission over the appointment of the Council's external auditor
- To commission work from internal and external audit
- To oversee the production of the authority's Statement of Internal Control and to recommend its adoption
- To consider the Council's compliance with its own and other published standards and controls
- To make recommendations to the Cabinet, Council and other organisations where appropriate
- To act as an Audit Committee

TERMS OF REFERENCE OF THE AREA FORUMS

The purpose of the Area Forums will be to:

- Enable the public to raise issues of local concern;
- Help Councillors represent their constituents;
- Enable the Council to explain how it provides services and to ask the public how they can be improved;
- Allocate any monies granted by the Council to community and voluntary groups for the betterment of the Borough.

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TERMS OF REFERENCE OF THE APPOINTMENT AND APPEALS COMMITTEE

To deal with a number of staffing issues including the recruitment of Officers, grievances, disciplinary and redundancy cases, any other appeal or tribunal which needs to be considered by Members of the Council.

ACCOMODATION WORKING GROUP

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Number of Councillors: 5 (Portfolio Holder; remaining 4 Councillors to be politically proportionate)

Quorum: 3

Terms of Reference

- To identify criteria to support the selection of a preferred option to meet the Council's longer term accommodation requirements.
- To identify from a long list of options a preferred option to meet the Council's long term accommodation needs, and advise the Cabinet and Council accordingly.
- To oversee consultation with the wider community in relation to the Council's Accommodation Strategy
- To oversee the selection of a design for any preferred option, advising the Cabinet and Council as necessary.
- To oversee on behalf of the Council the execution of any contract to deliver the solution, advising the Cabinet and Council as necessary.

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CAR PARKING GROUP

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Number of Councillors: 5 (Portfolio Holder, remaining 4 Councillors to be politically proportionate)

Quorum: 3

Terms of Reference

- Investigate options in terms of residents parking schemes.
- Monitor disc parking scheme and consider whether length of stay is appropriate to each individual car park.
- Investigate alternative revenue sources.
- Identify new car parks.
- Investigate options for additional facilities for cycle, motorcycle and coach and bus parking for the Borough.

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CHRISTMAS LIGHTS WORKING GROUP

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Number of Councillors: 5 (Portfolio Holder; remaining 4 Councillors to be politically proportionate)

Quorum: 3

Terms of Reference

- To consider and make recommendations to the Portfolio Holder for Community and Partnerships on the Christmas Lights displays throughout the Borough, specifically:
 - Opportunities for contributions from local businesses, and other forms of sponsorship
 - Promotional ideas for switch-on events
 - Short Term Strategy and Action Plan for lighting arrangements throughout the Borough.
 - Longer Term Strategy and Action Plan which seeks to provide improved Christmas lighting throughout the Borough

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CONSTITUTION WORKING GROUP

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Number of Councillors: 5 (Portfolio Holder; remaining 4 Councillors to be politically proportionate)

Quorum: 3

Terms of Reference

- To monitor and review the Constitution and make recommendations on proposed amendments to the Standards Committee and/or Full Council.
- To recommend improvements to the Standards Committee and/or Full Council resulting in a strong governance framework to ensure that ethical governance arrangements are appropriate and sufficiently robust.

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GRANTS ADVISORY GROUP

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Number of Councillors: 5 (Portfolio Holder, remaining 4 Councillors to be politically proportionate)

Quorum: 3

Terms of Reference

- To review applications and make recommendations to the Portfolio Holder for Community and Partnerships, the Head of Community and Partnerships and the Council’s Section 151 Officer on grant allocations specifically:
 - To consider how the grants assist the Council and the Local Strategic Partnership with their shared objectives in line with the Council’s Policy on Grants to Voluntary Sector Bodies.
 - To consider how to publicise availability of grant opportunities

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MEMBER DEVELOPMENT GROUP

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Number of Councillors: 5 (Portfolio Holder, remaining 4 Councillors to be politically proportionate and reflect the various roles of Elected Members)

Quorum: 3

Terms of Reference

- To provide strategic direction to formulate, implement, monitor and evaluate member development.
- To monitor strategically and to prioritise development plan activities.
- To monitor strategically the member development budget.
- To review strategically training outcomes.
- To ensure link to Council aims, priorities and objectives.
- To maintain the Member Development Charter
- To develop the Elected Member Development Programme.
- To promote development opportunities.
- To ensure cross-party communication.
- To share learning best practice.
- To ensure and promote accessibility.
- To promote diversity.
- To demonstrate continuous improvement.
- To identify learning objectives.
- To agree the Induction Programme.

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ROSSENDALE MARKETS LIAISON GROUP

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Number of Councillors: 1 or more (one of whom shall sit as Chair)

Other Members: 1 Neighbourhood Environmental Action Team (NEAT) Manager, two or more NEAT Officers, representation or assistant representation from each of Rossendale Markets and Officer from Estates.

Terms of Reference

- To act as the focal point for discussion and exchange of information and to liaise on all opportunities and initiatives within Rossendale Markets.
- To take a strategic view for the future provision of Markets within Rossendale in terms of supporting traders in the marketing, publicity and future development of the Markets, at all times giving consideration to market bylaws.
- To bring queries and concerns to its meetings and to ensure all information gained from the meetings is related back to the traders via their representations.
- To consult with Members of the Group on all issues regarding the licences, trading and legislation requirements of Rossendale Markets as and when required and to make recommendations for Elected Member approval.

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DELEGATION SCHEME

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PART 1 GUIDANCE FOR OFFICERS

1.0 Introduction

The Council has radically changed the way it operates. It has improved the level and quality of services to local people.

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1.2 A new Scheme of Delegation has been agreed which will give greater empowerment to officers. This means that the Council and the Cabinet have delegated the day to day management of services to Officers unless otherwise stated.

1.3 Directors, Heads of Service and Service Managers shall be empowered to authorise officers in their Departments to exercise on their behalf the powers delegated under this Scheme. In accordance with Section 100 G (2) of the Local Government Act 1972 a list of authorised officers will be held by the Monitoring Officer and will be available for public inspection during normal office hours. Any decisions taken under this authority shall remain the responsibility of the relevant Directors, Heads of Service and Service Managers and must be taken in the name of that Officer.

1.4 Decisions taken must clearly identify the Officer responsible for taking the decision.

1.5 These Guidance Notes set out the framework to decision making and establish a system to document decisions taken under the new Scheme.

1.6 These Guidance Notes are designed to assist Officers avoid the pitfalls in the decision making process. They are not a substitute for legal and other specialist advice which should always be sought in the case of doubt.

2.0 Background

2.1 Section 101 of the Local Government Act 1972 and section 15 of the Local Government Act 2000 set out the framework of delegation. They provide that a Council and a Cabinet can arrange for the discharge of functions through a committee, sub-committee or Officer of the authority, or any other local authorities. Committees can delegate to Sub-Committees or to Officers, and Sub-Committees can delegate to Officers, unless expressly prohibited. Section 32 of the Local Government Act 2000 enables the Secretary of State through Regulations to provide for the discharge of functions by:

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- (a) Committees
- (b) Sub-Committees
- (c) an individual Member
- (d) any Officer of the Authority

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

3.0 **Decision Making – The Process**

3.1 Before taking any decision, an Officer must satisfy him or herself of the following matters when relevant:

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

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

4.0 **Decision Making - Accountability**

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

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

4.3 The principal avenues for challenge to a decision are:

Designated Officers – Head of Paid Service, Monitoring Officer and Chief Finance Officer
European Convention of Human Rights
Central Government
The Courts by way of Judicial Review

4.4 There are a number of areas of action and decision-making by local authorities which typically give rise to challenge. They include:

failure to take into account relevant considerations, either as required by law or such as would be taken into account by any reasonable person, taking into account irrelevant considerations, acting so unreasonably such that no reasonable body of persons could have so acted, failure to direct itself properly in law, exercising a power for a purpose for which it was not conferred, acting in bad faith or for an improper motive, fettering or failing to exercise discretion, through improper delegation, failure to consult or to consult properly, either as a matter of statute or legitimate expectation, failure to act fairly or observe procedural requirements Officers are accountable to the Council for any day to day decisions they make, and may be required to report to, and to answer questions from, the Overview and Scrutiny Management Committees, in respect of any decision which they make.

5.0 **Decision Making – Recording the Decision**

5.1 The significance of decisions taken under delegated powers will vary and Directors, Heads of Service and Service Managers and those they empower to make decisions will need to exercise judgement in determining whether day to day decisions are significant enough to require formally recording. These decisions will be known as significant day to day decisions. To assist in this process, decisions are significant if they propose to incur revenue or capital expenditure in excess of £15,000.

Other decisions which need to be recorded are those which:

- (a) relate to human resources matters as set out Part 2 Section 4.2(a) of this Scheme;
- (b) require the acquisition or disposal of land or an interest in land in excess of £15,000 save where the value is equal to or in excess of the Council Valuers valuations;

- (c) require a virement of funding within approved virement powers of Officers;
 - (d) are of such significance to the locality, the Council or the services which it provides that the Officer is of the opinion that it should be recorded.
- 5.2 On making a significant day to day decision, the Officer must provide the Head of Planning, Legal and Democratic Services with a completed Record of Decision Form (attached at Appendix 2) within three clear working days of the date of taking the decision.
- 5.3 The Head of Legal and Democratic Services will maintain a record of all significant day to day decisions made by an Officer, including any information relied upon when the decision was made. The Head of Planning, Legal and Democratic Services will also ensure that the record of decisions is available for inspection during all normal office hours and that the public has the right to copy or to be provided with a copy of any part of that record, excluding any exempt or confidential information, upon payment of a reasonable copying and administrative charge. The record of decisions will also be made available for perusal by Members.
- 5.4 It is essential that the contents of the Record of Decision Form are clear in conveying the decision taken. The reasons for the decision must be set out.
- 5.5 It is now accepted in local authority decision-making that reasons have to be given. Generally, giving reasons is an accepted 'best practice' principle of good administration and the practice may be important in ensuring that controversial decisions are rooted in relevant considerations and with proper regard to available legal powers.
- 5.6 If a decision is challenged it is vital to be able to demonstrate that the proper processes were complied with. To be able to do this it is essential that adequate records are kept so they can be referred to and produced if necessary. These records should include written notes of all relevant meetings and discussions and copies of all papers considered in making a decision. It is best practice to keep a clear note of all considerations taken into account with reasons why they were considered relevant and why matters not considered were thought not to be relevant.
- 5.7 Services should maintain a central record of all delegated decisions with copies of the relevant documentation for a four year period.
- 5.8 It is important that where Officers involved in making decisions have a registrable interest this is declared on the Form to preserve the integrity of the process. Where Officers have a registrable interest they should seek the advice and approval of the Monitoring Officer prior to taking any decision in that interest.
- 5.9 There is no requirement to maintain a record of decisions involving expenditure less than £15,000 for the purpose of Councillor or public access. However, Officers are responsible for ensuring that sufficient evidence is kept

about the decision and the reasons for it. Evidence may be required for a Judicial Review, Employment Tribunal, Ombudsman, Audit Commission or other proceedings or investigation), and for ensuring that all those who need to know are informed promptly of the decision.

- 5.10 Officers are also responsible for ensuring that consultation is undertaken where appropriate, and especially where they are aware that the decision is likely to be controversial.

6.0 **Referral**

- 6.1 Whilst this Scheme is designed to encourage Officers to take responsibility for day to day decisions, an Officer may decide that a particular issue is such that it should be referred to the appropriate Committee for a decision to be taken. Such a referral must take place where the proposed decision is in conflict with existing Council Policy or the matter raises new issues of policy.

PART 2
GENERAL DELEGATIONS TO OFFICERS

1.0 General Delegation

- 1.1 Directors, Heads of Service and Service Managers have delegated powers to make decisions on behalf of the Council on those matters contained within this Scheme and delegated for decision by them.
- 1.2 An Officer referred to in 1.1 above shall be empowered to authorise Officers in their Services to exercise on their behalf powers delegated under this scheme and to authorise Officers to carry out specific statutory functions under the provisions of relevant legislation
- 1.3 Where an Officer referred to in 1.1 above is to be absent for any period, that officer may nominate to the Chief Executive, in writing, another Officer to act in that capacity during the period of absence.
- 1.4 In the Chief Executive's absence the Deputy Chief Executive will act as Chief Executive. In the Monitoring Officer's absence the Deputy Monitoring Officer will act as Monitoring Officer. In the Head of Financial Services's absence the Finance and Audit Manager will act as Head of Financial Services.
- 1.5 In cases of emergency, when Directors and Heads of Service do not have delegated powers they shall be empowered to make decisions relevant to their service area after consultation with the appropriate Chair and/or Vice Chair or Leader or Deputy Leader. Emergency action taken under this power must be reported to the next meeting of the appropriate Committee Deleted: or Sub-Committee

2.0 Financial Matters

2.1 Revenue Expenditure

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

2.2 Capital Expenditure

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

3.0 Contract Issues

Officers will deal with contracts in accordance with the Contract Procedure Rules.

4.0 Human Resources Issues

4.1 Appointments and Dismissals

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

4.2 Establishment

- (a) In consultation with the Head of Human Resources to approve changes to the number, distribution and terms of conditions of posts below Chief Officer level for which they are responsible subject to sufficient resources being available in the current and future years and (i) below (i) the maximum of new posts or changes to the establishment being limited to ten and full consultation must take place with the Chief Executive, Head of Financial Services and the appropriate Committee Chair, Vice Chair, Officers and relevant trade unions;
- (b) In consultation with the Head of Human Resources to approve planned overtime payments to Officers, subject to there being budgetary provision;
- (c) In consultation with the Head of Human Resources, to approve or otherwise requests for variations of periods of notice to terminate employment;
- (d) In consultation with the Head of Human Resources to consider applications for re-grading subject to the Council's agreed human resources policies and procedures
- (e) In consultation with the Head of Human Resources, to determine applications for early retirement on medical grounds in respect of all posts for which they are responsible for the purposes of the Superannuation regulations in cases where the Community Physician recommends early retirement on the grounds that they are incapable of performing their duties (or the duties of their former employment in the case of a former Officer) and the Officer concerned agrees in writing with that recommendation

4.3 Leave

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

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

4.4 Training

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

- (a) To approve training for the posts for which they are responsible, subject to sufficient resources being available within their training budget;
- (b) To authorise the attendance of staff at courses, seminars and conferences

(Note: When determining human resources matters or other issues within their Service the Head of Financial Services, Head of Human Resources and the Head of Legal and Democratic Services must consider the significance of the decision and whether or not to consult with the Chief Executive).

5.0 General Day To Day Management Of Services

- (a) Subject to any Statutory requirements or provisions contained in the Council Constitution including Rules of Procedure, Financial Regulations and Rules of Procedure Directors, Heads of Service and Service Managers are authorised to carry out any function or task to ensure the effective and efficient day to day management of Council Services;
- (b) To approve the level of any fees and charges for Council Services provided by their Service, subject to the approval of the Head of Financial Services and the Leader and The Leader of the Opposition;
- (c) to take any action delegated to him/her under any Council policies, plans or procedures;
- (d) Subject to Contract Procedure Rule 31, to appoint consultants and to obtain outside professional and technical advice and assistance subject to there being sufficient resources in the Service revenue budget.

(e) Unless otherwise referred to in Part 3 of this Scheme authority to exercise all powers conferred to the Council by the legislation set out in appendix 1 or any other statute or regulations through the :

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

6.0 Use of Fixed Penalty Receipts

To use fixed penalty receipts for the purpose of “qualifying functions” under the following legislation:

The Environmental Protection Act 1990;

The Anti-Social Behaviour Act 2003;

The Clean Neighbourhoods and Environmental Protection Act 2005.

PART 3
DELEGATIONS TO SPECIFIC OFFICERS

1.0 General Exceptions

- 1.1 The following delegations to specific Officers provide for the discharge of any functions of the Council with the exception of:
- (i) those functions reserved to the Council;
 - (ii) those functions reserved to Officers by legislation;
 - (iii) those matters which Directors or Heads of Service consider that the delegated authority should not be exercised and that they should be referred to the appropriate Committee or Sub-Committee for consideration.

2.0 Chief Executive

- 2.1 The Chief Executive shall be authorised to discharge any function not otherwise delegated to Directors and Heads of Service or which cannot be undertaken by the Cabinet
- 2.2 The Chief Executive shall be authorised to act as the Council's proper officer for the purpose of any function not otherwise delegated under these arrangements.
- 2.3 The Chief Executive is also authorised to act in place of a Director or Head of Service in cases of absence or unavailability unless statutory provisions prevent this.
- 2.4 The Chief Executive is also authorised to discharge the functions of Head of Paid Service
- 2.5 The Chief Executive shall be authorised to prepare the Emergency Plan
- 2.6 The Chief Executive in consultation with the Leader and Deputy Leader of the Council and the Leader of the opposition shall be authorised to agree any amendments or changes to the appointment of Members to Committees, Sub Committees or Outside Bodies.
- 2.7 To agree action which due to an emergency must be taken to safeguard the interest of the Council or the Borough of Rossendale.
- 2.8 The Chief Executive shall be authorised to delegate the areas of responsibility of any Head of Service to any other Head of Service

3.0 **Head of Human Resources**

3.1 The Head of Human Resources be authorised to exercise strategic control of Human Resources.

3.2 The Head of Human Resources is responsible for the day to day management of the Council's functions in relation to

- (a) industrial relations and
- (b) employment
- (c) health and safety matters
- (d) administration of payroll function
- (e) Organisational Development

4.0 **Deputy Chief Executive**

4.1 The Deputy Chief Executive shall be authorised to exercise strategic control of Planning, Transportation, Engineering, Environmental Services, Culture, Community Planning, Urban Renewal, Building Control and ICT, Streetsure and Liveability, Economic Regeneration and Strategic Housing, Spatial Development, Customer Services and E. Government, Community and Partnership.

5. **Head of Economic Regeneration and Strategic Housing**

Head of Economic Regeneration and Strategic Housing is responsible for the control of Economic Development, Regeneration, Housing Strategy, Single Regeneration Budget, Housing Market Renewal, Promotion of Rossendale, Public Car Parks, Engineering Services, On-Street Car Parking, Off Street Car Parking.

6. **The Strategic Private Sector Renewal Manager** shall be responsible for the day to day management of the Council's functions in relation to

Private Sector Housing including:-

- (i) administration of the housing grants regime
- (ii) other private sector renewal activities e.g. clearance, area renewal etc.
- (iii) disabled adaptations service
- (iv) policies and procedures relating to the condition and occupation of the stock e.g. Empty Properties Policy
- (v) liaison with and accreditation of private landlords
- (vi) the Private Sector Housing Strategy

7. **The Building Control Manager** is responsible for the day to day management of :

Building Control

The Facilities Manager is responsible for the day to day management of:

All Council Buildings
The Asset Management Plan
Signage

8. **The Team Manager - Development Control**

- 8.1 The Team Manager – Development Control shall be responsible for the day to day management of the Council’s functions in relation to shall be responsible for the day to day management of the Council’s functions in relation to

- (a) development control
- (b) conservation
- (c) that the Team Manager - Development Control shall be authorised to determine planning applications in accordance with the approved guidelines

- 8.2 The Team Manager – Development Control shall be responsible for submitting all planning applications on behalf of the Council (See Terms of Reference of the Development Control Committee)

9. **Head of Street Scene and Liveability**

Head of Street Scene and Liveability is responsible for the control of Environmental Health, NEAT Teams, Refuse and Recycling, Management of Parks and Open Spaces (including cemeteries), Community Safety, including the powers under the Clean Neighbourhoods and Environmental Protection Act 2005:

1. Vehicles

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

- (a) Under Section 6 to issue fixed penalty notices for the offences of exposing vehicles for sale or repairing a vehicle on the road.
- (b) Sub-Section 8 fixes the amount of the penalty at £100 which can be amended under Sub-Section 9.
- (c) To authorise an officer under Section 2A to issue a fixed penalty notice set at £200 in respect of an offence of abandoning a vehicle.
- (d) Under Section 11 authorise officers under Section 11 to issue notice of removal of vehicles immediately.

- (e) Under Section 12 authority to dispose of abandoned vehicles immediately where neither a registration mark or current licence is displayed.
- (f) Under Section 15 authority to issue notices of removal.

2. Litter and Refuse

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

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

3. Graffiti and Other Defacement

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

- (a) Authority to issue fixed penalty notices for the offences of graffiti and fly posting. Where no amount is specified by a local authority the base amount is £75.
- (b) Authority to issue removal notices requiring the removal of graffiti and fly posters under Section 31.

- (c) Under Section 32 authorise appropriate officers to have a programme of enforcement action under its local weights and measures powers to deal with the offence of selling aerosol paints to persons aged under 16 under Section 54 of the Anti-Social Behaviour Act 2003.
- (d) Under Section 34 authority to serve notices for removal of illegally displayed placards and posters and to recover the costs of removal.
- (e) Authority to enter premises for removal purposes.

4. Waste

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

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

5. Dogs

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

- (a) Under Section 55 power to make dog control orders.
- (b) Power to issue fixed penalty notices in respect of offences provided for. Where no amount is specified at the local level the fixed penalty is set at £75.

6. Noise

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

- (a) Under Section 69 the power to designate alarm notification areas requiring the occupier/owner of any premises to notify the local authority of the details of the keyholder for the premises.
- (b) Under Section 70 the power to withdraw a designation made under Section 69.
- (c) Under Section 73 the power to issue a fixed penalty notice for the offence of failing to nominate or to notify a keyholder to the local authority with the specified time period.
- (d) Under Section 74 the power to adopt regulations governing the power of the local authority to set local fixed penalty rates and circumstances in respect of which a local authority may provide reduced early payments.
- (e) Under Section 75 to adopt regulations allowing the local authority to retain the receipts arising from fixed penalty notices under regulations about how local authorities can use their penalty receipts.
- (f) Under Section 77 the power for an authorised officer to enter a property in order to silence an intruder alarm.
- (g) Under Section 78 the power for an authorised officer to enter premises using reasonable force following the issue of a warrant by a Justice of the Peace.
- (h) Under Section 79 the power for the local authority to recover expenses reasonably incurred by it in connection with entering the premises and silencing the alarm.
- (i) Under Section 82 the authority to issued fixed penalty notice for an offence committed under the Noise Act 1996 which permitted a local authority to deal with noise exceeding permitted levels up from only dwellings at night time.

Section 82 enables the local authority to set the level of fixed penalty in its area. The fixed penalty is set at £100 where no amount is specified by a local authority.

- (j) Section 84 amends the Noise Act 1996 extending its effect to certain licensed premises as well as dwellings. Under Section 84 the power to issue fixed penalty notice where the alleged offence relates to licensed premises, the amount of the fixed penalty will be fixed at £500 and no power for a local authority to set an alternative.
- (k) Section 83, power to adopt the provisions dealing with the use by local authorities of receipts from fixed penalty notices given under Section 8 of the Noise Act 1996 above.
- (l) Under Section 84 power to take action to deal with noise at night in respect of licensed premises to issue a fixed penalty notice in respect of licensed premises set at £500 with no power for a local authority to set an alternative rate in its area for an offence committed under the Noise Act 1996 Section 4a.
- (m) Under Section 86 amending Section 80 of the Environmental Protection Act 1990, power to a local authority to defer the issuing of an abatement notice in respect of noise.

7. Shopping and Luggage Trolleys

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

8. Statutory Nuisances

The power to deal with the following nuisances:

- (a) Under Section 101 amending Section 79 of the Environmental Protection Act 1990 so as to include in the statutory nuisances listed in that section “insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance.
- (b) Under Section 102 amending Section 79 of the Environmental Protection Act 1990 so as to provide that the statutory nuisances listed in that section including “artificial light emitted from premises so as to be prejudicial to health or a nuisance”.

9. Emergency Planning

The power to deal with emergency planning issues.

10. **The Environmental Health Manager** shall be responsible for the day to day management of the Council’s functions in relation to

- (a) environmental health

- (b) some private sector housing functions
- (c) environmental protection
- (d) public health

(e) land drainage

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11. **The Streetscene Operations Manager** shall be responsible for the day to day management of the Council's functions in relation to

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- (a) parks and open spaces
- (b) allotments
- (c) grounds maintenance (including the provision and maintenance of landscaping schemes and burials and cemeteries)
- (d) refuse collection, street cleansing and waste management
- (e) transport, including fleet management and maintenance
- (f) public conveniences

(g) Markets

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(h) statutory duties under the Environmental Protection Act 1990

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12. **The Head of Community and Partnerships** shall be responsible for the day to day management of the Council's functions in relation to

- (a) the local strategic partnership
- (b) cultural services through partnership, including:
 - (i) arts
 - (ii) art galleries and museums
 - (iii) recreation, sports facilities and sports development
 - (iv) twinning
 - (v) tourism
- (c) developing partnership arrangements
- (d) developing community involvement

15. **The Executive Director of Resources**

15.1 The Executive Director of Resources shall be authorised to exercise strategic control of Financial Services, Legal, Democratic, Estates Services, Policy and Change Management, Facility Management, Property Services and Asset Management.

15.2 The Executive Director of Resources, in consultation with the Portfolio Holder for Finance and Risk Management, has authority to deal with all assets where the Council's Valuer values the asset at less than £100,000.

15.3 The Executive Director of Resources, in consultation with the relevant Portfolio Holder, is responsible for the day to day management of the Council's functions in relation to

(a) Property Valuation

(b) authority to deal with all land and property matters where the Council's Valuer values the land and property at less than £100,000 including:-

acquisition of land and property

appropriation of land

disposal of land and property – equal to or in excess of Valuer's valuation

other dealings with land or any interest in land.

(c) authority to refuse requests for the purchase or lease of land or property vested in the Council or the grounds that disposal would not be in the interests of the Council.

(d) authority to approve all acquisitions and disposals of land, buildings or other property interests when the Council's Valuer values the land, buildings or other property interests at more than £100,000 but less than £250,000 and it is proposed to accept the highest bid and the highest bid matches or exceeds that of the Council's Valuer.

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16. **Head of Planning, Legal and Democratic Services**

16.1 The Head of Planning, Legal and Democratic Services is responsible for the control of Legal, Democratic and Estates Services, Development Control, Planning, Licensing and Property Services.

16.2 The Head of Planning, Legal and Democratic Services shall be authorised to act as Solicitor to the Council and to take any action intended to give effect to a decision of the Council, Committees/Sub-Committees or an Officer

16.3 The Head of Planning, Legal and Democratic Services is also authorised to discharge the functions of the Monitoring Officer

~~16.4 The Head of Planning, Legal and Democratic Services is responsible for the day to day management of the Council's functions in relation to~~

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(a) the commencement, defence, withdrawal or settlement of legal or other proceedings.

- (b) the authorisation of Council employees to conduct legal matters in court
- (c) contracts
- (d) the requirements of the Data Protection Act 1998,
- (e) licencing matters,
- (e) electoral matters,

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(g) electoral matters¶

¶

16.4.2 The Head of Planning, Legal and Democratic Services, in consultation with the relevant Portfolio Holder, is responsible for the day to day management of the Council's functions in relation to¶

¶

(a) authority to deal with all land and property matters where the Council's Valuer values the land and property at less than £100,000 including:- ¶

¶

acquisition of land and property ¶

appropriation of land ¶

disposal of land and property – equal to or in excess of Valuer's valuation ¶

other dealings with land or any interest in land.¶

¶

(b) authority to refuse requests for the purchase or lease of land or property vested in the Council or the grounds that disposal would not be in the interests of the Council.¶

(c) authority to approve all acquisitions and disposals of land, buildings or other property interests when the Council's Valuer values the land, buildings or other property interests at more than £100,000 but less than £250,000 and it is proposed to accept the highest bid and the highest bid matches or exceeds that of the Council's Valuer.

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Deleted: 16.5 The Head of Planning, Legal and Democratic Services shall be responsible for submitting all planning applications on behalf of the Council on land owned by the Council.¶

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16.5 To deal with the following matters under the Gambling Act 2005:

- (a) Applications for a premises licence (where no representations have been received or representations have been withdrawn)
- (b) Applications for a transfer of a licence (where no representations have been received or representations have been withdrawn)
- (c) Applications for a transfer of a licence (where no representations have been received from the Gambling Commission)
- (d) Applications for a provisional statement (where no representations have been received or representations have been withdrawn)
- (e) Applications for club gaming/club machine permits (where no representations have been received or representations have been withdrawn)
- (f) Applications for other permits
- (g) Cancellations of licensed premises gaming machine permits
- (h) Consideration of temporary use notices

17. **The Committee and Members Services Manager** is responsible for the day to day management of the Council's functions in relation to:

civic and ceremonial functions of the Council,
committee management
committee administration

18. **The Senior Solicitor** responsible for the day to day management of the Council's functions in relation to Legal Services.

18.1 **The Senior Solicitor** is the Council's Deputy Monitoring Officer, in the absence of the Council's Monitoring Officer.

19. **Head of Financial Services**

19.1 The Head of Financial Services is authorised to discharge the functions of the Chief Financial Officer (Sections 114, 115 and 151 of the Local Government Act 1972)

19.2 The Head of Financial Services is responsible for the control of the Council's functions in relation to

(a) financial services

(b) in consultation with the appropriate Directors and Heads Of Service authority to determine requests for grants, financial assistance including hardship and discretionary charitable relief and support up to £5000

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(c) the treasury management function (borrowing and investments)

Deleted: (d) the requirements of the Data Protection Act 1998 ¶¶

(d) the client officer for computer contracts

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(e) accountancy

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(f) the Council's insurance arrangements and risk management

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(g) the writing off of debts up to £2000

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(h) pensions

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(i) creditor payments

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(l) collection of sundry debtors

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(k) banking arrangements

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(l) setting the Council tax base

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(m) Contract management of the audit function

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(n) Procurement

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

(a) the administration of benefits

(b) the administration of Council Tax and national non-domestic rates

(c) benefit fraud

(d) Customer Services

(e) Contract Management arrangements in relation to phones and IT

(f) e-government and information services

21. **The Head of Policy and Change Management** is responsible for the day to day management of the Council's functions in relation to:

(a) performance management

**PART 4
PROPER OFFICERS**

1.0 LEGISLATION

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

2.0 PRINCIPAL APPOINTMENTS

2.1 The principal appointments are set out below:

Statutory Requirements

Officer Appointed

Section 151 Local Government Act 1972
Responsibility for financial administration

Head of Financial Services

Section 4 Local Government and Housing Act 1989
Head of Paid Service

Chief Executive

Section 5 Local Government and Housing Act 1989
Monitoring Officer

Head of Planning, Legal and Democratic Services

Section 8 Representation of People Act 1983
Returning Officer

Chief Executive

Part III of the Public Health (Control of Disease) Act 1984

Consultant in Communicable Disease Control

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LEGISLATION

Animal Boarding Establishments Act 1963
Anti Social Behaviour Act 2003
Breeding of Dogs Act 1973 and 1991
Building Act 1984
Building Regulations 2001 (as amended)
Caravan Sites Act 1968
Caravan Sites and Control of Development Act 1960
Cinema Licence Act 1985
Cinematograph Acts 1909 to 1982
Clean Air Act 1993
Clean Neighbourhoods and Environmental Protection Act 2005
Collection Fund (England) Regulations 1989
Construction (Design and Management) Regulations 1994
Control of Asbestos at Work Regulations 2001
Control of Pollution Act 1974
Control of Pesticides Regulations Act 1986
Consumer Safety (Amendment) Act 1986
Council Tax (General) Regulations 1992
County of Lancashire Act 1984
Criminal Justice and Public Order Act 1994
Dairy Products (Hygiene) Regulations 1995
Dangerous Dogs Act 1991
Dangerous Wild Animals Act 1976
Data Protection Acts 1984 and 1998
Disability at Work Act 1994
Dogs Act 1906
Environmental Protection Act 1990
Food and Drugs (Control of Food Premises) Act 1976
Food and Environment Protection Act 1985
Food Premises (Registration) Regulations 1991
Food Safety Act 1990
Food Safety (Fishery Products) Regulations 1992
Gambling Act 2005
Gas Safety (Installation and Use) Regulations 1998

Guard Dogs Act 1975
Health and Safety at Work etc. Act 1974
Highways Act 1980
Home Energy Conservation Act 1995
Housing Acts 1957, 1961, 1969, 1974, 1980 and 1985
Housing Benefit (General) Regulations 1987
Housing (Financial Provisions) Act 1958
Housing Grants, Construction and Regeneration Act 1996
Human Rights Act 1998
Land Drainage Act 1991
Leasehold Reform Act 1967
Licensing Act 2003
Litter Act 1983
Local Authorities (Funds) (England) Regulations 1992
Local Government Act 1999
Local Government Acts 1972 and 1974
Local Government Finance Acts 1988 and 1992
Local Government (Miscellaneous Provisions) Act 1976
Local Government and Housing Act 1989
Local Government (Miscellaneous Provisions) Acts 1976 and 1982
Meat Products (Hygiene) Regulations 1994
Milk and Dairies (General) Regulations 1959
Minced Meat and Meat Preparations (Hygiene) Regulations 1995
Mineral Workings Act 1985
National Assistance Act 1948
National Parks and Access to the Countryside Act 1949
New Roads and Street Works Act 1991
Noise and Statutory Nuisance Act 1993
Noise Insulation Regulations 1975
Offices, Shops and Railway Premises Act 1963
Party Wall Act 1996
Pet Animals Act 1951
Planning and Compensation Act 1991
Planning (Control of Major Accident Hazards) Regulations 1999
Planning (Listed Buildings and Conservation Areas) Act 1990
Planning (Hazardous Substances) Act 1990
Planning (Hazardous Substances) Regulations 1992

Police and Criminal Evidence Act 1984
Prevention of Damage by Pests Act 1949
Public Health Act 1936 and 1961
Public Health (Control of Disease) Act 1984
Public Utilities Street Works Act 1950
Refuse Disposal (Amenity Act) 1978
Regulatory Reform (Housing Assistance) (England and Wales) Order 2002
Regulation of Investigatory Powers Act 2000
Rent (Agriculture) Act 1976
Reservoirs Act 1975
Riding Establishments Act 1963
Road Traffic Act 1972
Road Traffic Regulation Act 1984
Road Traffic Regulation (Special Events) Act 1994
Safety of Sports Grounds Act 1975
Scrap Metal Dealers Act 1964
Shops Act 1950
Social Security Administration Act 1992
Social Security Administration (Fraud) Act 1997
Social Security Fraud Act 2001
Sporting Events (Control of Alcohol etc.) Act 1985
Sunday Trading Act 1994
Theatres Act 1968
Thefts Act 1968 and 1978
Town and Country Planning (Use Classes) Order 1987
Town and Country Planning Act 1990
Town and Country Planning (General Development Procedure) Order 1995 (and all subsequent amendments)
Town and Country Planning (General Permitted Development) Order 1995 (and all subsequent amendments)
Town and Country Planners (Environmental Impact Assessment) (England and Wales) Regulations 1999
Town Police Clauses Act 1847
Trade Descriptions Acts 1968-72
Transport Acts 1968 and 1985
Workplace (Health Safety and Welfare) Regulations 1992

COMMITTEE DELEGATIONS

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

**OFFICER DELEGATION SCHEME
RECORD OF DECISION FORM**

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<u>Date</u>	

<u>Ref No</u>	

Responsible Officer:

Title/Subject Matter-

Status

Summary :

Implications:

Information taken into account:

Options Considered:

Decision (with reasons)

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<u>Officers Consulted:</u>	<u>Signature</u>	<u>Date</u>
<u>Head of Financial Services</u>		
<u>Trade Unions</u>		
<u>Portfolio Holder</u>		
<u>Decision Made by:</u>		

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NOTES

- 1. Status - Is the issue an open and public matter or is it a private and excluded matter as described in Schedule 12 A of the Local Government Act 1972. If it is an open matter it is for publication. If it is a private matter it is not for publication and you state the reason why and the appropriate paragraph number of Schedule 12A details of which are in this part of the General Folder.
- 2. Implications – List any financial staffing and legal implications and remember to consult with legal, personnel or finance. Also consider implications such as LA21 Environment, Human Rights Act 1998. Equal opportunities, Community Safety, IT, Land and Property and Partnership Working.
- 3. If a Chief Officer consults with the appropriate Members they must sign the form so as to confirm that they have been consulted.
- 4. When the decision has been made and the form signed by either the Chief Officer or Head of Service Copies of the form should be sent to the following:-

Head of Planning, Legal and Democratic Services)
Head of Financial Services) if appropriate
Head of Human Resources)

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 Borough Council¶
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 Date

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NOTES

1. If a Chief Officer consults with the appropriate Members they must sign the form so as to confirm that they have been consulted.
2. Signed copies of the form to be sent to the following:-

Head of Planning, Legal and Democratic Services

Head of Financial Services

if appropriate

Head of Human Resources

PART 4
RULES OF PROCEDURE

COUNCIL PROCEDURE RULES (Standing Orders relating to the Council)

CONTENTS	RULE
Annual meeting of the Council	1
Ordinary meetings	2
Extraordinary meetings	3
Vacancies on Committees	4
Date, time and place of meetings	5
Notice of and summons to meetings	6
Quorum	7
Duration of meeting	8
Questions by the Public	9
Questions by Members	10
Notices of Motion	11
Motions without notice	12
Rules of debate	13
Debating motions	14
Procedure for amendments	15
Voting	16
Minutes	17
Record of attendance	18
Exclusion of public	19
Members' conduct	20
Disturbance by public	21
Suspension and amendment of Council Procedure Rules	22
Attendance at meetings	23
State of the Borough Debate	24

1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and Business

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

The annual meeting will:

- i) elect a person to preside if the Mayor or Deputy Mayor are not present;
- ii) elect the Chair of Council (Mayor);
- iii) elect the Vice-Chair of Council (Deputy Mayor);
- iv) approve the Minutes of the last meeting;
- v) receive any announcements from the Chair (Mayor) and/or Head of Paid Service
- vi) elect the Leader and Deputy Leader
- vii) appoint an Cabinet, at least one Overview and Scrutiny, a Standards Committee and such other Committees as the Council considers appropriate;
- viii) adopt the terms of reference of the Cabinet and agree the Officer Delegation Scheme
- ix) Approve a programme of ordinary meetings of the Council for the year; and
- x) consider any business set out in the notice convening the meeting.

1.2 Selection of Councillors on the Cabinet, Committees and Outside Bodies

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

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

2. **ORDINARY MEETINGS**

Ordinary meetings of the Council will take place in accordance with a programme of meetings decided by the Council. The agenda for Ordinary meetings will take the following form:-

- i) apologies and notification of substitutes;
- ii) approve the Minutes of the previous meeting(s);
- iii) receive any declarations of interest from Members;
- iv) receive any announcements or communications from the Mayor, Leader or the Head of Paid Service;
- v) Public Question Time in accordance with the Council's procedure etc;
- vi) deal with any outstanding business from the last Council;
- vii) to receive reports, and recommendations of the Cabinet and Committees;
- viii) deal with public questions;
- ix) consider Members questions and Members notices of motion if any ; and
- x) consider any other business specified in the summons to the meeting.

3. **EXTRAORDINARY MEETINGS**

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

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

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

3.2 **Business**

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

4. **VACANCIES ON COMMITTEES**

4.1 **Vacancies on the Cabinet and Committees**

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

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

The Council will approve a programme for annual and ordinary meetings of the Council for each year to be held in the Astoria at 7.00pm unless otherwise specified in the summons.

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

The Head of Paid Service will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear working days before a meeting, the Head of Paid Service will send a summons signed on his or her behalf to every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

7. **QUORUM**

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

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

8. **DURATION OF MEETING**

8.1 **Interruption of the Meeting**

If the business of a meeting of the Council has not been concluded within 3 hours of the start of the meeting, excluding the period taken up by the Public Question Time, the Mayor must interrupt the meeting and any Member speaking must immediately sit down. The Mayor will call for a vote on whether the meeting should continue and if the meeting should not continue to consider whether the outstanding business should stand adjourned to the next Council meeting or whether an extraordinary Council meeting should be called to dispose of that business.

9. **QUESTIONS BY THE PUBLIC AT COUNCIL**

9.1 **General**

Members of the public can speak and ask questions in accordance with the Council's procedure for public speaking at Council.

9.2 **Notice of Questions for Council**

No notice of a question need be given but it will help the Council prepare an answer to your question if you do submit it in writing.

9.3 **Order of Questions**

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

9.4 **Number of Questions**

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

9.5 **Scope of Questions**

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

- i) is not about a matter for which the Local Authority has a responsibility or which affects the Borough
- ii) requires the disclosure of exempt or confidential information
- iii) is defamatory, frivolous or offensive
- iv) is substantially the same as a question which has been asked at a meeting of the Council in the past six months.

9.6 **Record of Questions**

The Head of Paid Service will enter each written question received in a book open to public inspection and will immediately send a copy of the question to the Leader and/or the appropriate Committee Chair. Rejected questions will include reasons for rejection.

9.7 **Asking the Question at the Meeting**

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

9.8 **Answers to Questions**

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

9.9 **Written Answers**

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

10 **QUESTIONS BY MEMBERS**

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

The Leader

A Member of the Cabinet

The Chairman of any Committee or Sub-Committee

The Member of the Council appointed to a Joint Authority and nominated as Spokesperson for the Joint Authority.

The Member of the Council appointed as the Council's representative on an Outside Body.

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

A Member may give three clear working days notice of the Question to the Committee and Member Services Manager.

The Chairman shall determine the relevance and the number of Questions to be put.

10.2 **Answers**

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

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

10.2.2 The Leader shall determine which Member shall answer a particular Question.

10.2.3 The person to whom a Question is put may decline to answer.

10.2.4 Every Question shall be put and answered without discussion

10.2.5 Only Questions, not statements, are permitted.

10.3 Supplementary Questions

10.3.1 A Member putting a Question under Council Procedure Rule 10.1 may, with the consent of the Chairman, put one Supplementary Question to the Member to whom the first Question was put. The Supplementary Question must arise directly out of the original Question or the answer.

11 NOTICES OF MOTION AT COUNCIL

11.1 Notice

Except for motions which can be moved without notice under rule 13, written notice of every motion, signed by at least 2 Members, must be delivered to the Head of Paid Service at least eight clear working days before the date of the meeting. These will be entered in a book open to public inspection.

11.2 Motion Set Out in Agenda

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

11.3 Scope

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

PREVIOUS DECISION AND MOTIONS

11.4 Motion to Rescind a Previous Decision

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

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

11.6 Motion Similar to One Previously Rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 12 Members. Once the motion or

amendment is dealt with, no-one can propose a similar motion or amendment for six months.

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

The following motions may be moved without notice:-

- a) to appoint a chair of the meeting at which the motion is moved;
- b) in relation to the accuracy of the Minutes;
- c) to change the order of business in the agenda;
- d) to refer a matter to the Cabinet or a Council Committee or an appropriate body or individual;
- e) to receive reports or adoption of recommendations of the Cabinet, Committees or officers and any resolutions following from them
- f) to withdraw a motion;
- g) to amend a motion;
- h) to proceed to the next business;
- i) that the question be now put;
- j) to adjourn a debate;
- k) to adjourn a meeting;
- l) 9.30pm to adjourn the meeting or resolve to continue the meeting in accordance with Article 9(i);
- 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 21.3 or to exclude them from the meeting under Rule 21.4; and
- p) to give the consent of the Council where its consent is required by this Constitution;
- q) to extend the time limits for speeches
- r) to request a recorded vote

13 RULES OF DEBATE AT COUNCIL

13.1 General Rules of Debate

1. Each Member, on speaking, shall rise from his seat and address himself to the Mayor or Chairman and not to any other Member of the Council, and the Members shall speak to each other during the transaction of business by the respective titles of 'Mayor' or 'Councillor' as the case may be.
2. During the time when a Member is speaking no other Member shall rise or interrupt such Member's speech, unless he rises for the purpose of taking the ruling of the Mayor or Chairman on a point of order, or to seek permission to make a personal explanation as hereinafter provided.
3. Whenever the Mayor or Chairman rises to speak or give a ruling or to call a Member to order, no other Member shall continue standing, nor shall any other Member rise until the Chair is resumed.
4. If two or more Members rise at the same time to speak the Mayor or Chairman shall determine to whom belongs the priority of speaking.
5. Any Member shall be entitled to take the ruling of the Mayor or Chairman on a point of order at any time during the meeting.
6. No Member shall speak except upon the question before the Council unless it be to make a personal explanation by permission of the Mayor or Chairman and any Member permitted to make such an explanation must confine his observations strictly to the personal question.
7. If a Member rises for the purpose of taking the ruling of the Mayor or Chairman on a point of order, or to seek permission to make a personal explanation, the Member speaking at the time shall resume his seat, and the Member so rising shall resume his seat immediately on the Mayor or Chairman rising to give his ruling on the point of order or as to admissibility of the proposed personal explanation.
8. The ruling of the Mayor on a point of order, or as to the admissibility of a proposed personal explanation, shall be final and not open to discussion.
9. The Mayor shall decide all questions of order or procedure not provided for by these Procedure Rules.

13.2. Content and Length of Speeches

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

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

13.3 **When a Member May Speak Again**

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

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

13.4 **Amendments to Motions**

a) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.

b) If an amendment is not carried, other amendments to the original motion may be moved.

c) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

d) After an amendment has been carried, if required the Mayor/Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

13.5 **Alteration of Motion**

a) A 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.

13.6 **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.

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

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

- a) to withdraw a motion
- b) to amend a motion
- c) to proceed to the next business
- d) that the question be now put
- e) to adjourn a debate
- f) to adjourn a meeting
- g) after 3 hours of the start of the meeting excluding the period of the Public Question Time, to approve the remaining business before the Council in accordance with the process set out in rules 9.1 to 9.5 above.
- h) to exclude the public and press in accordance with the Access to Information Rules;
- i) to not hear further a Member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4

13.8 **Closure Motions**

- a) A Member may move the following motions at the end of a speech of another member:
 - i) to proceed to the next business;
 - ii) that the question be now put;
 - iii) to adjourn a debate; or
 - iv) to adjourn a meeting;

The mover and seconder of the motion shall not comment and there shall be no discussion on such motion.

- b) If a motion to proceed to the next business is seconded and the Mayor is of the opinion that the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- c) If a motion that the question be now put is seconded and the Mayor is of the opinion that the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

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

13.9 **Point of Order**

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

13.10 **Personal Explanation**

A 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 Mayor on the admissibility of a personal explanation will be final.

14 **DEBATING MOTIONS**

14.1 **Motion Moved**

1. The mover of the motion may and if he/she so desires must reserve their right of reply.
2. No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

14.2 **Right to Require Motion in Writing**

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

14.3 **Motion Seconded**

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

14.4 **Debate**

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

14.5 **Voting on Motion**

At the conclusion of the debate the Mayor will ask if there are any amendments to the motion. If there are none the Mayor will then call for a vote on the motion. If there are amendments they will be dealt with as set out in paragraph 15.

15 Procedure for Amendments

- 15.1 Once a Member has moved an amendment another Member must second the Amendment or the amendment will fail.
- 15.2 The mover of the amendment will have a right of reply at the conclusion of the debate of the amendment.
- 15.3 Members will proceed to debate the amendment in accordance with the general rules of debate.
- 15.4 At the conclusion of the debate the Mover will reply
- 15.5 The Mayor will then call for a vote on the amendment. If the amendment is lost the Mayor will ask if there are any other amendments and this procedure will repeat as above until all amendments have been dealt with.
- 15.6 If the amendment is carried the amendment then becomes the substantive motion and the Mayor will ask if there are any amendments to that.

16 VOTING

16.1 Majority

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

16.2 Chair's Casting Vote

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

16.3 Show of Hands

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

16.4 Ballots

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

16.5 Recorded Vote

If 3 Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the Minutes. A demand for a recorded vote will override a demand for a ballot.

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

Where any 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.

16.7 **Voting on Appointments**

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

17 **MINUTES**

17.1 **Signing the Minutes**

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

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

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

17.3 **Form of Minutes**

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

18 **RECORD OF ATTENDANCE**

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

19 **EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this constitution or Rule 22 (Disturbance by Public)

20 **MEMBERS' CONDUCT**

20.1 **Member Not to be Heard Further**

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

20.2 **Member to Leave the Meeting**

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

20.3 **General Disturbance**

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

21 **DISTURBANCE BY PUBLIC**

21.1 **Removal of Member of the Public**

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

21.2 **Clearance of Part of Meeting Room**

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

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

22.1 **Suspension**

All of these Council Rules of Procedure except Rule 17.6 and 18.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting or for the particular item under discussion.

22.2 **Amendment**

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

23 **ATTENDANCE AT MEETINGS**

If a Member fails to attend a meeting within six months the Chief Executive will report on the matter to the Council.

24 **STATE OF THE BOROUGH DEBATE**

24.1 **Calling of Debate**

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

24.2 **Form of Debate**

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

24.3 **Chairing of Debate**

The debate will be chaired by the Mayor.

24.4 **Results of Debate**

The results of the debate will be:

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

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CABINET PROCEDURE RULES

1. Discharge of Cabinet Functions

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

1. The Cabinet as a whole.
2. An Officer.
3. Another Local Authority or joint arrangements.

2. Frequency of Meetings

The Cabinet will meet at least 8 times a year at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

3. Meetings of the Cabinet

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

4. Quorum

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

5. How Decisions are taken by the Cabinet

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

6. How are Cabinet Meetings Conducted?

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

7. Substitutes

There will be no substitutes on the Cabinet.

8. Attendance at Meetings

Any part of an Cabinet Meeting where a key decision is to be taken must be open to the public unless confidential or exempt information is to be discussed.

9. Order of Business

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

1. Apologies and Declarations of Interest.
2. Consideration of the Minutes of the last meeting.
3. Matters referred to the Cabinet (whether by Overview and Scrutiny Committees or by the Council).
4. Consideration of reports from Overview and Scrutiny Committees.
5. Matters set out in the Agenda for the meeting.

10. Consultation

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

11. Agenda Formation

1. Subject to 2-5 below the Leader will decide upon the Agenda for the meetings for the Cabinet. He/she may put on the Agenda of any Cabinet meeting any matter which he/she wishes. A Proper Officer will comply with the Leader's requests in this respect.
2. 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.
3. The Proper Officer will make sure the item is placed on the Agenda of the next available meeting of the Cabinet where a relevant Overview and Scrutiny Committees or a Full Council have resolved that an item be considered by the Cabinet. However, there may only be up to 4 such items on any 1 Agenda. Once this number has been reached any further items will be deferred to the next meeting of the Cabinet.
4. Any Councillor may ask the Leader to put an item on the Agenda of an Cabinet Meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will name Councillor who asked for the item to be considered. This Councillor will be required to attend the meeting and if this Councillor does not attend the meeting it will be at the discretion of the Cabinet as to whether or not to consider the matter. However, there may only be up to 2 such items per Cabinet meeting and once this number has been reached any further items will be deferred to the next meeting of the Cabinet. If the Leader does not agree with the request for the item to be included on the Agenda of an Cabinet Meeting, he/she will write to the Member concerned giving a reason for the refusal.

5. The Monitoring Officer and/or The Chief Financial Officer may include an item for consideration on an Agenda of 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 an Cabinet Meeting if there is no meeting of the Cabinet soon enough to deal with the issue in question, then the persons entitled to include an item on the Agenda may also require that a meeting be convened at the matter will be considered.

12. Urgency Procedure

Urgent Cabinet decisions which cannot be delayed until the next meeting of the Cabinet may be taken by the relevant Chief Officer after consultation with the following:-

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

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13. Application of Council Procedure Rules

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

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

Committee Procedure Rules

1. Substitutes on Committees

1.1 That in the event of a Member of a Political Group on the Council being unable to attend a particular meeting of the Committee/Sub-Committee/Working Party to which he or she has been appointed by the Council, such member may nominate a Member from his or her Political Group to whom the seat has been allocated to act as his or her substitute subject to the following:-

- a) the appointment of a substitute to be for the duration of the particular meeting with full voting rights.
- b) where the Member nominating a substitute is the Chair/Vice-Chair the substitute shall not be entitled to act in this capacity.

Unless appointed so to act by the Committee/Sub-Committee/ Working Party.

- c) the nominated substitute to declare his appointment verbally at the commencement of the meeting under an Agenda item "Apologies and Notification of Substitutes" stating the name of the Member for whom he/she is acting as substitute.
- d) for the avoidance of doubt and since the appointment of a substitute is for the duration of a particular meeting it be not permitted under any circumstances for the substitute to be changed or for a Member to replace their nominated substitute once the nominated substitute has declared his/her appointment at the commencement of the meeting in accordance with (c) above.
- e) the appointment of a substitute Member to be recorded in the Minutes in the list of Members present at the meeting

2 Urgent Meetings of a Committee

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

3 Quorum

3.1 The quorum of a meeting of a Committee will be three elected Members of the authority; and the quorum of a meeting of a Sub-Committee will be two Members.

4 Duration of Meeting

4.1 Unless the majority of members present vote for the meeting to continue, any meeting which has not concluded its business by 9.30pm will adjourn immediately. Remaining business will be considered at a time and date

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

5 Notice of Questions for Committees

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

6 Order of Questions

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

7 Right to Address Committees and Sub Committees

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

8 Regulatory Committees

Separate procedures exist for questions and speaking at Development Control Committee and Licensing Committee. (These are under review)

9 Minutes and Proceedings of Committees

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

10 APPLICATION OF COUNCIL PROCEDURE RULES

The following Council Procedure Rules apply to meetings of Committees:

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

FINANCIAL PROCEDURE RULES

CONTENTS

Financial Management Standards
Performance Plans
Risk Management
General
Partnerships

FINANCIAL MANAGEMENT STANDARDS

Why is this important?

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

Key Controls

- 1.02 The key controls and control objectives for financial management standards are:
- (a) their promotion throughout the authority
 - (b) a monitoring system to review compliance with financial standards, and regular comparisons of performance indicators and benchmark standards that are reported to full council.

Responsibilities of the Finance Director

- 1.03 To ensure the proper administration of the financial affairs of the authority.
- 1.04 To set the financial management standards and to monitor compliance with them.
- 1.05 To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff throughout the authority.
- 1.06 To advise on the key strategic controls necessary to secure sound financial management.
- 1.07 To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

Responsibilities of Chief Officers

- 1.08 To promote the financial management standards set by the finance director in their departments and to monitor adherence to the standards and practices, liaising as necessary with the finance director.
- 1.09 To promote sound financial practices in relation to the standards, performance and development of staff in their departments.

MANAGING EXPENDITURE

Scheme of virement

Why is this important?

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

Key Controls

1.11 Key controls for the scheme of virement are:

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

Responsibilities of the Finance Director

1.12 To prepare jointly with the Chief Officer a report to Council where virements in excess of £25k are proposed.

Responsibilities of Chief Officers

- 1.13 A Chief Officer may exercise virement on budgets under his or her control for amounts up to £25k on any one budget head during the year, following notification to the finance director and in consultation with the appropriate Council member under arrangements agreed by the Full Council, provided there is no material negative effect on service delivery and subject to the conditions in paragraphs 1.15 to 1.17 below.
- 1.14 Amounts greater than £25k require the approval of The Cabinet, following a joint report by the Finance Director and the Chief Officer, which must specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial year. Amounts greater than £50k require the approval of the Full Council.
- 1.15 The prior approval of the Council is required for any virement, of whatever amount, where it is proposed to:
- vire between budgets of different accountable Council Committees
 - vire between budgets managed by different Chief Officers.
- 1.16 Virement that is likely to impact on the level of service activity of another Chief Officer should be implemented only after agreement with the relevant Chief Officer.
- 1.17 No virement relating to a specific financial year should be made after 31 March in that year.
- 1.18 Virement should where applicable follow any existing Scheme of Delegation.
- 1.19 Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:
- (a) the amount is used in accordance with the purposes for which it has been established
 - (b) the Council has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to Council.

Treatment of Year-End Balances

Why is this important?

- 1.20 The authority's scheme of virement sets out the authority's treatment of year-end balances. It is administered by the Finance Director within guidelines set by the Full Council. Any variation from the scheme of virement (as set out above) requires the approval of the Full Council.

- 1.21 The rules below cover arrangements for the transfer of resources between accounting years, ie a carry-forward. For the purposes of this scheme, a budget heading is a line in the estimates report, or, as a minimum, at an equivalent level to the standard service subdivision as defined by CIPFA in its Service Expenditure Analysis.

Key Controls

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

Responsibilities of the Finance Director

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

Responsibilities of Chief Officers

- 1.25 Any overspending on service estimates in total on budgets under the control of the Chief Officer must be carried forward to the following year, and will constitute the first call on service estimates in the following year. The Finance Director will report the extent of overspendings carried forward to the Council and to the Full Council.
- 1.26 Net underspendings on service estimates under the control of the Chief Officer may be carried forward, subject to the agreement of the Finance Director and:
- (a) reporting to the Council the source of underspending or additional income and the proposed application of those resources
 - (b) the approval of the full council where the underspending exceeds 5% of the individual budget heading or £10,000, whichever is less.
- 1.27 All internal business unit surpluses shall be retained for the benefit of the authority and their application shall require the approval of Council.

ACCOUNTING POLICIES

Why is this important?

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

Key Controls

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

Responsibilities of the Finance Director

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

Responsibilities of Chief Officers

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

ACCOUNTING RECORDS AND RETURNS

Why is this important?

- 1.32 Maintaining proper accounting records is one of the ways in which the authority discharges its responsibility for stewardship of public resources. The authority has a statutory responsibility to prepare its annual accounts

to present fairly its operations during the year. These are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the authority's resources.

Key Controls

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

Responsibilities of the Finance Director

- 1.34 To determine the accounting procedures and records for the authority. Where these are maintained outside the finance department, the Finance Director should consult the Chief Officer concerned.
- 1.35 To arrange for the compilation of all accounts and accounting records under his or her direction.
- 1.36 To comply with the following principles when allocating accounting duties:
- (a) separating the duties of providing information about sums due to or from the authority and calculating, checking and recording these sums from the duty of collecting or disbursing them
 - (b) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.

- 1.37 To make proper arrangements for the audit of the authority's accounts in accordance with the Accounts and Audit Regulations 1996.
- 1.38 To ensure that all claims for funds including grants are made by the due date.
- 1.39 To prepare and publish the audited accounts of the authority for each financial year, in accordance with the statutory timetable and with the requirement for the full council to approve the statement of accounts before the statutory deadline.
- 1.40 To administer the authority's arrangements for under- and overspendings to be carried forward to the following financial year.
- 1.41 To ensure the proper retention of financial documents in accordance with statutory requirements.

Responsibilities of Chief Officers

- 1.42 To consult and obtain the approval of the Finance Director before making any changes to accounting records and procedures.
- 1.43 To comply with the principles outlined in paragraph 1.38 when allocating accounting duties.
- 1.44 To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.
- 1.45 To supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the Finance Director.

THE ANNUAL STATEMENT OF ACCOUNTS

Why is this important?

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

Key controls

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

Responsibilities of the Finance Director

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

Responsibilities of Chief Officers

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

PERFORMANCE PLANS

Why is this important?

- 2.01 Each local authority has a statutory responsibility to publish various performance plans, including best value performance plans, crime reduction strategies, community care plans, etc. The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement. The authority is required to publish annually the best value performance plan (BVPP), which summarises its performance and position in relation to best value. The BVPP is a key element in the authority's programme of engaging with the public. External audit is required to report on whether the authority has complied with statutory requirements in respect of the preparation and publication of the BVPP.

Key Controls

- 2.02 The key controls for performance plans are:
 - (a) to ensure that all relevant plans are produced and that they are consistent
 - (b) to produce plans in accordance with statutory requirements
 - (c) to meet the timetables set
 - (d) to ensure that all performance information is accurate, complete and up to date
 - (e) to provide improvement targets which are meaningful, realistic and challenging.

Responsibilities of the Finance Director

- 2.03 To advise and supply the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.
- 2.04 To contribute to the development of corporate and service targets and objectives and performance information.
- 2.05 To ensure that systems are in place to measure activity and collect accurate information for use as performance indicators.
- 2.06 To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.

Responsibilities of Chief Officers

- 2.07 To contribute to the development of performance plans in line with statutory requirements.
- 2.08 To contribute to the development of corporate and service targets and objectives and performance information.

BUDGETING

Format of the budget

Why is this important?

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

Key Controls

- 2.10 The key controls for the budget format are:
 - (a) the format complies with all legal requirements
 - (b) the format complies with CIPFA's *Best Value Accounting – Code of Practice*
 - (c) the format reflects the accountabilities of service delivery.

Responsibilities of the Finance Director

- 2.11 To advise Members and chief officers on the format of the budget that is approved by the Full Council.

Responsibilities of Chief Officers

2.12 To comply with accounting guidance provided by the Finance Director.

Revenue budget preparation, monitoring and control

Why is this important?

- 2.13 Budget management ensures that once the budget has been approved by the full council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the authority to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.
- 2.14 By continuously identifying and explaining variances against budgetary targets, the authority can identify changes in trends and resource requirements at the earliest opportunity. The authority itself operates within an annual cash limit, approved when setting the overall budget. To ensure that the authority in total does not overspend, each service is required to manage its own expenditure within the cash-limited budget allocated to it.
- 2.15 For the purposes of budgetary control by service managers, a budget will normally be the planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required by the Chief Officer's scheme of delegation.

Key Controls

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

Responsibilities of the Finance Director

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

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

2.18 To administer the authority's scheme of virement.

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

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

Responsibilities of Chief Officers

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

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

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

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

2.25 To prepare and submit to Council Committees, reports on the service's projected expenditure compared with its budget, in consultation with the Finance Director.

- 2.26 To ensure prior approval by the Full Council for new proposals, of whatever amount, that:
- (a) create financial commitments in future years. *NB - A report on new proposals should explain the full financial implications, following consultation with the finance director. Unless the full council has agreed Chief Officers must plan to contain the financial implications of such proposals within their cash limit.*
 - (b) change existing policies, initiate new policies or cease existing policies
 - (c) materially extend or reduce the authority's services.
- 2.27 To ensure compliance with the scheme of virement.
- 2.28 To agree with the relevant Chief Officer where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Chief Officer's level of service activity.

Budgets and Medium-Term Planning

Why is this important?

- 2.29 The authority is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the authority's plans and policies.
- 2.30 The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the full council. Budgets (spending plans) are needed so that the authority can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for an authority to budget for a deficit.
- 2.31 Medium-term planning (or a three- to five-year planning system) involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the authority is always preparing for events in advance.

Key Controls

- 2.32 The key controls for budgets and medium-term planning are:
- (a) specific budget approval for all expenditure
 - (b) service managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Council for their budgets and the level of service to be delivered

- (c) a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

Responsibilities of the Finance Director

- 2.33 To prepare and submit reports on budget prospects for the Council, including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.
- 2.34 To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by the Full Council, and after consultation with the Council and Chief Officers.
- 2.35 To prepare and submit reports to the Council on the aggregate spending plans of departments and on the resources available to fund them, identifying, where appropriate, the implications for the level of council tax to be levied.
- 2.36 To advise on the medium-term implications of spending decisions
- 2.37 To encourage the best use of resources and value for money by working with Chief Officers to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- 2.38 To advise the Full Council and Council Committees on proposals in accordance with his or her responsibilities under section 151 of the Local Government Act 1972.

Responsibilities of Chief Officers

- 2.39 To prepare estimates of income and expenditure, in consultation with the Finance Director, to be submitted to Council Committees.
- 2.40 To prepare budgets that are consistent with any relevant cash limits, with the authority's annual budget cycle and with guidelines issued by the Council. The format should be prescribed by the Finance Director in accordance with the Full Council's general directions.
- 2.41 To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.
- 2.42 In consultation with the Finance Director and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by the appropriate committee.
- 2.43 When drawing up draft budget requirements, to have regard to:
 - (a) spending patterns and pressures revealed through the budget monitoring process

- (b) legal requirements
- (c) policy requirements as defined by the Full Council in the approved policy framework
- (d) initiatives already under way.

Resource Allocation

Why is this important?

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

Key Controls

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

Responsibilities of the Finance Director

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

Responsibilities of Chief Officers

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

Capital Programmes

Why is this important?

- 2.50 Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the authority, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.
- 2.51 The Government places strict controls on the financing capacity of the authority. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.
- 2.52 The authority is expected to have in place a Capital Strategy and Asset Management Plan (AMP). The AMP in particular should be review and updated at least annually and be based on a three year rolling programme.

Key Controls

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

Responsibilities of Finance Director

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

Responsibilities of Chief Officers

- 2.57 To comply with guidance concerning capital schemes and controls issued by the Finance Director.
- 2.58 To ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the Finance Director.
- 2.59 To prepare regular reports reviewing the capital programme provisions for their services. They should also prepare a quarterly return of estimated final costs of schemes in the approved capital programme for submission to the Finance Director.
- 2.60 To ensure that adequate records are maintained for all capital contracts.
- 2.61 To proceed with projects only when there is adequate provision in the capital programme and with the agreement of the Finance Director, where required.
- 2.62 To prepare and submit reports, jointly with the Finance Director, to the Council, of any variation in contract costs greater than the approved limits. The Council may choose to meet cost increases of up to 5% by virement from savings elsewhere within their capital programme.
- 2.63 To prepare and submit reports, jointly with the Finance Director, to the Council, on completion of all contracts where the final expenditure exceeds the approved contract sum by more than the specified amount.
- 2.64 To ensure that credit arrangements, such as leasing agreements or any other long term liability arrangements, are not entered into without the prior approval of the finance director and, if applicable, approval of the scheme through the capital programme.

- 2.65 To consult with the Finance Director and to seek Council approval where the Chief Officer proposes to bid for supplementary credit approvals to be issued by government departments to support expenditure that has not been included in the current year's capital programme.

MAINTENANCE OF RESERVES

Why is this important?

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

Key Controls

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

Responsibilities of the Finance Director

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

Responsibilities of Chief Officers

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

RISK MANAGEMENT

Why is this important?

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

identified risks and then recommending the action the organisation needs to take to control these risks effectively, whether by insurance or other methods.

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

Key Controls

3.03 The key controls for risk management are:

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

Responsibilities of the Finance Director

- 3.04 To prepare and promote the authority's risk management policy statement and strategy.
- 3.05 To develop risk management controls in conjunction with other Chief Officers.
- 3.06 To include all appropriate employees of the authority in a suitable fidelity guarantee insurance.
- 3.07 To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.

Responsibilities of Chief Officers

- 3.08 To notify the finance director immediately of any loss, liability or damage that may lead to a claim against the authority, together with any information or explanation required by the finance director or the authority's insurers.
- 3.09 To take responsibility for risk management, having regard to advice from the Finance Director and other specialist officers (eg crime prevention, fire prevention, health and safety).
- 3.10 To ensure that there are regular reviews of risk within their departments and that risk management is seen as a tool in service delivery.
- 3.11 To notify the Finance Director promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.
- 3.12 To consult the Finance Director and the Head of Legal and Democratic Services on the terms of any indemnity that the authority is requested to give.
- 3.13 To ensure that employees, or anyone covered by the authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim

INTERNAL CONTROLS

Why is this important?

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

Key controls

- 3.18 The key controls and control objectives for internal control systems are:

- (a) key controls should be reviewed on a regular basis and the authority should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively
- (b) managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities
- (c) financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and Information systems
- (d) an effective internal audit function that is properly resourced to ensure the finance director (s.151 Officer) is able to perform his statutory duties . It should operate in accordance with the principles contained in the Auditing Practices Board's auditing guideline *Guidance for Internal Auditors*, CIPFA's *Code of Practice for Internal Audit in Local Government in the United Kingdom* and with any other statutory obligations and regulations.

Responsibilities of the Finance Director

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

Responsibilities of Chief Officers

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

AUDIT REQUIREMENTS

Internal Audit

Why is this important?

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

Key controls

- 3.25 The key controls for internal audit are:
- (a) that it is independent in its planning and operation
 - (b) the Head of Internal Audit has direct access to the head of paid service, all levels of management and directly to elected members
 - (c) the internal auditors comply with the Auditing Practices Board’s guideline *Guidance for Internal Auditors*, as interpreted by CIPFA’s *Code of Practice for Internal Audit in Local Government in the United Kingdom*.

Responsibilities of the Finance Director

- 3.26 To ensure that internal auditors have the authority to:
- (a) access authority premises at reasonable times
 - (b) access all assets, records, documents, correspondence and control systems
 - (c) receive any information and explanation considered necessary concerning any matter under consideration
 - (d) require any employee of the authority to account for cash, stores or any other authority asset under his or her control
 - (e) access records belonging to third parties, such as contractors, when required
 - (f) directly access the head of paid service, the Council and Audit Committee.

- 3.27 To approve the strategic and annual audit plans prepared by the head of internal audit, which take account of the characteristics and relative risks of the activities involved.
- 3.28 To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

Responsibilities of Chief Officers

- 3.29 To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.
- 3.30 To ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- 3.31 To consider and respond promptly to recommendations in audit reports.
- 3.32 To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- 3.33 To notify the finance director immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority's property or resources. Pending investigation and reporting, the chief officer should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
- 3.34 To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Head of Internal Audit prior to implementation.

External Audit

Why is this important?

- 3.35 The Local Government Finance Act 1982 set up the Audit Commission, which is responsible for appointing external auditors to each local authority in England and Wales. The external auditor has rights of access to all documents and information necessary for audit purposes.
- 3.36 The basic duties of the external auditor are defined in the Audit Commission Act 1998 and the Local Government Act 1999. In particular, section 4 of the 1998 Act requires the Audit Commission to prepare a code of audit practice, which external auditors follow when carrying out their duties. The code of audit practice issued in March 2000 sets out the auditor's objectives to review and report upon:
- (a) the financial aspects of the audited body's corporate governance arrangements
 - (b) the audited body's financial statements

- (c) aspects of the audited body's arrangements to manage its performance, including the preparation and publication of specified performance information and compliance in respect of the preparation and publication of the BVPP.

3.37 The authority's accounts are scrutinised by external auditors, who must be satisfied that the statement of accounts 'presents fairly' the financial position of the authority and its income and expenditure for the year in question and complies with the legal requirements.

Key Controls

3.38 External auditors are appointed by the Audit Commission normally for a minimum period of five years. The Audit Commission prepares a code of audit practice, which external auditors follow when carrying out their audits.

Responsibilities of the Finance Director

3.39 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.

3.40 To ensure there is effective liaison between external and Internal Audit.

3.41 To work with the external auditor and advise, Council members and chief officers on their responsibilities in relation to external audit.

Responsibilities of Chief Officers

3.42 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.

3.43 To ensure that all records and systems are up to date and available for inspection.

PREVENTING FRAUD AND CORRUPTION

Why is it this important?

3.44 The authority will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the authority.

3.45 The authority's expectation of propriety and accountability is that members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

3.46 The authority also expects that individuals and organisations (eg suppliers, contractors, service providers) with whom it comes into contact will act towards the authority with integrity and without thought or actions involving fraud and corruption.

Key Controls

- 3.47 The key controls regarding the prevention of financial irregularities are that:
- (a) the authority has an effective anti-fraud and anti-corruption policy and maintains a culture that will not tolerate fraud or corruption
 - (b) all members and staff act with integrity and lead by example
 - (c) senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the authority or who are corrupt
 - (d) high standards of conduct are promoted amongst members by the standards committee
 - (e) the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded
 - (f) whistle blowing procedures are in place and operate effectively
 - (g) legislation including the Public Interest Disclosure Act 1998 is adhered to.

Responsibilities of the Finance Director

- 3.48 To develop and maintain an anti-fraud and anti-corruption policy.
- 3.49 To maintain adequate and effective internal control arrangements.
- 3.50 To ensure that all suspected irregularities are reported to the Chief Internal Auditor, the Head of Paid Service and the Audit Committee.

Responsibilities of Chief Officers

- 3.51 To ensure that all suspected irregularities are reported to the Chief Internal Auditor.
- 3.52 To instigate the authority's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.
- 3.53 To ensure that where financial impropriety is discovered, the Finance Director is informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place.
- 3.54 To maintain a departmental register of interests.

ASSETS

Security

Why is this important?

3.55 The authority holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

Key Controls

3.56 The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:

- (a) resources are used only for the purposes of the authority and are properly accounted for
- (b) resources are available for use when required
- (c) resources no longer required are disposed of in accordance with the law and the regulations of the authority so as to maximise benefits
- (d) an asset register is maintained for the authority, assets are recorded when they are acquired by the authority and this record is updated as changes occur with respect to the location and condition of the asset
- (e) all staff are aware of their responsibilities with regard to safeguarding the authority's assets and information, including the requirements of the Data Protection Act and software copyright legislation
- (f) all staff are aware of their responsibilities with regard to safeguarding the security of the authority's computer systems, including maintaining restricted access to the information held on them and compliance with the authority's computer and internet security policies.

Responsibilities of the Finance Director

3.57 To ensure that an asset register is maintained in accordance with good practice for all fixed assets with a value in excess of £6,000. The function of the asset register is to provide the authority with information about fixed assets so that they are:

- safeguarded
- used efficiently and effectively
- adequately maintained.

- 3.58 To receive the information required for accounting, costing and financial records from each Chief Officer.
- 3.59 To ensure that assets are valued in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC).

Responsibilities of Chief Officers

- 3.60 The appropriate Chief Officer shall maintain a property database in a form approved by the Finance Director for all properties, plant and machinery and moveable assets currently owned or used by the authority. Any use of property by a department or establishment other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use.
- 3.61 To ensure that lessees and other prospective occupiers of council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Chief Officer in consultation with the Finance Director, has been established as appropriate.
- 3.62 To ensure the proper security of all buildings and other assets under their control.
- 3.63 Where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a joint report by the Chief Officer and the Finance Director.
- 3.64 To pass title deeds to the appropriate Chief Officer who is responsible for custody of all title deeds.
- 3.65 To ensure that no authority asset is subject to personal use by an employee without proper authority.
- 3.66 To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the authority.
- 3.67 To ensure that the department maintains a register of moveable assets in accordance with arrangements defined by the Finance Director.
- 3.68 To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- 3.69 To consult the Finance Director in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 3.70 To ensure cash holdings on premises are kept to a minimum and adequately secured.

- 3.71 To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Finance Director as soon as possible.
- 3.72 To record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless, following consultation with the Finance Director, Council Members agree otherwise.
- 3.73 To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Finance Director.
- 3.74 To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the authority in some way.

Inventories

- 3.75 To maintain inventories and record an adequate description of furniture, fittings, equipment, plant and machinery above £500 in value.
- 3.76 To carry out an annual check of all items on the inventory in order to verify location, review, condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the authority.
- 3.77 To make sure that property is only used in the course of the authority's business, unless the Chief Officer concerned has given permission otherwise.

Stocks and Stores

- 3.78 To make arrangements for the care and custody of stocks and stores in the department.
- 3.79 To ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.
- 3.80 To investigate and remove from the authority's records (ie write off) discrepancies as necessary, or to obtain Council approval if they are in excess of a predetermined limit.
- 3.81 To authorise or write off disposal of redundant stocks and equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction, unless, following consultation with the Finance Director, Council members decide otherwise in a particular case.
- 3.82 To seek Council approval to the write-off of redundant stocks and equipment in excess of a predetermined sum.

Intellectual Property

Why is this important?

- 3.83 Intellectual property is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Various acts of Parliament cover different types of intellectual property.
- 3.84 Certain activities undertaken within the authority may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property.

Key Controls

- 3.85 In the event that the authority decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with the authority's approved intellectual property procedures.

Responsibilities of the Finance Director

- 3.86 To develop and disseminate good practice through the authority's intellectual property procedures.

Responsibilities of Chief Officers

- 3.87 To ensure that controls are in place to ensure that staff do not carry out private work in council time and that staff are aware of an employer's rights with regard to intellectual property.

Asset Disposal

Why is this important?

- 3.88 It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations of the authority.

Key controls

- 3.89 Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the authority, and best price is obtained, bearing in mind other factors, such as environmental issues. For items of significant value, disposal should be by competitive tender or public auction.
- 3.90 Procedures protect staff involved in the disposal from accusations of personal gain.

Responsibilities of the Finance Director

- 3.91 To issue guidelines representing best practice for disposal of assets.

- 3.92 To ensure appropriate accounting entries are made to remove the value of disposed assets from the authority's records and to include the sale proceeds if appropriate.

Responsibilities of Chief Officers

- 3.93 To seek advice from purchasing advisors on the disposal of surplus or obsolete materials, stores or equipment.
- 3.94 To ensure that income received for the disposal of an asset is properly banked and coded.

TREASURY MANAGEMENT

Why is this important?

- 3.95 Many millions of pounds pass through the authority's books each year. This led to the establishment of codes of practice. These aim to provide assurances that the authority's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the authority's capital sum.

Key Controls

- 3.96 That the authority's borrowings and investments comply with the CIPFA *Code of Practice on Treasury Management*, the *Prudential Code on Treasury Management* and with the authority's treasury policy statement.

Responsibilities of finance director – treasury management and banking

- 3.97 To arrange the borrowing and investments of the authority in such a manner as to comply with the CIPFA *Code of Practice on Treasury Management* and the authority's treasury management policy statement and strategy.
- 3.98 To report four times a year on treasury management activities to the Council.
- 3.99 To operate bank accounts as are considered necessary – opening or closing any bank account shall require the approval of the Finance Director.

Responsibilities of Chief Officers – Treasury Management and Banking

- 3.100 To follow the instructions on banking issued by the Finance Director.

Responsibilities of Finance Director – Investments and Borrowing

- 3.101 To ensure that all investments of money are made in the name of the authority or in the name of nominees approved by the Full Council.
- 3.102 To ensure that all securities that are the property of the authority or its nominees and the title deeds of all property in the authority's ownership are held in the custody of the appropriate Chief Officer.

- 3.103 To effect all borrowings in the name of the authority.
- 3.104 To act as the authority's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the authority.

Responsibilities of Chief Officers – investments and borrowing

- 3.105 To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Full Council, following consultation with the Finance Director.

Responsibilities of Chief Officers – Trust Funds and Funds Held for Third Parties

- 3.106 To arrange for all trust funds to be held, wherever possible, in the name of the authority. All officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the Finance Director, unless the deed otherwise provides.
- 3.107 To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Finance Director, and to maintain written records of all transactions.
- 3.108 To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

Responsibilities of the Finance Director – Imprest Accounts

- 3.109 To provide employees of the authority with cash or bank imprest accounts to meet minor expenditure on behalf of the authority and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed the prescribed amount.
- 3.110 To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.
- 3.111 To reimburse imprest holders as often as necessary to restore the imprests, but normally not more than monthly.

Responsibilities of Chief Officers – Imprest Accounts

- 3.112 To ensure that employees operating an imprest account:
- (a) obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained
 - (b) make adequate arrangements for the safe custody of the account

- (c) produce upon demand by the finance director cash and all vouchers to the total value of the imprest amount
- (d) record transactions promptly
- (e) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder
- (f) provide the Finance Director with a certificate of the value of the account held at 31 March each year
- (g) ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made
- (h) on leaving the authority's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Finance Director for the amount advanced to him or her.

STAFFING

Why is this important?

- 3.113 In order to provide the highest level of service, it is crucial that the authority recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

Key Controls

- 3.114 The key controls for staffing are:
- (a) an appropriate staffing strategy and policy exists, in which staffing requirements and budget allocation are matched
 - (b) procedures are in place for forecasting staffing requirements and cost
 - (c) controls are implemented that ensure that staff time is used efficiently and to the benefit of the authority
 - (d) checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.

Responsibilities of the Finance Director

- 3.115 To ensure that budget provision exists for all existing and new employees.
- 3.116 To act as an advisor to chief officers on areas such as National Insurance and pension contributions, as appropriate.

Responsibilities of Chief Officers

- 3.117 To produce an annual staffing budget.
- 3.118 To ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).
- 3.119 To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.
- 3.120 To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.
- 3.121 To ensure that the Head of Human Resources and the Finance Director are immediately informed if the staffing budget is likely to be materially over- or underspent.

GENERAL

Why is this important?

- 4.01 Departments have many systems and procedures relating to the control of the authority's assets, including purchasing, costing and management systems. Departments are increasingly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.
- 4.02 The Finance Director has a professional responsibility to ensure that the authority's financial systems are sound and should therefore be notified of any new developments or changes.

Key Controls

The key controls for systems and procedures are:

- (a) basic data exists to enable the authority's objectives, targets, budgets and plans to be formulated
- (b) performance is communicated to the appropriate managers on an accurate, complete and timely basis
- (c) early warning is provided of deviations from target, plans and budgets that require management attention
- (d) operating systems and procedures are secure.

Responsibilities of the Finance Director

- 4.03 To make arrangements for the proper administration of the authority's financial affairs, including to:
- (a) issue advice, guidance and procedures for officers and others acting on the authority's behalf
 - (b) determine the accounting systems, form of accounts and supporting financial records
 - (c) establish arrangements for audit of the authority's financial affairs
 - (d) approve any new financial systems to be introduced
 - (e) approve any changes to be made to existing financial systems.

Responsibilities of Chief Officers

- 4.04 To ensure that accounting records are properly maintained and held securely.
- 4.05 To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Finance Director.
- 4.06 To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- 4.07 To incorporate appropriate controls to ensure that, where relevant:
- (a) all input is genuine, complete, accurate, timely and not previously processed
 - (b) all processing is carried out in an accurate, complete and timely manner
 - (c) output from the system is complete, accurate and timely.
- 4.08 To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- 4.09 To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
- 4.10 To ensure that systems are documented and staff trained in operations.
- 4.11 To consult with the Finance Director before changing any existing system or introducing new systems.

- 4.12 To establish a scheme of delegation identifying officers authorised to act upon the chief officer's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.
- 4.13 To supply lists of authorised officers, with specimen signatures and delegated limits, to the Finance Director, together with any subsequent variations.
- 4.14 To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- 4.15 To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.
- 4.16 To ensure that relevant standards and guidelines for computer systems issued by the Chief Officer are observed.
- 4.17 To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.
- 4.18 To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
- (a) only software legally acquired and installed by the authority is used on its computers
 - (b) staff are aware of legislative provisions
 - (c) in developing systems, due regard is given to the issue of intellectual property rights

INCOME AND EXPENDITURE

Income

Why is this important?

- 4.19 Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the authority's cashflow and also avoids the time and cost of administering debts.

Key Controls

- 4.20 The key controls for income are:
- (a) all income due to the authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed

- (b) all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery
- (c) all money received by any employee on behalf of the authority is paid without delay to the Finance Director or, as he or she directs, to the authority's bank or National Giro account, and properly recorded. The responsibility for cash collection should be separated from that:
 - for identifying the amount due
 - for reconciling the amount due to the amount received
- (d) effective action is taken to pursue non-payment within defined timescales
- (e) formal approval for debt write-off is obtained
- (f) appropriate write-off action is taken within defined timescales
- (g) appropriate accounting adjustments are made following write-off action
- (h) all appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule
- (i) money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

Responsibilities of the Finance Director

- 4.21 To agree arrangements for the collection of all income due to the authority and to approve the procedures, systems and documentation for its collection.
- 4.22 To order and supply to departments all receipt forms, books or tickets and similar items and to satisfy himself or herself regarding the arrangements for their control.
- 4.23 To agree the write-off of bad debts up to an approved limit in each case and to refer larger sums to Council (eg inter alia The Scheme of Delegation).
- 4.24 To approve all debts to be written off in consultation with the relevant chief officer and to keep a record of all sums written off up to the approved limit and to adhere to the requirements of the Accounts and Audit Regulations 1996.
- 4.25 To obtain the approval of Council in consultation with the relevant chief officer for writing off debts in excess of the approved limit.
- 4.26 To ensure that appropriate accounting adjustments are made following write-off action.

Responsibilities of Chief Officers

- 4.27 To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly, in line with corporate policies.
- 4.28 To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.
- 4.29 To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- 4.30 To issue official receipts or to maintain other documentation for income collection.
- 4.31 To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.
- 4.32 To hold securely receipts, tickets and other records of income for the appropriate period.
- 4.33 To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.
- 4.34 To ensure that income is paid fully and promptly into the appropriate authority bank account in the form in which it is received. Appropriate details should be recorded on to paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis.
- 4.35 To ensure income is not used to cash personal cheques or other payments.
- 4.36 To supply the Finance Director with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Finance Director to record correctly the sums due to the authority and to ensure accounts are sent out promptly. To do this, Chief Officers should use established performance management systems to monitor recovery of income and flag up areas of concern to the Finance Director. Chief Officers have a responsibility to assist the Finance Director in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the authority's behalf. Only up to approved levels of cash can be held on the premises.
- 4.37 To keep a record of every transfer of money between employees of the authority. The receiving officer must sign for the transfer and the transferor must retain a copy.
- 4.38 To recommend to the finance director all debts to be written off and to keep a record of all sums written off up to the approved limit. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.

- 4.39 To obtain the approval of the Finance Director when writing off debts in excess of the approved limit, and the approval of the Council where required.
- 4.40 To notify the Finance Director of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the finance director and not later than 30 April.

Ordering And Paying For Work, Goods And Services

Why is this important?

- 4.41 Public money should be spent with demonstrable probity and in accordance with the authority's policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The authority's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the authority's code of practice on tenders and contracts.

General

- 4.42 Every Officer and member of the authority has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the authority, in accordance with appropriate codes of conduct.
- 4.43 Official orders must be in a form approved by the finance director. Official orders must be issued for all work, goods or services to be supplied to the authority, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Finance Director.
- 4.44 Each order must conform to the guidelines approved by the Full Council on central purchasing and the standardisation of supplies and materials. Standard terms and conditions must not be varied without the prior approval of the Finance Director.
- 4.45 Apart from petty cash, and other payments from advance accounts, the normal method of payment from the authority shall be by cheque or other instrument or approved method, drawn on the authority's bank account or National Giro account by the Finance Director. The use of direct debit shall require the prior agreement of the Finance Director.
- 4.46 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of authority contracts.

Key Controls

- 4.47 The key controls for ordering and paying for work, goods and services are:
- (a) all goods and services are ordered only by appropriate persons and are correctly recorded

- (b) all goods and services shall be ordered in accordance with the authority's code of practice for tenders and contracts unless they are purchased from sources within the authority
- (c) goods and services received are checked to ensure they are in accordance with the order. Goods should not be received by the person who placed the order
- (d) payments are not made unless goods have been received by the authority to the correct price, quantity and quality standards
- (e) all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method
- (f) all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention schedule
- (g) all expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected
- (h) in addition, the effect of e-business/e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

Responsibilities of the Finance Director

- 4.48 To ensure that all the authority's financial systems and procedures are sound and properly administered.
- 4.49 To approve any changes to existing financial systems and to approve any new systems before they are introduced.
- 4.50 To approve the form of official orders and associated terms and conditions.
- 4.51 To make payments from the authority's funds on the chief officer's authorisation that the expenditure has been duly incurred in accordance with financial regulations.
- 4.52 To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- 4.53 To make payments to contractors on the certificate of the appropriate chief officer, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.
- 4.54 To provide advice and encouragement on making payments by the most economical means.
- 4.55 To ensure that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate

budget allocation so that they can be taken into account in budget monitoring reports.

Responsibilities of Chief Officers

- 4.56 To ensure that unique pre-numbered official orders are used for all goods and services, other than the exceptions specified in 4.43.
- 4.57 To ensure that orders are only used for goods and services provided to the department directorate. Individuals must not use official orders to obtain goods or services for their private use.
- 4.58 To ensure that only those staff authorised by him or her sign orders and to maintain an up to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their authority. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Best value principles should underpin the authority's approach to procurement. Value for money should always be achieved.
- 4.59 To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories or stores records.
- 4.60 To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming:
- (a) receipt of goods or services
 - (b) that the invoice has not previously been paid
 - (c) that expenditure has been properly incurred and is within budget provision
 - (d) that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices
 - (e) correct accounting treatment of tax
 - (f) that the invoice is correctly coded
 - (g) that discounts have been taken where available
 - (h) that appropriate entries will be made in accounting records.
- 4.61 To ensure that two authorised members of staff are involved in the ordering, receiving and payment process. If possible, a different officer from the person who signed the order, and in every case, a different officer from the person checking a written invoice, should authorise the invoice.

- 4.62 To ensure that the department maintains and reviews periodically a list of staff approved to authorise invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the Finance Director.
- 4.63 To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice. Any instances of these being rendered should be reported to the Head of Internal Audit.
- 4.64 To encourage suppliers of goods and services to receive payment by the most economical means for the authority. It is essential, however, that payments made by direct debit have the prior approval of the Finance Director.
- 4.65 To ensure that the department obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the best practice guidelines issued by the Finance Director, which are in line with best value principles and contained in the authority's code of practice for tenders and contracts.
- 4.66 To utilise the central purchasing procedures established by the finance director in putting purchases, where appropriate, out to competitive quotation or tender. These will comply with the code of practice on tenders and contracts and will cover:
- (a) authorised officers and the extent of their authority
 - (b) advertisement for tenders
 - (c) procedure for creating, maintaining and revising a standard list of contractors
 - (d) selection of tenderers
 - (e) compliance with UK and EC legislation and regulations
 - (f) procedures for the submission, receipt, opening and recording of tenders
 - (g) the circumstances where financial or technical evaluation is necessary
 - (h) procedures for negotiation
 - (i) acceptance of tenders
 - (j) the form of contract documentation
 - (k) cancellation clauses in the event of corruption or bribery
 - (l) contract records.

- 4.67 To ensure that employees are aware of the national code of conduct for local government employees (summarised in the procedures and conditions of employment manual).
- 4.68 To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Finance Director. This is because of the potential impact on the authority's borrowing powers, to protect the authority against entering into unapproved credit arrangements and to ensure that value for money is being obtained.
- 4.69 To notify the Finance Director of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Finance Director and, in any case, not later than 30 April.
- 4.70 With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Finance Director the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.
- 4.71 To notify the Finance Director immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.
- 4.72 To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention schedule.

Payments to Employees and Members

Why is this important?

- 4.73 Staff costs are the largest item of expenditure for most authority services. It is therefore important that payments are accurate, timely, made only where they are due for services to the authority and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that members' allowances are authorised in accordance with the scheme adopted by the full council.

Key Controls

- 4.74 The key controls for payments to employees and members are:
- (a) proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:
- starters
 - leavers
 - variations
 - enhancements

and that payments are made on the basis of timesheets or claims

- (b) frequent reconciliation of payroll expenditure against approved budget and bank account
- (c) all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule
- (d) that Inland Revenue regulations are complied with.

Responsibilities of the Finance Director

- 4.75 To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him or her, on the due date.
- 4.76 To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions.
- 4.77 To make arrangements for payment of all travel and subsistence claims or financial loss allowance.
- 4.78 To make arrangements for paying members travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- 4.79 To provide advice and encouragement to secure payment of salaries and wages by the most economical means.
- 4.80 To ensure that there are adequate arrangements for administering superannuation matters in line with guidance from Lancashire County Council.

Responsibilities of Chief Officers

- 4.81 To ensure appointments are made in accordance with the regulations of the authority and approved establishments, grades and scale of pay and that adequate budget provision is available.
- 4.82 To notify the Finance Director of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Finance Director.
- 4.83 To ensure that adequate and effective systems and procedures are operated, so that:
 - payments are only authorised to bona fide employees
 - payments are only made where there is a valid entitlement
 - conditions and contracts of employment are correctly applied
 - employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- 4.84 To send an up-to-date list of the names of officers authorised to sign records to the personnel director, together with specimen signatures. The payroll provider

should have signatures of personnel officers and officers authorised to sign timesheets and claims.

- 4.85 To ensure that payroll transactions are processed only through the payroll system. Chief Officers should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. The Inland Revenue applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Finance Director.
- 4.86 To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the authority, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the Finance Director is informed where appropriate.
- 4.87 To ensure that the Finance Director is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
- 4.88 To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

Responsibilities of Members

- 4.89 To submit claims for members' travel and subsistence allowances on a monthly basis and, in any event, within one month of the year end.

TAXATION

Why is this important?

- 4.90 Like all organisations, the authority is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

Key Controls

- 4.91 The key controls for taxation are:
- (a) service managers are provided with relevant information and kept up to date on tax issues
 - (b) service managers are instructed on required record keeping
 - (c) all taxable transactions are identified, properly carried out and accounted for within stipulated timescales
 - (d) records are maintained in accordance with instructions

- (e) returns are made to the appropriate authorities within the stipulated timescale.

Responsibilities of the Finance Director

- 4.92 To complete all Inland Revenue and other agency returns regarding PAYE, NI, Superannuation, etc.
- 4.93 To complete a monthly return of VAT inputs and outputs to HM Customs and Excise.
- 4.94 To provide details to the Inland Revenue regarding the construction industry tax deduction scheme.
- 4.95 To maintain up-to-date guidance for authority employees on taxation issues in the accounting manual and the tax manual.

Responsibilities of Chief Officers

- 4.96 To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Customs and Excise regulations.
- 4.97 To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.
- 4.98 To ensure that all persons employed by the authority are added to the authority's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.
- 4.99 To follow the guidance on taxation issued by the Finance Director in the authority's accounting manual and VAT manual.

TRADING ACCOUNTS AND BUSINESS UNITS

Why is this important?

- 4.100 Trading accounts and business units have become more important as local authorities have developed a more commercial culture. Under best value, authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost. They are also required to disclose the results of significant trading operations in the BVPP.

Responsibilities of the Finance Director

- 4.101 To advise on the establishment and operation of trading accounts and business units.

Responsibilities of Chief Officers

- 4.102 To consult with the Finance Director where a business unit wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the authority. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.
- 4.103 To observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and to produce an annual report in support of the final accounts.
- 4.104 To ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units.
- 4.105 To ensure that each business unit prepares an annual business plan.

PARTNERSHIPS

Why is this important?

- 5.01 Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.
- 5.02 Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

General

- 5.03 The main reasons for entering into a partnership are:
- (a) the desire to find new ways to share risk
 - (b) the ability to access new resources
 - (c) to provide new and better ways of delivering services
 - (d) to forge new relationships.
- 5.04 A partner is defined as either:
- (a) an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project

- (b) a body whose nature or status give it a right or obligation to support the project.

5.05 Partners participate in projects by:

- (a) acting as a project deliverer or sponsor, solely or in concert with others
- (b) acting as a project funder or part funder
- (c) being the beneficiary group of the activity undertaken in a project.

5.06 Partners have common responsibilities:

- (a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation
- (b) to act in good faith at all times and in the best interests of the partnership's aims and objectives
- (c) be open about any conflict of interests that might arise
- (d) to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors
- (e) to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature
- (f) to act wherever possible as ambassadors for the project.

Key Controls

5.07 The key controls for authority partners are:

- (a) if appropriate, to be aware of their responsibilities under the authority's financial regulations and the code of practice on tenders and contracts
- (b) to ensure that risk management processes are in place to identify and assess all known risks
- (c) to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise
- (d) to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences, particularly in the area of document recording, control and procedures, where external funding is being managed and which will result in later internal/external auditor verification

- (e) to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

Responsibilities of the Finance Director

- 5.08 To advise on effective controls that will ensure that resources are not wasted.
- 5.09 To advise on the key elements of funding a project. They include:
 - (a) a scheme appraisal for financial viability in both the current and future years
 - (b) risk appraisal and management
 - (c) re-sourcing, including taxation issues
 - (d) audit, security and control requirements
 - (e) carry-forward arrangements.
- 5.10 To ensure that the accounting arrangements are satisfactory.

Responsibilities of Chief Officers

- 5.11 To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the Finance Director.
- 5.12 To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the finance director.
- 5.13 To ensure that such agreements and arrangements do not impact adversely upon the services provided by the authority.
- 5.14 To ensure that all agreements and arrangements are properly documented.
- 5.15 To provide appropriate information to the finance director to enable a note to be entered into the authority's statement of accounts concerning material items.

EXTERNAL FUNDING

Why is this important?

- 5.16 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the authority. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies such as the National Lottery and the single regeneration budget provide additional resources to enable the authority to deliver services to the local community. However, in some instances, although the scope for external funding has

increased, such funding is linked to tight specifications and may not be flexible enough to link to the authority's overall plan.

Key Controls

5.17 The key controls for external funding are:

- (a) to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood
- (b) to ensure that funds are acquired only to meet the priorities approved in the policy framework by the Full Council
- (c) to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.

Responsibilities of the Finance Director

5.18 To ensure that all funding notified by external bodies is received and properly recorded in the authority's accounts.

5.19 To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.

5.20 To ensure that audit requirements are met.

Responsibilities of Chief Officers

5.21 To ensure that all claims for funds are made by the due date.

5.22 To ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.

WORK FOR THIRD PARTIES

Why is this important?

5.23 Current legislation enables the authority to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is intra vires.

Key Controls

5.24 The key controls for working with third parties are:

- (a) to ensure that proposals are costed properly in accordance with guidance provided by the Finance Director

- (b) to ensure that contracts are drawn up using guidance provided by the Finance Director and that the formal approvals process is adhered to
- (c) to issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

Responsibilities of Finance Director

- 5.25 To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

Responsibilities of Chief Officers

- 5.26 To ensure that the approval of Council is obtained before any negotiations are concluded to work for third parties.
- 5.27 To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Finance Director.
- 5.28 To ensure that appropriate insurance arrangements are made.
- 5.29 To ensure that the authority is not put at risk from any bad debts.
- 5.30 To ensure that no contract is subsidised by the authority.
- 5.31 To ensure that, wherever possible, payment is received in advance of the delivery of the service.
- 5.32 To ensure that the department/unit has the appropriate expertise to undertake the contract.
- 5.33 To ensure that such contracts do not impact adversely upon the services provided for the authority.
- 5.34 To ensure that all contracts are properly documented.
- 5.35 To provide appropriate information to the Finance Director to enable a note to be entered into the statement of accounts.

CONTRACT PROCEDURE RULES

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- 1.0 The Scope of the Contract Procedure Rules
- 1.1 These Contract Procedure Rules must be followed every time the Council enters into a contract or arrangement for works, goods, land or services.
- 1.2 European Union Regulations and Directives and English Law must also be followed where appropriate - See Appendix A for Guidance on Contracts Subject to the European Union Regulations.
- 1.3 In these Contract Procedure Rules:
 - 1.3.1 "Chief Officer" means the Chief Executive or Deputy Chief Executive or Executive Director of Resources or a Head of Service of the Council;
 - 1.3.2 "Contract" includes any arrangement under which the Council pays or receives money for work, goods, land, or services, including contracts, agreements, partnership arrangements, private finance initiatives, joint ventures, contracts with Consultants and Service Level Agreements with partners, including voluntary organisations. It includes where the Council is acting as an "Accountable Body" for any government funding;
 - 1.3.3 "Contract Conditions" includes the Contract Conditions mentioned in Paragraph 22 below;
 - 1.3.4 "Council" means Rossendale Borough Council;
 - 1.3.5 "Executive Team" means the Chief Executive, Deputy Chief Executive and the Executive Director of Resources;
 - 1.3.6 "Goods" includes materials, equipment and non-land assets;
 - 1.3.7 "Head of Service" means the Head of the relevant Council Service or any person authorised by him or her to act on his or her behalf;
 - 1.3.8 "Land" includes premises and buildings;
 - 1.3.9 "Most financially favourable tender "or" most economically advantageous tender" means, subject to Paragraph 13.3, the lowest tender or quote if payment is made by the Council and the highest if payment is made to the Council;
 - 1.3.10 "Procurement Strategy" means the Council's Procurement Strategy as agreed by the Council from time to time;
 - 1.3.11 "Supplier Selection Form" shall mean the relevant Form – See Appendix B - to be completed in the case of a contract for the supply of goods or services;
 - 1.3.12 "Tender" includes all offers, quotations, quotes proposals, submissions or other bids for contracts.

- 1.4 The highest standards of probity are required of all Member and Officers involved in the procurement, award and management of Council contracts. At all times during the procurement process all Members and Officers shall consider and implement the principles of non-discrimination, equal treatment and transparency.
- 1.5 These Contract Procedure Rules are intended to help and inform Officers making purchasing decisions. Advice on their use is available from the Head of Legal and Democratic Services and the Corporate Procurement Assistant. Any Officer can contact Internal Audit if he or she believes that the provisions of these Contract Procedure Rules are not being followed in a particular case.
- 1.6 The use of e-procurement technology (for example, e-auctions) does not negate the requirement to comply with all elements of these Contract Procedure Rules.

2. Exceptions

- 2.1 The Executive Team can allow exceptions to these Contract Procedure Rules after considering a report by a Chief Officer; the Executive Team shall then inform Internal Audit and report the decision to the Cabinet for information.
- 2.2 These Contract Procedure Rules shall not apply if:
- (i) the Head of Service, in consultation with the Head of Financial Services, is satisfied that there is no genuine competition, for example, where:
 - (a) the goods are proprietary articles or are sold only at a fixed price and no satisfactory alternative is available;
 - (b) the price of goods or services are wholly controlled by trade organisations or government order;
 - (c) the goods or services are required for repairing or servicing existing specialist plant or equipment;
 - (d) the work is to be carried out by public service providers, for example, gas, water, electricity.

Where there is no genuine competition, the Head of Service, in consultation with the Head of Financial Services shall obtain written tenders from contractors and, where appropriate, shall negotiate to obtain the most financially favourable tender or the most economically advantageous tender for the Council prior to awarding any contract.

- (ii) the proposed contract for the execution of work forms part of a serial programme, the terms having been negotiated with the contractor on the basis of the rates and prices contained in an initial contract awarded competitively following an invitation to tender in accordance with the provisions of these Contract Procedure Rules;

- (iii) the Head of Service, in consultation with the Head of Financial Services, considers it desirable in the best interest of the Council that a tender be invited for the execution of work from a contractor selected by the Council or negotiated with a contractor already engaged by the Council;
 - (iv) the goods, materials or services are required due to an emergency;
 - (v) the Head of Service and the Head of Financial Services agree that significant financial loss may be incurred if the letting of the contract is delayed.
- 2.3 In cases (iv) and (v) above, the Head of Service may obtain verbal quotations provided that they are subsequently confirmed in writing.
- 2.4 If the Head of Service and the Head of Financial Services are of the opinion that any of these Contract Procedure Rules should not apply to a contract, then a report shall be submitted to the Executive Team – See Paragraph 2.1.
- 2.5 Where the Council carries out work using a Standard Form of Contract (for example, the Institution of Civil Engineers' Conditions of Contract) procedural requirements may differ to those laid down in these Contract Procedure Rules.

3. Estimating Contract Values

- 3.1 Contract values shall be calculated on a total overall basis, for example, where a contract is for £10,000 per year for five years the contract value will be £50,000. Particular elements of the contract shall not be split in an attempt to avoid these Contract Procedure Rules. Where the length of a contract is not known the Head of Service shall use his or her best estimate.

4. Pre-Procurement Procedure

- 4.1 Before commencing a procurement, it is essential that the Head of Service leading the procurement has identified the needs and fully assessed all options for meeting those needs. Consideration shall be given to the Procurement Strategy as appropriate. Before undertaking a procurement the Head of Service shall where appropriate:
- (i) Establish a business case for the purchase, including ensuring that there are sufficient funds in the relevant budget to cover the cost of the purchase;
 - (ii) Plan out the time period to deal with all aspects of the purchase;
 - (iii) Consider all means of satisfying the needs;
 - (iv) Consult the Corporate Procurement Assistant to ascertain whether there is an appropriate Framework Agreement or Preferred Supplier that should be used or whether there are options available to purchase collaboratively with other Authorities;
 - (v) Consider the form of the contract in consultation with the Head of Legal and Democratic Services
 - (vi) Choose a course of action which must represent best value for money to the Council;
 - (vii) Consult with users of the service;
 - (viii) Prepare a written specification which describes the Council's requirements in sufficient detail to enable the submission of competitive offers;

- (ix) Ensure the tender documents are available in electronic format;
- (x) Prepare project initiative documents

4.2 When any Officer of the Council or any employee of a service provider may be affected by any transfer arrangements, the Head of Service shall ensure that Transfer of Undertaking (Protection of Employment) ('TUPE') issues are considered and obtain advice from the Head of Legal and Democratic Services and the Head of Human Resources before proceeding to invite tenders.

4.3 Tenders received by facsimile or other electronic means (for example, e.mail) shall be rejected, unless they have been sought in accordance with an electronic tendering system approved by the Head of Legal and Democratic Services and the Head of Financial Services.

5. Framework Agreements and Preferred Suppliers Lists

5.1 Where an appropriate Framework Agreement or Preferred Supplier List exists, (i.e. a call off contract with a preferred supplier or e-purchasing system) this must be used up to a contract value of £50,000.

5.2 Contracts over £50,000 must follow the appropriate procedure – See Paragraph 6 - irrespective of whether there is a Framework Agreement or Preferred Supplier List in place.

5.3 The term of a Framework Agreement must not exceed four years and, while an Agreement may be entered into with one provider, where an agreement is concluded with several organisations, there must be at least three in number

5.4 Contracts based on Framework Agreements shall be awarded by either:

- (i) applying the terms laid down in the Framework Agreement (where such terms are sufficiently precise to cover the particular call-off) without reopening competition; or
- (ii) where the terms laid down in the Framework Agreement are not precise enough or complete for the particular call-off, by holding a mini competition in accordance with the following procedure:
 - (a) inviting the organisations within the Framework Agreement which are capable of executing the subject of the contract to submit written Tenders;
 - (b) fixing a time limit which is sufficiently long to allow Tenders for each specific contract to be submitted, taking into account factors such as the complexity of the subject of the contract;
 - (c) awarding each Contract to the tenderer who has submitted the best Tender on the basis of the Award Criteria set out in the specifications of the Framework Agreement.

5.5 Lists of Preferred Suppliers shall be developed by the Head of Service – See Paragraphs 7.7 and 7.8 - and maintained by the Corporate Procurement Assistant; the Lists shall be subject to review and market testing on a three year rolling programme – See Paragraph 7.7.6

6. Levels of Contract Values – Quotes or Tenders

6.1 Where values appear in these Contract Procedure Rules, these exclude VAT and are subject to annual inflation increases in line with the annual increase in the Retail Price Index (to the nearest £100). Contract values thresholds are as follows:-

Low Value – up to £6,000

Medium Value – over £6,000 and up to £50,000

High Value – Over £50,000

6.1.2 The value or amount of the contract shall in the following cases be calculated as follows:-

a) Where periodical payments are to be made by the Council, by reference to the maximum total amount that the Council may be obliged to pay under the terms of the contract,

b) Where there is an undefined quantity under the terms of the contract, by reference to an estimate by the Head of Service of the total value of the contract.

6.1.3 Heads of Service shall ensure that, where proposed Contracts, irrespective of their value, might be of interest to potential contractors located in other Member States of the European Union, a sufficiently accessible advertisement is published. Generally, the greater the interest of the contract to potential bidders from other Member States, the wider the coverage of the advertisement should be. Examples of where such advertisements may be placed include:

(i) the Council's Website;

(ii) portal websites specifically created for contract advertisements;

(iii) National Official Journals; or

(iv) the Official Journal of the European Union (OJEU)/Tenders Electronic Daily (even if there is no requirement within the EU Procedure)

6.2 Contracts under £6,000

6.2.1 For contracts estimated to be under £6,000, the Head of Service shall consider the following:

(i) Best value for money shall be obtained, including full life costs;

(ii) Use of existing Framework Agreements;

(iii) Use of suppliers on a Preferred Supplier List;

(iv) Use of the e-purchasing system;

(v) Alternative written quotes;

(vi) Use of Purchasing Cards.

6.2.2 There is no obligation to obtain tenders or quotes, but Heads of Service shall be responsible for ensuring best value for money is obtained.

6.2.3 Use of specific Contract Conditions shall be included as relevant – See Paragraphs 22, 24, 25, 28, 29 and 30.

6.2.4 Should any clarification be required then the Head of Legal and Democratic Services and the Corporate Procurement Assistant shall be contacted.

6.3 **Contracts between £6,000 and £50,000**

6.3.1 Existing Framework Agreements and Preferred Suppliers Lists must be used where appropriate – See Paragraph 5.2

6.3.2 In other cases, three written tenders or quotes shall be obtained, including at least one from a local supplier, if possible, and, in the case of a contract for the supply of goods or services, the reasons for the choice of supplier documented on the Supplier Selection Form – See Appendix B.

6.3.3 As an exception, where three written tenders or quotes cannot be obtained, for example, due to time constraints, the specialist nature of the contract or use of an existing Preferred Supplier or the most financially favourable tender or the most economically advantageous tender has not been selected then, in the case of a contract for the supply of goods or services, this must be explained on the Supplier Selection Form - See Appendix B.

6.3.4 Use of specific Contract Conditions shall be included as relevant – See Paragraphs 22, 24, 25, 28, 29 and 30.

6.3.5 A file note shall be made of suppliers invited to tender or quote but who failed to tender or quote.

6.4 **Contracts between £50,000 - £100,000**

6.4.1 A minimum of four written tenders or quotes shall be obtained and, in the case of a contract for goods or services, the Supplier Selection Form - See Appendix B – shall be authorised by the Head of Service and Corporate Procurement Assistant. Four written tenders or quotes shall be obtained even when there is a Framework Agreement or Preferred Supplier List in place.

6.4.2 As an exception, where four written tenders or quotes cannot be obtained, for example, due to time constraints or the specialist nature of the contract or the most financially favourable tender has not been selected the Head of Service shall explain this, in the case of a contract for goods or services, on the Supplier Selection Form - See Appendix B.

6.4.3 Use of specific Contract Conditions must be included as relevant – See Paragraphs 22, 24, 25, 28, 29 and 30.

6.4.4 A file note shall be made of suppliers invited to tender or quote but who failed to tender or quote

6.5 **Contracts over £100,000**

6.5.1 For contracts valued at above £100,000 written tenders or quotes shall be required. In the case of a contract for goods or services, the Corporate Procurement Assistant

must also be involved from the commencement of the project and must sign the Supplier Selection Form – see Appendix B.

- 6.5.2 However, if there is a Central Government Contract available, advice shall first be taken from the Head of Legal and Democratic Services and the Corporate Procurement Assistant about whether it is more appropriate to use that Agreement - See Paragraph 10.
- 6.5.3 Prior approval to seek tenders or quotes shall be obtained from the Executive Team.
- 6.5.4 Use of specific Contract Conditions shall be included as relevant – See Paragraphs 22, 24, 25, 28, 29 and 30.
- 6.5.5 The Council's Legal Section must approve all contracts.
- 6.5.6 Prior to the commencement of the purchasing process, approval of the proposed contract award procedure including the pre-qualification and/or evaluation criteria to be applied shall be sought by the Head of Service from the Chief Officer and the Corporate Procurement Assistant.
- 6.5.7 Heads of Service shall ensure that sufficient time is allowed for the preparation of tenders, having regard to the value and complexity of the project. This shall normally be not less than four weeks. Invitations to tender shall be sent out by the Head of Service who shall record:
 - (i) the name and nature of the contract,
 - (ii) the number of tender invitations,
 - (iii) the closing date and time for receipt of tenders.
- 6.5.8 Heads of Service shall be responsible for judgements regarding any sub-division of work or supplies into packages, for example, to enable separate contracts to be let, with a view to seeking effective competition and to secure satisfactory service delivery.
- 6.5.9 A current financial appraisal and a company search shall be carried out of all contractors, in a form determined by the Head of Financial Services.
- 6.5.10 Should the contract value be over European Union (EU) Thresholds, one of the Procedures shall be used as appropriate for the procurement – See Appendix A.
- 6.5.11 Should the contract value be under the EU Thresholds then one of the Open or Selective Procedures shall be used - See Paragraph 7.
- 6.5.12 A file note shall be made of suppliers invited to tender or quote but who failed to tender or quote.

7. Procedures for Inviting Tenders

7.1 **Open Procedure**

7.2 Open Procedure tendering is generally undesirable (as it may involve too many contractors in abortive tendering) and shall only be used where no Select List exists. The Council advertises its intentions, including a specification which describes the Council's requirements in sufficient detail to enable the submission of competitive offers. All contractors expressing an interest are invited to tender. The advertisement shall be published in the local press, on the Council's website, and, if appropriate, the national press and/or trade journal in order to target the relevant market for the particular contract.

7.3 The advertisement shall contain details of the proposed contract, including a description of the Council's requirements in sufficient detail to enable the submission of competitive offers, and specify a time limit within which interested parties may express an interest in tendering. The advertisement shall, subject to Paragraphs 7.5. and 7.8.2, give a closing date of at least seven days.

7.4 The Head of Service shall send an Invitation to Tender (ITT) within three working days to any party expressing an interest; the ITT must state a date and time by which the Tender is to be returned - See also Paragraphs 11 and 12.

7.5 The Head of Service shall invite tenders for High Value Contracts by advertising on the Council's website and, if appropriate, the national press and/or trade journal and/or Official Journals, and where the value is above the EU Threshold shall also advertise in the appropriate Official Journal – See Appendix A. The advertisement shall include:

- (i) the nature and purpose of the contract, including a specification which describes the Council's requirements in sufficient detail to enable the submission of competitive offers;
- (ii) where further details may be obtained and where applications shall be submitted.
- (iii) the last date and time when tenders shall be received;

and be placed at least 14 days before the closing date.

7.6 The Head of Service shall be satisfied with the financial standing and technical capability of the successful contractor before any contract is awarded.

7.7 **Selective Procedure**

7.7.1 The Council publishes its intentions as above – See Paragraphs 7.2 and 7.5 - however only those suppliers selected by the Executive Director of Resources, the Head of Service, the Head of Financial Services, and the Head of Legal and Democratic Services are invited to tender. Short-listed suppliers shall be selected on the basis of clear pre-qualification/evaluation criteria that are either published in the advertisement or available from the Head of Service. The reasons to include or

exclude suppliers from the tender process must be documented by the Head of Service and must relate to the pre-qualification criteria.

7.7.2 Pre-qualification/evaluation criteria shall include the following as appropriate to the individual contract being tendered i.e. potential suppliers shall be asked to demonstrate:

Evidence of financial standing shall be provided from some or all of the following sources and evaluated by the Head of Financial Services:

- (i) financial standing – including Audited Accounts and Credit Rating;
- (ii) bankers' references;
- (iii) balance sheets;
- (iv) statements of turnover (both overall and for the work or services for which a contract may be let);
- (v) for services, evidence of professional risk indemnity ;
- (vi) the provision of bonds and guarantees;
- (vii) any other information considered appropriate, providing adequate notice is given regarding the additional information sought.

Minimum technical capacity as to skills, efficiency, experience and reliability shall include an assessment of :

- (i) applicants' qualifications and those of the personnel who it is proposed shall do the work;
- (ii) statements of the plan, equipment and specialist services available;
- (iii) average manpower for each of the last three years;
- (iv) numbers of managerial personnel during the same period;
- (v) for works, a list of the works carried out in the last five years, supported by certificates of satisfactory completion (which may be obtained direct from clients);
- (vi) technical capacity, including the contractors' quality management systems, human resources, health and safety, environmental management systems and equality and diversity policies where relevant to the performance of the contract;
- (vii) for services, a list of the principal contracts carried out in the last three years with their values;
- (viii) the proportion of the work which applicants intend to subcontract.

7.7.3 The appraisal process may also include taking up references and inviting applicants to attend for interview.

7.7.4 If there are fewer selected to tender than the required number – See Paragraphs 6.3.2 and 6.4.1 then all those considered suitable shall be asked to tender.

7.7.5 The Select List shall identify for each contractor the type of work and maximum value of contracts which may be undertaken by that contractor. The Select List shall be available for reference by members of the public on request.

7.7.6 Heads of Service shall review the Select List at least once every three years and shall request contractors to submit accounts for reappraisal as appropriate. This will

provide an incentive for those included on the Select List to maintain the necessary standard. If it is considered that an up to date financial appraisal is necessary for a contractor chosen from the Select List, the Head of Service shall request contractors to submit their latest accounts for reappraisal in sufficient time prior to invitations to tender being sent out. The reviewed Select List shall be available for reference by members of the public on request.

- 7.7.7 Heads of Service shall inform contractors if it is decided to exclude them from the Select List, and also if any request to be asked to tender is refused. If a contractor applies in writing for the reasons within 15 working days of being given such a decision, the reasons shall be provided in writing within a further 15 working days. Where the reason is an unsatisfactory reference, this fact must be stated but not its nature nor the name of the referee.
- 7.7.8 Heads of Service shall maintain a register of all current contracts to include expiry dates and timescales for renewal and supply a copy of the register to the Head of Financial Services.

7.8 Ad Hoc Approved List Tendering

- 7.8.1 The case for compiling an approved list on an ad-hoc basis for a specific contract, as opposed to inviting contractors from a Select List, shall depend on the size, nature and continuity of the Council's relevant spending programme.
- 7.8.2 The Head of Service shall in respect of Medium Value Contracts and High Value Contracts invite contractors to be placed on a list for a specific contract by advertising as above – See Paragraphs 7.2 and 7.5. The advertisement shall include:
- (i) the nature and purpose of the contract, including a specification which describes the Council's requirements in sufficient detail to enable the submission of competitive offers;
 - (ii) where further details may be obtained and where applications shall be submitted;
 - (iii) the last date and time when tenders shall be received;
- and be placed at least 14 days before the closing date.
- 7.8.3 The Head of Service must be satisfied with the contractors' financial standing, technical resources and ability to complete the contract satisfactorily before they are placed on the Approved Ad Hoc List.
- 7.8.4 The Executive Director of Resources, the Head of Service, the Head of Financial Services and the Head of Legal and Democratic Services shall select contractors to be invited to tender which may include some or all of the Contractors on the Council's Select Lists.

8. Preparation of Tender Documents

8.1 Tender documentation shall consist of one or more of the following, as appropriate:

- (i) drawings;
- (ii) a specification which describes the Council's requirements in sufficient detail to enable the submission of competitive offers;
- (iii) bills of quantity;
- (iv) conditions of contract;
- (v) instructions to tenderers;
- (vi) the form of tender

8.2 Other information may need to be made available to ensure that contractors' bids reflect service requirements and are competitively priced, including the following:

- (i) an outline of the tender pre-qualification/evaluation criteria in descending order of importance;
- (ii) the terms and conditions under which assets etc. shall be made available;
- (iii) workforce information required for the purpose of assessing prospective liability in relation to the possible transfer of an undertaking; to ensure consistency of provision of information, this shall be provided by the Head of Service and not by an existing contractor;
- (iv) the amount of work likely to be available under the contract.

8.3 The Head of Service shall ensure that:

- (i) ambiguities and contradictions do not occur between documents and information provided;
- (ii) any locally prepared variations to standard documentation are clear and use generally accepted terms;
- (iii) Contract Conditions and specifications are in the best interest of the Council in respect of quality, cost and performance;
- (iv) independent scrutiny of tender documentation occurs at this stage, as errors may eventually prove costly.

8.4 To ensure consistency and to aid understanding by the Tenderer, tender documentation shall be collated by an experienced officer who shall obtain the advice and approval of the Head of Legal and Democratic Services.

9. Joint Procurement, Collaborative and E-Procurement Arrangements

9.1 Any joint procurement arrangements with other Local Authorities, such as the East Lancashire E-Partnership, or public bodies including membership or use of Purchasing Consortia shall be approved by the Head of Financial Services and the Head of Legal & Democratic Services prior to the commencement of any procurement by the Council.

- 9.2 All purchases made via a local authority purchasing and distribution Consortium are deemed to comply with these Contract Procedure Rules and no exception is required. However, purchases above the EU Threshold – See Appendix A – must be let under the EU Procedure, unless the Consortium has satisfied this requirement already by letting their contract in accordance with EU Procedures on behalf of the Council and other consortium members.
- 9.3 Any contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed which complies with the Contract Procedure Rules of the leading organisation, shall be deemed to comply with these Contract Procedure Rules and no exemption is required. However, advice must be sought from the Head of Legal and Democratic Services and the Corporate Procurement Assistant.
- 9.4 Where appropriate electronic procurement, such as E-Ordering, E-Tendering, E-Marketplace and E-Auctions, may be used with the requirement to comply with all aspects of these Contract Procedural Rules and the Council's Financial Regulations.

10. Central Government Contracts

- 10.1 The Office of Government Commerce (OGC) has in place various Framework Agreements that have already been tendered through EU Procedures and therefore can be used by Councils without the need for re-tendering. The Head of Legal & Democratic Services and the Corporate Procurement Assistant shall be contacted for guidance. Details can be found on the OGC website: www.ogcbuyingsolutions.gov.uk

11. The Invitation to Tender (ITT)

11.1 The ITT shall include details of the Council's requirements for the particular contract including:

- (i) A description of the works to be undertaken, the goods or services being purchased, including a specification which describes the Council's requirements in sufficient detail to enable the submission of competitive offers;
- (ii) The procurement timetable including the tender return date, which shall allow a reasonable period for the applicants to prepare their tenders;
- (iii) Information on whether any variations are permissible;
- (iv) The Council's terms and conditions of contract or main contract clauses as relevant - See Paragraphs 22, 24, 25, 28, 29 and 30;
- (v) The pre-qualification/evaluation criteria including any weightings, for example, price, quality service, quality of response, understanding of requirements, successful track record;
- (vi) Pricing formats or mechanisms and instructions for completion;
- (vii) Whether the Council is of the view that TUPE will apply;
- (viii) Form and content of Method Statements to be provided;
- (ix) Rules for the submission of Tenders;
- (x) Any further information which shall inform or assist tenderers

12. Submitting and Opening Tenders

12.1 Submitting Tenders

- 12.1.1 Tenders shall be considered only if they are delivered to the Committee and Member Services Manager in a plain, securely sealed envelope, or in any special envelope provided by the Council for the purpose. Such envelopes shall in no way indicate the identity of the sender.
- 12.1.2 The outside of the envelope shall be marked "Tender" and with the name of the contract to which the tender relates.
- 12.1.3 On receipt of each tender the envelope shall be endorsed with the date and time of arrival.
- 12.1.4 Tenders received by hand shall be receipted on request.
- 12.1.5 All tenders received shall remain unopened in the secure custody of the Committee and Member Services Manager or such other Officer appointed by him or her for that purpose until the appointed time for opening.

12.2 Opening of tenders

- 12.2.1 Tenders shall be opened at the designated time in the presence of at least:
 - (i) the Committee and Member Services Manager or his or her representative;
 - (ii) the Head of Service or his or her representative (not being a person who has been involved in the tender process); or
 - (iii) the Corporate Procurement Assistant for all goods and services contracts; or
 - (iv) the Head of Financial Services for all contracts above the EU threshold,

The Leader or Deputy Leader shall also be invited to attend the opening, but do not have to be present at the opening.
- 12.2.2 Tenders shall be numbered by the Committee and Member Services Manager or his or her representative as they are opened.
- 12.2.3 The Committee and Member Services Manager shall immediately prepare a list of tenders received in a Tender Book detailing the names of tenderers and the tender sums and this shall be certified by those present as a true record.
- 12.2.4 A record shall also be made in the Tender Book of any contractors invited to tender but who failed to tender.

13. Evaluation of Tenders and Correction of Errors

- 13.1 Tenderers must complete all tender documentation or parts thereof. Any omissions shall render a tender null and void, with no further consideration given, save for omissions which are of an insignificant nature, any such omissions being recorded in the Tender Book.

- 13.2 Tenders subject to EU Regulations shall be evaluated in accordance with the relevant EU Regulations and the pre-qualification/evaluation criteria set out in the ITT. All other tenders shall be evaluated in accordance with the pre-qualification/evaluation criteria set out in the ITT.
- 13.3 All contracts shall be awarded on the basis of the most financially favourable tender or the most economically advantageous tender for the Council. This means that the Council is not obliged to accept a tender just because it is the lowest price. Other non-price elements must also be taken into account such as quality, service, references, professionalism, sustainability, local economic benefits etc. The pre-qualification/evaluation criteria shall be prepared by the Head of Service and shall be listed in the ITT documentation. In addition, the criteria shall be strictly observed (and remain unchanged) at all times throughout the Contract Award Procedure.
- 13.4 All tenderers shall be compared impartially using the same criteria with a view to securing the most financially favourable tender or the most economically advantageous tender with the same degree of security and confidentiality as at all stages of the tendering process.
- 13.5 All tenders shall be checked for arithmetical accuracy, including the correct extension and summation of rates tendered in the bill of quantities.
- 13.6 At least the most financially favourable tender or the most economically advantageous tender received shall be evaluated; particular attention shall be given to rates and prices, percentage adjustments, balancing items, ambiguities, qualifications and alternative offers.
- 13.7 If a tender is found to contain ambiguities or arithmetical errors, the tender total shall be corrected and the tenderer notified accordingly. If, in the opinion of the Head of Service, any tendered rate is considered unrealistic, the tenderer may be given the opportunity of confirming the rate or withdrawing the tender. In order to preserve parity of tendering, amendment to tender rates after submission of tenders shall not be permitted. If the tenderer withdraws or the revised tender is no longer the most competitive, the next most competitive shall be examined and dealt with in the same way. Where the Council has made an error in a tender then all bidders shall be informed and given the opportunity to amend their tender.
- 13.8 The Head of Service must keep a written record of all amendments.
- 13.9 There shall be no significant changes in specification in any dealings with tenderers after tenders have been opened. Where post-tender negotiations are necessarily undertaken, no tenderer shall be given an opportunity to reconsider a tender on the original specification, unless similar opportunities are given to all tenderers.
- 13.10 Any changes which affect the original tendered sum(s) shall be notified to the Democratic Services Manager for inclusion in the Tender Book which shall be signed by the Committee and Member Services Manager or his or her representative and the Head of Service or his or her representative.

13.11 The Head of Service shall compile a report on the evaluation of the tendered amounts with the original estimate; this report shall form the basis for acceptance of the preferred tender.

14. Late or Incomplete Tenders

14.1 Late or incomplete tenders shall not be considered but shall be opened by the Democratic Services Manager to ascertain the name of the tenderer so that the tender may be promptly returned, subject to Paragraph 32.2 below.

15. Acceptance of tenders

15.1 Subject to the provisions below, the Head of Service shall accept the most financially favourable tender or the most economically advantageous tender received on behalf of the Council, provided that:-

- i) It is within the approved estimate; in all cases, the Head of Service shall document and sign a file note recording the preferred tenderer, along with the names of all Members and Officers involved in the decision making process;
- ii) The contract is awarded using the tender pre-qualification/evaluation criteria.

15.2 The successful tenderer shall be notified promptly following the decision to accept the tender.

15.3 Where the most financially favourable tender or the most economically advantageous tender is outside the approved estimate provision, the Head of Service shall either:

- (i) write to all tenderers explaining the situation and giving them the opportunity to lower their tenders to within the approved estimate; or
- (ii) report to the Cabinet requesting an increase in the estimate provision; or
- (iii) report to the Cabinet requesting authority to revise the specification and seek new tenders. If it is decided to re-tender, all previous tenderers shall be asked to tender again, and no tenderers shall be given any information about any of the first tenders.

15.4 No tender other than the most financially favourable tender or the most economically advantageous tender shall be accepted until the Executive Team has considered a report from the Head of Service which shall include the comments of the Head of Legal and Democratic Services as Monitoring Officer. There may be sound commercial reasons why the Head of Service considers that work shall not be awarded to the lowest tenderer, such as:

- (i) differences in method, timing or perceived performance, which have not been eliminated by specification;
- (ii) a tender which is too low to be credible;

(iii) the potential ability of the tenderer to complete on time.

- 15.5 For all Low Value Contracts up to £6,000 the decision to award a contract shall be made by the Head of Service.
- 15.6 For all Medium Value contracts £6,000 - £50,000 the decision to award a contract shall be made by the Head of Service and, in the case of contracts for the supply of goods and services, evidenced on the Supplier Selection Form for Order Values £6,000 - £50,000 - See Appendix B.
- 15.7 For all High Value Contracts £50,000 - £100,000 the decision to award a contract shall be made by the Head of Service and authorised by the Head of Financial Services if four tenders have not been obtained or the most financially favourable tender selected and evidenced, in the case of contracts for the supply of goods or services, on the Supplier Selection Form for Tender Values £50,000 - £100,000 - See Appendix B.
- 15.8 For all contracts over £100,000 the decision to award a contract shall be made by the Head of Service and approved by the Executive Director of Resources and, in the case of contracts for the supply of goods or services, evidenced on the Supplier Selection Form for Tenders over £100,000, signed by the Corporate Procurement Assistant who shall keep the Form on file. (The Executive Team shall have given prior approval to such tenders and may request final approval of relevant contracts).
- 15.9 Only Full Council can accept a tender that would require an increase in the Council's total revenue or capital budget.
- 15.10 Once the contract has been let, all unsuccessful tenderers shall be notified of the results, and may be informed of the successful price on request. The letter of acceptance shall not seek to qualify the terms and amounts previously tendered by the contractor.
- 15.11 The letter of acceptance establishes a legally binding contract which shall be subsequently supported by a deed if the contract is to be under seal.
- 15.12 A proforma questionnaire shall be sent to contractors who did not tender inviting them to give reasons for their failure to tender.
- 15.13 Heads of Service shall keep written records of contractors for a period of six years; however, written documents which relate to unsuccessful contractors may be microfilmed or electronically scanned or stored by some other suitable method after 12 months from award of a contract, provided there is no dispute about the award.

16. Post-Tender Negotiation

- 16.1 For Contracts under £100,000 price negotiation shall be allowed but the Head of Service must consider and implement the principles of non-discrimination, equal treatment and transparency. If the contract value requires completion of a Supplier Selection Form - See Schedule B - then any price negotiations must be recorded on the Form. The Head of Service shall seek clarification on specifications and

assistance from the Head of Legal and Democratic Services and the Corporate Procurement Assistant.

16.2 For Contracts over £100,000 then price negotiation shall only be allowed with the prior approval of the Executive Team.

16.3 If a Contract is subject to EU Regulations then price negotiation shall never be permissible when using the Open or Restricted Procedures.

17. Letters of Intent / Payments Prior to the Signing of a Contract

17.1 No payments shall be made to any supplier, partner or consultant prior to the signing of a contract or, in exceptional circumstances, a letter of intent has been issued. Any letter of intent shall only be issued with the agreement of the Head of Legal and Democratic Services and then only after a risk assessment has been considered.

18. Contract Extension

18.1 Any contract may be extended by the Head of Service in accordance with its terms. Where the terms do not expressly provide for extension then, subject to any legal constraints, the contract may be extended by negotiation. The Head of Service shall always be satisfied that the extension shall achieve best value for money and is reasonable in all the relevant circumstances.

18.2 All such extensions shall be notified to the Head of Legal and Democratic Services and the Corporate Procurement Assistant.

18.3 Once a contract has expired it cannot then be extended.

19. Contracting with the Not for Profit Sector

19.1 These Contract Procedure Rules shall also apply in full to any Contracts or Service Level Agreements made between the Council and any Not for Profit Organisation.

19.2 Where the Council is acting as an Accountable Body for any government funding then these Contract Procedure Rules shall also apply in full.

20. Form of Contracts

20.1 All contracts shall be in writing, which can be a formal document or an official order or a letter, and signed by both parties.

20.2 All Low Value, Medium Value and High Value Contracts shall be in writing and (subject to Paragraph 23 below) signed by the Head of Legal and Democratic Services or by any other Officer of the Council duly authorised to sign such contracts by the Head of Legal and Democratic Services. Contracts may also be in an electronic format and must include, as a minimum:

- (i) The work to be undertaken, or the goods or services etc. to be supplied;
- (ii) The price and any discounts;
- (iii) The place of supply and/or delivery of goods or services;

- (iv) Any specific time scales to be achieved.

21. Nominated Sub-Contractors and Suppliers

- 21.1 If a Sub-Contractor or Supplier is to be nominated or named to a main Contractor, quotations or tenders shall be invited in accordance with these Contract Procedure Rules and the terms of the invitation shall be compatible with the main contract.

22. Contract Conditions

- 22.1 Below is a selection of Contract Conditions which are to be used in different types of contract. Those that are appropriate must be selected and if in doubt advice as to their use obtained from the Head of Legal and Democratic Services.

22.2 HEALTH AND SAFETY

“The contractor, their sub-contractor(s) and any self employed person(s) engaged for the purposes of the contract shall comply fully with:

- (i) Their obligations under the Health and Safety at Work etc. Act 1974 and all relevant statutory provisions;
- (ii) The Council’s general and specific health and safety policies and procedures, including any local, or site-specific health and safety requirements in force for the time being, and;
- (iii) Any other reasonable requirements, specified to them, in writing or otherwise, by the Council’s competent person appointed for the purpose of health and safety assistance”.

Uses: This should be in all contracts for the provision of works and most contracts for services to, or on behalf of, the Council where health and safety could possibly be an issue.

22.3 IDEMINITY

“The contractor shall indemnify the Council against any claim for bodily injury, loss of life or damage to property of third parties provided always that this indemnity shall not apply where the bodily injury, loss of life or damage to property results from any act or default of the Council, its Officers or agents or other Contractors (not being employed by the Contractor).

The Contractor shall effect and maintain insurance policies which provide full cover in respect of such claims and shall when required by the Council or its Officers produce satisfactory evidence that it is insured against such liability”.

Uses: In all works and services contracts where there is any possibility of an injury to persons or property arising.

22.4 ANTI-CORRUPTION (Gifts or Rewards to Councillors or Officers)

The Council shall be entitled 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 or consideration of any kind as an inducement or reward for doing or refrain from doing or for having done or refrained from doing any action in relation to the obtaining or execution of the Contract or any other Contract with the Council or for showing or refraining to show favour or disfavour to any person in relation to the Contract or any other Contract with the Council, or if the like acts shall have been done by any person employed by him or her or acting on his or her behalf (whether with or without the knowledge of the Contractor) or if in relation to any Contract with the Council the Contractor to or any person employed by him or her or acting on his or her behalf shall have committed any offence under the Prevention of Corruption Act 1889 to 1916 or shall have given any fee or regard the receipt of which is an offence under the sub-section (2) of section 117 of the Local Government Act 1972.

Uses: All contracts.

22.5 HUMAN RIGHTS, EQUALITY AND DISCRIMINATION

“The contractor shall ensure that in the provision of the works or service it shall:

- (i) Comply with the Human Rights Act 1998;
- (i) Not discriminate against any person unlawfully;
- (iii) Co-operate with any investigation or proceedings concerning alleged contravention of any anti-discrimination legislation in performing the contract;
- (iv) Indemnify the authority in the case of any finding under any anti-discrimination legislation arising out of the contractor’s acts or omissions; and
- (v) Impose the same obligations on any sub-contractor.

Uses: In all contracts where:

- (i) The contractor’s staff work on Council premises or alongside the Council’s employees; or
- (ii) Services are provided to the public on behalf of the Council or as a joint or consortia arrangement; or
- (iii) The contract consists of major capital works; or
- (iv) Labour costs are a major cost of the overall project.

Uses: All Contracts

22.6 FREEDOM OF INFORMATION

“The Freedom of Information Act 2000 (“the Act”) gives a general right of public access to all types of recorded information (subject to exemptions) held by the Council or on behalf of the Council by another party, and places a number of obligations on the Council with regard to disclosure of information. The Contractor will accept the Council’s duty to comply with the Act and will co-operate in providing information held on behalf of the Council to enable the Council to meet its statutory obligations. The Council shall undertake to consider the application of exemptions with respect to any information supplied by the contractor to the authority”.

Uses: All contracts.

22.7 THIRD PARTY RIGHTS

“Nothing in this Agreement confers or purports to confer on any third party any benefit or any right to enforce any term of this Agreement”

Uses: All contracts where a person who is not a party to the contract might feasibly claim that they were affected by a term in the contract, for example, a person discriminated against by the contractor might try to use the anti-discrimination clause in the contract to claim that the Council should compensate them for the actions of the Contractor.

22.8 DATA PROTECTION

“The Council shall comply with the Data Protection legislation in respect of the use of all personal data arising from the performance of the contract, whether supplied by the Council or otherwise obtained”

Uses: All contracts where the Contractor holds or uses information (or works on information held by the Council) about individuals, whether they are members of the public or employees – this shall therefore be required in most contracts where services are provided to the public, software contracts with consultants who are working on the Council’s computer network etc.

22.9 DISPUTE RESOLUTION

“In the first instance, the parties will use reasonable endeavours and act in good faith to resolve any disputes or claims that may arise in connection with this Contract through both parties negotiating. If these negotiations should fail to resolve the dispute within 28 days, both parties will attempt to resolve the dispute through mediation.

The decision as to who shall act as mediator is to be agreed between the parties. Failing agreement within 14 days after either party has given to the other a written

request to concur in the appointment of a mediator, the mediator must be appointed by the Centre for Dispute Resolution within 14 days of the appointment of the mediator, the parties must meet the mediator to agree the procedure to be adopted for the mediation.

All negotiations connected with the dispute will be conducted in confidence and without prejudice to the rights of the parties in any further proceedings.

If the parties agree on a resolution of the dispute, the agreement shall be put in writing and once signed by the parties, will be binding on them.

If the parties fail to resolve the dispute within two months of the mediator being appointed (or longer period by agreement) or if either party withdraws from the mediation procedure then either party may exercise any remedy it may have under or in connection with the contract through the English courts.

Neither party shall be prevented, by the inclusion of this mediation clause, from applying at any time to the English courts for such interim or conciliatory measures (including but not limited to preservation of property) as may be considered appropriate”.

Uses: All contracts over £10,000 unless a standard RIBA or ICE Contract is used, or some other professional body contracts which has its own dispute resolution mechanism.

23. SEALING OF DOCUMENTS

23.1 The Legal Section must approve all contracts - See Paragraph 6.5.5 - and will arrange to seal Medium Value Contracts and High Value Contracts, thereby providing the Council with a longer time period in which to sue for breach of contract.

23.2 The persons authorised to witness the application of the Seal are the Executive Director of Resources or the Head of Legal and Democratic Services or any other person authorised by either of them from time to time.

23.3 Details of the sealing are recorded in the Council’s Seal Book and signed by the person witnessing the seal.

24. LIQUIDATED DAMAGES

24.1 Provision shall be made in all contracts for payment of liquidated damages by the contractor where there is a failure to complete the contract within the time specified.

24.2 The amount of liquidated damages shall be determined by the appropriate Head of Service in consultation with the Head of Legal and Democratic Services.

25. PERFORMANCE BONDS

25.1 Where the estimated amount of a contract exceeds £250,000 the Head of Service shall normally require the contractor to provide a bond or other security. Any decision not to require a bond will be recorded on the appropriate file.

25.2 If a bond or other security is deemed necessary, the amount shall be at least 10% of the contract sum.

26. INSURANCE

26.1 Prior to letting a contract the Head of Service shall ensure that the contractor holds adequate insurance policies to include, where appropriate, Professional Indemnity insurance which shall protect the Council's interest and cover all potential losses that may arise. An adequate level of insurance shall be determined in consultation with the Council's Insurers.

26.2 The Head of Service shall make and record such checks as are necessary from time to time to ensure that the contractor's insurance policies remain in force.

27. AVOIDANCE OF RESTRICTIVE PRACTICES

27.1 All contractors submitting a tender or a request for inclusion on a Select List or Ad Hoc List shall sign a declaration that:

- (i) they shall not communicate the amount of the proposed tender to anyone except the Council;
- (ii) they shall not receive details of a proposed tender from any other contractor;
- (iii) they shall not adjust the amount of a proposed tender as a result of an arrangement with any person other than the Council;
- (iv) they shall not agree with any other person:
 - a) the amount of the proposed tender;
 - b) not to tender.

27.2 If the contractor is in breach, the Chief Officer shall be informed so that relevant action can be taken to include reporting to the Cabinet.

28. ASSIGNMENT AND SUB-LETTING

28.1 All contracts shall include clauses preventing:

- (i) the assignment of contracts except with the prior written permission of the Council;
- (ii) the sub-letting of any part of the work contained in the contract except with the prior written approval of the Head of Service.

29. CANCELLATION AND DETERMINATION

29.1 The following clause shall be included in every written contract:

“The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor’s behalf does any of the following:

- (a) offers, gives or agrees to give to anyone any inducement or reward in respect of this or any other council contract (even if the Contractor does not know what has been done); or
- (b) commits an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117 (2) of the Local Government Act 1972; or
- (c) commits any fraud in connection with this or any other Council contract whether alone or in conjunction with Council Members, Contractors or Officers. Any clause limiting the contractor’s liability shall not apply to this clause.

29.2 In the event of it being necessary to consider the termination of a contract, the Head of Service shall discuss the proposed course of action with the Head of Legal and Democratic Services.

30. COMPLIANCE WITH BRITISH STANDARDS

30.1 All contracts shall require that all works carried out or goods supplied conform to the current British Standard Specification or Code of Practice, if such exists.

30.2 Reference shall be made in contract documentation to specific British Standards as appropriate to define more clearly the scope of the contract.

31. ENGAGEMENT OF CONSULTANTS

31.1 Consultants shall only be used if in the opinion of the Head of Service, in consultation with the Executive Director of Resources, the work cannot be handled by Council Officers. A Select List of Consultants compiled under Paragraphs 7.7 or 7.8 shall be maintained and reviewed every three years. The appropriate professional institution or trade association shall be contacted to verify a Consultant’s qualifications before being included on the Select List.

31.2 The Cabinet must have resolved to support the actual project in principle before Consultants are appointed. A note shall be placed on each project’s file stating:

- (i) why it was necessary to use an external consultant;
- (ii) the brief for the project;
- (iii) the brief for selecting the consultant and how this was met;
- (iv) which Officers were involved in the selection process.

31.3 Where Consultants are employed by the Council, the Head of Service shall ensure that the requirements of Paragraph 22.4 above are written into the terms of their engagement and shall verify that this has been done.

- 31.4 Any Consultant who is to be responsible for supervising any stage of the contract process on behalf of the Council shall:
- (i) comply in all aspects with these Contract Procedure Rules and the Council's Financial Regulations;
 - (ii) hold, where appropriate, an adequate level of Professional Indemnity Insurance to cover any potential loss that may arise;
 - (iii) produce all records maintained by him or her relating to the contract to the Head of Service or his or her representative whenever requested during the period of the contract;
 - iv) pass all records to the Head of Service on completion of the contract.
- 31.5 There may be instances where use of these Contract Procedure Rules for the engagement of Consultants would be inappropriate, for example, in the case of the engagement of a barrister or other consultant where quality of performance is more important than the lowest tender. In such instances, Consultants shall be appointed as follows:
- (i) Low Value: appointed by a Head of Service;
 - (ii) Medium Value: appointed by the Head of Service;
 - (iii) High Value: appointed by the Head of Service and Executive Director of Resources;

The Head of Service shall:

- (i) ensure that consultancies can be properly funded, within an approved budget and expenditure code;
 - (ii) consider the nature of the contract and how payments shall be made;
 - (iii) draw up a written contract with any consultants employed;
 - (iv) ensure that all documentation relating to a proposed consultancy is collated by an experienced officer in consultation with the Head of Legal and Democratic Services.
- 31.6 When grants are awarded to outside bodies for feasibility studies, the organisation concerned shall be responsible for appointing and monitoring the Consultants. Grant funded projects agreed by the Council shall proceed without any variation to the brief which would result in the Council incurring extra costs.

32. DISPOSAL OF LAND BY THE COUNCIL

- 32.1 Land transactions and related negotiations shall only take place at the explicit consent of the Executive Director of Resources acting as Corporate Property Officer, having consulted the Head of Service and Ward Members. Such transactions and

related negotiations may include disposals, acquisitions, exchanges of land, leases and other means of transaction.

32.2 Where the Executive Director of Resources acting as Corporate Property Officer decides that land shall be disposed of by way of a formal open market competitive tender then:

- (i) The procedure for the receipt, custody and opening of tenders and for dealing with late tenders shall be in accordance with these Contract Procedure Rules, except that:
 - (a) a defined range of uses which may be acceptable to the Council shall be provided in the tender documentation;
 - (b) any late tenders received shall be opened in the same way and a decision made by the Executive Director of Resources as Corporate Property Officer whether or not the tender should be considered;
 - (c) any letters sent out to successful tenderers shall contain a statement that in the event of any late tenders or further offers being received prior to the exchange of contract then these will be considered by the Executive Director of Resources as Corporate Property Officer.
- (ii) All persons by whom or on whose behalf a tender is submitted shall declare on the form of tender whether they are Members or Officers of the Council or whether they are related to a member or employee of the Council. Failure to make such a declaration or the making of a false declaration shall invalidate the tender and render voidable at the option of the Council any contract entered into as a result of the tender
- (iii) A tender may be accepted in accordance with these Contract Procedure Rules provided that in the event of there being a proposal to accept a tender from a Member or Officer of the Council or a relative of such a person this shall be referred to the Cabinet for consideration.

32.3 Where the Chief Officer decides that land shall be disposed of at auction, then the Chief Officer shall have the necessary authority to appoint and instruct independent auctioneers. Reserve prices shall be agreed between the Head of Legal and Democratic Services and the auctioneers instructed in conjunction with the Head of Finance. A schedule of land disposed of, auctioneers used, reserve prices and achieved receipts shall be reported retrospectively to the Cabinet on an annual basis.

32.4 Where there is a proposal to dispose of land to a Member or Officer of the Council other than by a competitive tender and the disposal is in the opinion of the Chief Executive not a routine disposal, the proposal shall be referred to the Cabinet for consideration and a full report shall be made by the Chief Officer on the proposal.

32.5 For the purpose of this Contract Procedure Rule persons shall be deemed to be related if they would be so deemed for the purposes of the Officer Employment Procedure Rules Rule 1.

- 32.6 For the purpose of this Contract Procedure Rule 'Officers' includes any person who receives remuneration directly from the Council.
- 32.7 In the case of minor disposals of land (less than £10,000 (this value to be index linked on an annual basis)), the Council's Property Services Manager shall have the authority to decide whether or not to treat with an individual on a transaction and shall be empowered to advise any interested parties that a particular property shall not be considered for disposal for any period up to one year unless exceptional circumstances cause a dramatic increase in value.
- 32.8 The Chief Officer shall have regard at the outset to matters of Value Added Tax on the acquisition and disposal of land; guidance can be sought from the Head of Financial Services and the Corporate Procurement Assistant.

33. RISK ASSESSMENT, CONTINGENCY PLANNING AND BUSINESS CONTINUITY

- 33.1 A business case must be prepared for all procurements with a potential value over the EU Threshold . Provision for resources for the management of the contract, for its entirety, must be identified in the business case.
- 33.2 For all High Value Contracts, Heads of Service must:
- (i) maintain a risk register during the contract period;
 - (ii) undertake appropriate risk assessments and for identified risks;
 - (iii) ensure contingency measures and business continuity plans are in place.

Appendix A

Contracts Subject to the European Union Regulations

The Head of Legal and Democratic Services may be contacted for further details of the EU Procedures and up to date Thresholds.

Where an estimated value of a contract exceeds the current EU Threshold, the contract shall be tendered in accordance with the Regulations. Under the Regulations, the contract may be tendered under the Open, Restricted Negotiated or the Competitive Dialogue. Procedures; tenders shall also be advertised in the local press and on the Council's Website; Standstill Procedures shall also apply.

SUPPLIER SELECTION FORM FOR TENDER VALUES £6,000 - £50,000

Service			
Officer undertaking supplier selection			
Description of goods or services to be purchased:			
Suppliers selected for tenders: (please keep tenders with this form)			
Supplier Name		Tender Value (£)	
1			
2			
3			
Please document rationale for selecting these suppliers			
Have you obtained tenders or quotes from at least three suppliers?		Yes	No
If not, please document the reasons why not, for example, Framework Agreement in place			
Successful Supplier:			
Please state your reasons for selecting this supplier. If the most financially favourable tender or quote or the most economically advantageous tender or quote has not been selected, please explain why.			
AUTHORISATION			
In authorising this order, I confirm that: The value of this order is within my prescribed authorisation limits; and I confirm there are sufficient financial resources available within my budget to fund the purchase.			
Head of Service (please print name)		Job Title	

Signature		Date:	
<p>Where: Three tenders or quotes have not been obtained; or The most financially favourable tender or quote or the most economically advantageous tender or quote has not been selected</p> <p>Then: The Head of Service must authorise this form.</p>			
Head of Service (please print name)		Date:	
Signature			

SUPPLIER SELECTION FORM FOR TENDER VALUES £50,000 - £100,000

Service			
Officer undertaking supplier selection			
Description of goods or services to be purchased:			
Suppliers selected for tenders: (please keep quotations with this form)			
Supplier Name		Tender Value (£)	
1			
2			
3			
Please document rationale for selecting these suppliers			
Have you obtained tenders or quotes from at least four suppliers?		Yes	No
If not, please document the reasons why not			
Successful Supplier:			
Please state your reasons for selecting this supplier. If the most financially favourable tender or quote or the most economically advantageous tender or quote has not been selected, please explain why.			
AUTHORISATION			
In authorising this order, I confirm that: The value of this order is within my prescribed authorisation limits; and I confirm there are sufficient financial resources available within my budget to fund the purchase.			

Head of Service (please print name)			
Signature			
<p>Where:</p> <ul style="list-style-type: none"> • Four tenders have not been obtained; or • The most financially favourable tender or quote or the most economically advantageous tender or quote has not been selected <p>Then : The Executive Director of Resources must also authorise this form.</p>			
Executive Director of Resources (please print name)		Date:	
Signature			

SUPPLIER SELECTION FORM FOR TENDERS OVER £100,000

This report should be completed for all tenders with an expected contract value over £100,000. It demonstrates good procurement practice and compliance with these Contract Procedure Rules. Please attach other documentary support as necessary. The form should be completed fully and kept on file by the Corporate Procurement Assistant.

Description of goods or services etc. to be purchased:

Head of Service - Name

Telephone Number

Pre Tender

Has the approval of the Executive Team been obtained Yes No

Was an Office of Government Commerce or Consortia Contract used? Yes No

If yes then please give details of OGC or Consortia Contract:

.....
.....
.....

Tender

If a tender was required which procedure was used? OPEN / SELECTIVE / EUROPEAN UNION REGULATIONS

If Selective Procedure then what Pre-Qualification/Evaluation criteria were used, i.e. what criteria were used to decide which of the suppliers who expressed an interest were actually asked to submit a tender?:

.....
.....
.....
.....

Which companies were asked to tender?

.....
.....
.....
.....
.....

Which of the following pre-qualification/evaluation criteria were used to determine the successful supplier?

(Please indicate which of the following apply - if any)

- | | |
|--|---|
| <input type="checkbox"/> Technical suitability | <input type="checkbox"/> Financial stability |
| <input type="checkbox"/> Health and safety | <input type="checkbox"/> Experience |
| <input type="checkbox"/> Equal opportunities | <input type="checkbox"/> Past performance |
| <input type="checkbox"/> Delivery dates | <input type="checkbox"/> Aesthetic/functional characteristics |
| <input type="checkbox"/> Technical/after-sales service | <input type="checkbox"/> Quality |
| <input type="checkbox"/> Costing/pricing | <input type="checkbox"/> Customer care |
| <input type="checkbox"/> Environmental Issues | <input type="checkbox"/> Others (Please list) |

Is the successful bid within budget? Yes No

Do the Executive Team need to validate the decision? Yes No

What, if any, Post Tender Negotiation was carried out?

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.....
.....

Which supplier was successful and why?

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.....
.....

What is the duration of the contract? years

Which Contract Conditions have been included?

- | | | |
|--|--|---|
| Health and Safety <input type="checkbox"/> | Indemnity <input type="checkbox"/> | Anti-Corruption <input type="checkbox"/> |
| Human Rights, Equality and Discrimination <input type="checkbox"/> | | Freedom of Information <input type="checkbox"/> |
| Third Party Rights <input type="checkbox"/> | Data Protection <input type="checkbox"/> | Dispute Resolution <input type="checkbox"/> |

What costs savings, if any, have been made?

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Any other relevant information?

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Signed by the Head of Service

.....
Date.....

Approved by the Executive Director of Resources

.....
Date.....

Corporate Procurement Assistant

.....
Date.....

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. THE FRAMEWORK FOR CABINET DECISIONS

The Council will be responsible for the adoption of its Policy Framework and Budget as set out in Article 4 ('The Full Council'). Once a Policy Framework or a Budget is in place, it will be the responsibility of the Cabinet to implement it.

2. PROCESS FOR DEVELOPING THE FRAMEWORK AND MAKING DECISIONS

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

- a) The Cabinet will publicise by including in the Forward Plan and publicise by such other methods as it considers appropriate a timetable for making proposals to the Councils 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 Chairmen of Overview and Scrutiny Committees will also be notified. The consultation period shall in each instance be not less than six weeks.
- b) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation.

If a relevant Overview and Scrutiny Committee wishes to respond to the Cabinet in that consultation process then it may do so. As the Overview and Scrutiny Committees have responsibility for fixing their own work programmes, it is open to the Overview and Scrutiny Committees to investigate, research or report in detail with policy recommendations before the end of the consultation period.

The Cabinet will take any response from an Overview and Scrutiny Committees into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response.

- c) Once the Cabinet has approved the firm proposals, the chief Executive will refer them at the earliest opportunity to the Council for decision.
- d) In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place. Before reaching a decision having significant financial implications the Council shall consider a report from the Head of Financial Services.
- e) If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- f) The decision will be publicised in such manner as the Council determines and a copy shall be given to the Leader.
- g) An in-principle decision will automatically become effective ten working days from the date of the Council's decision, unless the Leader informs the

Chief Executive in writing within five working days that he or she objects to the decision becoming effective and provides reasons why.

h) In that case, the Chief Executive will call a Council meeting within a further ten working days. The Council will be required to re-consider its decision. The Council may:

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

i) The decision shall then be made public and shall be implemented immediately;

j) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in year changes to the policy framework which may be undertaken by the Cabinet, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the Council.

3. DECISION OUTSIDE THE BUDGET OR POLICY FRAMEWORK

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

b) If the Cabinet and any Officers discharging Cabinet functions want to make such a decision, they shall take advice from the Chief Executive after having consulted the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those Officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

4. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

a) The Cabinet or Chief Executive may take a decision which is contrary to the Council's policy framework or contrary to or not 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 chairman 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 Committees the consent of the Chairman of the Council and in the absence of both the Vice-Chairman of the Council will be sufficient.

- b) Following the decision, the decision-maker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency. (see 4E 'The Access to Information Procedure Rules' – Rule 17.4).

5. VIREMENT

Steps taken by the Cabinet or Officers discharging Cabinet functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire across budget heads where each individual virement does not exceed that specified in the Council's Financial Regulations set out in the Financial Procedure Rules. Beyond that limit, approval to any virement across budget heads shall require the approval of the Full Council.

6. IN-YEAR CHANGES TO POLICY FRAMEWORK

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

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) necessary to ensure compliance with the law, ministerial direction or government guidance's.

7. CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- (a) Where an Overview and Scrutiny Committee is of the opinion that a Cabinet decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer and shall follow the procedure set out in the Overview and Scrutiny Procedure Rules.
- (b) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its

implementation until the Council has met and considered the matter. The Council will meet within twenty-one days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Head of Financial Services. The Council may

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

OVERVIEW AND SCRUTINY PROCEDURE RULES

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Introduction

The Council will have Overview and Scrutiny Committees: the Overview and Scrutiny Management Committee, the Policy Scrutiny Committee, the Performance Scrutiny Committee and the Audit Scrutiny Committee. Their functions are set out in the Terms of Reference part of this Constitution.

On or after adoption of this Constitution, the Overview and Scrutiny Committees may, after consulting appropriate interested parties, appoint and discontinue Sub-Committees or Task and Finish Groups.

The Council will establish and maintain a "Scrutiny Pack" which will contain details of additional procedures to be followed in carrying out the functions of the Committees.

1. Who may sit on Overview and Scrutiny Committees and Sub-Committees or Task Groups?

In order to ensure openness, transparency and accountability of decision making, the Council will exclude the Leader and Deputy Leader of the Council and Members of the Cabinet from membership of the Overview and Scrutiny Committees. However, such a Member may attend the Overview and Scrutiny Committees to give evidence, if so requested by the Overview and Scrutiny Committees.

A Member of the Overview and Scrutiny Committees may not take part in the discussion or voting on the scrutiny of a decision in which he or she was involved as a substitute Member at the meeting at which the decision was made, or by virtue of his or her membership of the Committee making that decision (whether or not the Member was in attendance at the particular meeting when the decision was made).

Sub-Committees or Task and Finish Groups may also be used to support the work of the Overview and Scrutiny Committees. Each Group will normally consist of between 3 and 5 members. Sub-Committees or Task Groups will be selected from all members of the Council except those Members who are excluded from membership of the Overview and Scrutiny Committees, such Members will similarly be excluded from membership of Sub-Committees or Task Groups.

2. Co-optees

The Overview and Scrutiny Committees, Sub-Committees or Task and Finish Groups shall be entitled to appoint non-voting co-optees.

3. Work Programme

The Overview and Scrutiny Committees will be responsible for setting their own work programme.

4. Agenda Items

(a) Any Member of the Overview and Scrutiny Committees shall be entitled to give notice to the Proper Officer that he or 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.

- (b) Any Members of the Council who are not Members of the Overview and Scrutiny Committee may give written notice to the Proper Officer that they wish an item to be included on the agenda of the relevant Overview and Scrutiny Committee. If the Proper Officer receives such a notification, then he or she will include the item on the first available agenda of the Overview and Scrutiny Committee for consideration by that Committee.

5. Policy Development and Overview

- (a) The Overview and Scrutiny Committees may make proposals to the Council or Cabinet for developments in so far as they relate to matters within their Terms of Reference.
- (b) The Overview and Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so (subject to their own budget as agreed by Full Council).

6. Reports from Overview and Scrutiny Committees

- (a) Once an Overview and Scrutiny Committee has completed its deliberations on any matter it will prepare a formal report and submit it to the Council, the Cabinet or Regulatory Committee as appropriate.
- (b) The Council or the Cabinet or Regulatory Committee shall consider the report of the Overview and Scrutiny Committees within one Committee cycle of receiving it. Within two months of their first consideration of a report from the Overview and Scrutiny Committees, the Council, Cabinet or Regulatory Committee will report back to the Overview and Scrutiny Committees with their findings. The report will provide a reasoned argument for their findings, particularly where those differ from the recommendations of the Overview and Scrutiny Committees. Their report will also include, where appropriate, an action plan and timetable to facilitate future scrutiny.

7. Members and Officers giving account

- (a) The Overview and Scrutiny Committees may scrutinise and review decisions (other than quasi judicial decisions) made or actions taken in connection with the discharge of any of the Council's functions. As well as reviewing documentation, in fulfilling the scrutiny role, they may require any Member of the Cabinet or Regulatory Committees, the Head of Paid Service and/or any senior officer to attend before them to explain in relation to matters within their remit:

- (i) any particular decisions or series of decisions;
- (ii) the extent to which the actions taken implement Council policy;

And it is the duty of those persons to attend if so required. (Note: Save in exceptional circumstances, and in agreement with the Head of Paid Service no officer below Chief Officer or a Service Head or other senior officer reporting directly to a Chief Officer or Head of Service shall be required to appear before an Overview or Scrutiny Committee).

- (b) Where any Member or officer is required to attend the 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 five working days notice of the meeting at which he or she is required to attend. The notice will state the nature of the item on which he or she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the 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 Committees shall, in consultation with the Member or officer, arrange an alternative date for attendance to take place within a maximum of ten working days from the date of the original request.

8. Attendance by others

The Overview and Scrutiny Committees may invite people other than those Members and Officers referred to above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and officers in other parts of the public sector and shall invite such people to attend.

9. Call-in

1. All decisions made by Committee and any other key decisions should be sent to Members within four working days of the Committee having met.
2. Such Notices will bear the date on which they are published and will specify that the decision will come into force, and may then be implemented, on the expiry of 3 working days after the publication of the decision.
3. The rules relating to the timetable for operating the Call-In Procedure shall be adhered to, whatever method of delivery of the Minutes to Members is used.
4. If a decision is called in the Proper Officer shall then notify Members of the decision making Committee. He or she shall call a meeting of the Overview and Scrutiny Committees on such date as he or she may determine, where possible after consultation with the Chair of the Committee, and in any case within 10 working days of the decision to call in.
5. If a decision is called in, the implementation of that decision is suspended until the Overview and Scrutiny Committees has met.

6. If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making Committee for reconsideration, setting out in writing the nature of its concerns or refer the matter to Full Council. If referred back to the decision making Committee, a meeting will be convened to reconsider the decision within a further ten working days.
7. If following an objection to the decision:
 - i) the Overview and Scrutiny Committees does not meet in the period set out above or the expiry of ten working day period; or
 - ii) the Overview and Scrutiny Committees does meet but does not refer the matter back to the decision making Committee, the decision shall take effect on the date of the meeting.
8. If the matter is referred to Full Council, and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any decision to which it objects back to the decision making Committee, together with the Council's views on the decision. A meeting of the decision making Committee will be convened to reconsider within ten working days of the Council's request.
9. Any three Members of the Council may request in writing for a decision to be called in.
10. The following matters are exempt from call-in.
 - i) Where decisions involve expenditure or reductions in service only those over a value of £25,000 per annum may be called-in.
 - ii) The procedure will not apply to decisions on individual planning or licensing applications.
 - iii) Call-Ins should only apply to decisions which are considered to be contrary to policy or not in accordance with the budget.
 - iv) Decisions which are deemed to be urgent by a Cabinet and a resolution passed to that effect.
 - v) Decisions determined by the various Appeals Panels which deal with Personnel matters (e.g. grievances, disciplinary matters, regradings and other matters relating to employment terms and conditions).
 - vi) Any deferred decisions.

10. Call in and Urgency

- (i) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if the relevant Policy Committee resolve that any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interest. The minute of any decision taken as a matter of urgency must indicate the reasons for urgency.
- (ii) The operation of the provisions relating to call-in and emergency shall be monitored annually by the Head of Paid Service or his or her nominee, and a report submitted to council with proposals for review if necessary.

ACCESS TO INFORMATION PROCEDURE RULES

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1. **SCOPE**

These rules apply to all meetings of the Council, its Policy and Regulatory Committees, the Overview and Scrutiny Committees, the Standards and Monitoring Committee, Joint Committees and any Sub-Committees (together called meetings).

2. **ADDITIONAL RIGHTS TO INFORMATION**

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

3. **RIGHTS TO ATTEND MEETINGS**

Members of the public may attend all meetings subject only to the exceptions in these rules.

4. **NOTICES OF MEETING**

The Council will give at least five clear days notice of any meeting by posting details of the meeting.

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

The Council will make copies of the agenda and reports open to the public available for inspection at least five 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 Proper Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection from the time the item was added to the agenda. If urgent business is allowed copies of any reports will be made available to the public.

6. **SUPPLY OF COPIES**

The Council will supply copies of:

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

7. **ACCESS TO MINUTES ETC. AFTER THE MEETING**

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

- (a) the minutes of the meeting.
- (b) the agenda for the meeting; and
- (c) reports relating to items when the meeting was open to the public.

8. **BACKGROUND PAPERS**

8.1 **List of Background Papers**

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

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information.

8.2 Public Inspection of Background Papers

The Council will make available for public inspection one copy of each of the documents on the list of background papers.

9. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

9.1 Confidential Information - Requirement to Exclude Public

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

9.2 Exempt Information – Discretion to Exclude Public

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

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

9.3 Exempt Information – Public Interest Test

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Information which falls within any of the paragraphs 1-7 at 9.4 below, and is not prevented from being exempt by virtue of any of the conditions listed below, is exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

9.4 Meaning of Confidential Information

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

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9.5 Meaning of Exempt Information

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

	Category	Interpretation
1	Information relating to any individual	
2	Information which is likely to reveal the identity of an individual	
3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)	<p>“Financial or business affairs” includes contemplated, as well as past or current, activities.</p> <p>“Person” includes both incorporated and unincorporated associations of persons and, as such, an unincorporated charity falls within the definition of person as well as a company.</p>
4	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or officer-holders under, the authority	<p>“Employee” means a person employed under a contract of service.</p> <p>“Labour relations matter” means –</p> <p>a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of the at Act); or</p> <p>b) any dispute about a matter falling within paragraph (a) above;</p> <p>and, for the purposes of this definition, the enactments mentioned at (a) above, with the necessary modifications, shall apply to office-holders under the authority as they apply to employees of the authority.</p> <p>“Officeholder”, in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who hold any such office or is an employee of the authority.</p>
5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	
6	Information which, if disclosed to the public, would reveal 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	<p>“Person” includes both incorporated and unincorporated associations of persons and, as such, an unincorporated charity falls within the definition of person as well as a company.</p>

	(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	

and in respect of a meeting of the Standards Committee, or a Sub-Committee of the Standards Committee or a Standards Board Panel, convened to consider a matter under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of the Local Government Act 2000.

	Category	Interpretation
7A	Information which is subject to any obligation of confidentiality	
7B	Information which relates in any way to matters concerning national security	
7C	The deliberations of a Standards Committee or of a Sub-Committee of a Standards Committee established under Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act	

Conditions

- a) Information falling within any paragraph above is not exempt information by virtue of that paragraph if that information is required to have been made available to the public by virtue of any other law.
- b) Information falling within paragraph 3 is not exempt information by virtue of this paragraph if it is required to be registered under:-
 - (a) the Companies Act 1985
 - (b) the Friendly Societies Acts 1974 and 1982
 - (c) the Industrial and Provident Societies Act 1965 to 1978
 - (d) the Building Societies Act 1986 or
 - (e) the Charities Act 1993

“Registered” in relation to information required to be registered under the Building Societies Act 1986 means recorded in the public file of any building society (within the meaning of that Act).

- c) Information falling within any of paragraphs 1-7 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items which the meeting may decide should not to be open to the public. Such reports will be marked “Not for Publication” together with the category of information likely to be disclosed. If, at the meeting it is resolved that the matter should be dealt with in public, the relevant reports should be made available to the public.

11. URGENT BUSINESS

In accordance with Section 100B(4)(6) of the Local Government Act 1972 The Mayor or Committee Chair may allow urgent items of business to be considered on the grounds of urgency. If an item is allowed the Chair must give reasons for the special circumstances which require an urgent decision.

12. APPLICATION OF RULES TO THE CABINET

Rules 13 – 21 apply only to the Cabinet and its committees. If the Cabinet or its committees meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 14.3 of this Constitution.

13. PROCEDURE BEFORE TAKING KEY DECISIONS

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

- (a) a notice (called here a Forward Plan) has been published in connection with the matter in question;
- (b) at least five clear days have elapsed since the publication of the Forward Plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 4 (notices of meetings).

14. THE FORWARD PLAN

14.1 Period of Forward Plan

Forward plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on

a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

14.2 Contents of Forward Plan

The Forward Plan will contain matters which the Cabinet has reason to believe will be subject of a key decision to be taken by the Cabinet, officers, or under joint arrangements in the course of the discharge of an Cabinet function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision-maker is an individual, his or her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The Forward Plan must be published at least 14 days before the start of the period covered.

The Chief Executive will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that key decisions are to be taken on behalf of the Council;
- (b) that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the plan will contain details of the key decisions to be made for the four month period following its publication;
- (d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- (e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;

- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a Forward Plan 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 Forward Plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates; and
- (b) the Chief Executive has informed the chairman of a relevant Overview and Scrutiny Committees, or if there is no such person, each member of that Committee in writing, by notice, of the matter to which the decision is to be made; and
- (c) the Chief Executive has made copies of that notice available to the public at the offices of the Council; and
- (d) at least three clear days have elapsed since the Chief Executive complied with (a) and (b).

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

16. SPECIAL URGENCY

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

17. REPORT TO COUNCIL

17.1 When an Overview and Scrutiny Committees can require a report

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

- (a) included in the Forward Plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant Overview and Scrutiny Committees chairman, 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 Chief Executive, who shall require such a report on behalf of the Committee when so requested by (the chairman or any seven members). Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committees.

17.2 Cabinet's Report to Council

Following receipt of a requisition under Rule 17.1, the Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons or that opinion.

17.3 Quarterly Reports on Special Urgency Decisions

In any event the Leader will submit reports to each ordinary meeting of the Council on the Cabinet decisions taken in the circumstances set out in Rule 16 (special urgency) since the last occasion when a report was made. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

18. RECORD OF DECISIONS

After any meeting of the Cabinet or any of its committees, whether held in public or private, the Chief Executive or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

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

The Cabinet will hold meetings relating to matters which are not key decisions in public except where the public is excluded by Rule 10.

20. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS

20.1 Rights to copies

- (b) Subject to Rule 20.2 below, an Overview and Scrutiny Committees (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relevant to its area of work relating to any business which will be or was transacted at a meeting of the Cabinet or its committees;

21.2 Limit on Rights

An Overview and Scrutiny Committees will not be entitled to:

- a) any document that is in draft form;
- b) the advice of a political adviser.

22. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

22.1 Material relating to previous business

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 previously transacted at a meeting unless it contains the advice of a political adviser.

22.2 Material relating to key decisions

All Members of the Council will be entitled for their work as a councillor to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which relates to any key decision unless it contains the advice of a political adviser.

22.3 Nature of rights

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

EMPLOYMENT PROCEDURE RULES

1. RECRUITMENT AND APPOINTMENT

1.1 Declarations

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are related to the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or an Officer of the Council; or of the partner of such persons.
- (ii) No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him or her.

1.2 Seeking support for appointment.

- (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council.
- (iii) Nothing in paragraphs (i) and (ii) above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment provided that Councillor has no role in the decision process of recruitment / appointment to that position.

2. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS

Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
 - (i) the duties of the officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
- b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

3. APPOINTMENT OF HEAD OF PAID SERVICE

- 3.1 The Full Council must approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a Committee or Sub-committee of the Council before an offer of appointment is made to him/her. That Committee or Sub-committee must include at least one Member of the Cabinet.
- 3.2 An offer of employment as Head of Paid Service shall only be made where the procedure set out in Appendix 1 to the Officer Employment Procedure Rules has been completed.

4. APPOINTMENT TO CHIEF OFFICER POSTS

- 4.1 The Full Council has decided to reserve to itself the approval of the appointment of the Chief Officers following the recommendation of such an appointment by a Committee or Sub-committee of the Council before an offer of appointment is made to him/her. That Committee or Sub-committee must include at least one Member of the Cabinet.
- 4.2 An offer of employment as a Chief Officer or an Officer paid on Chief Officer grades shall only be made where the procedure set out in Appendix 1 to the Officer Employment Procedure Rules has been completed.

5. OTHER APPOINTMENTS

- 5.1 Deputy Chief Officers and officers below.

Appointment of Deputy Chief Officers and Officers below Deputy Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his or her nominee, and may not be made by Councillors.

- 5.2 Assistants to political groups.

Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6. DISCIPLINARY ACTION

- 6.1 Suspension of Head of Paid Service, Chief Finance Officer, and Monitoring Officer.

The Head of Paid Service, Chief Finance Officer and Monitoring Officer may be suspended whilst an investigation takes place into alleged misconduct; any such suspension must terminate no later than the expiry of two months beginning on the day on which the suspension takes effect, unless the designated independent person has directed that it may continue beyond that period.

- 6.2 Independent person.

No other disciplinary action may be taken in respect of the Head of Paid Service, the Chief Finance Officer or Monitoring Officer, except in accordance with a recommendation in a report made by a designated independent person under Regulation 7 of The Local Authorities (Standing Orders) (England) Regulations 2001 SI 2001/ 3384 (investigation of alleged misconduct).

- 6.3 Councillors will not be involved in the disciplinary action against any Officer who is not a Chief Officer or paid on Chief Officer grades except where such involvement is necessary for any investigation or inquiry into alleged misconduct. However, the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

7. DISMISSAL

- 7.1 Councillors will not be involved in the dismissal of any Officer who is not a Chief Officer or paid on Chief Officer grades except where such involvement is necessary for any investigation or inquiry into alleged misconduct. However, the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of dismissals.
- 7.2 Where a Committee or Sub-Committee of the Council is discharging, on behalf of the Council, the function of or in relation to, the dismissal of the Head of Paid Service, a Chief Officer or Officer paid on Chief Officer grades, that Committee or Sub-Committee must include at least one Member of the Cabinet.
- 7.3 Head of Paid Service.

Where a Committee or Sub-Committee of the Council is discharging the function in relation to the dismissal of the Head of Paid Service, the Full Council must approve any recommendation of dismissal before notice of dismissal is given.

- 7.4 Notice of dismissal of the Head of Paid Service, a Chief Officer or Officer paid on Chief Officer grades must not be given until the procedure set out in Appendix 2 to the Officer Employment Procedure Rules has been completed.

8. DEFINITIONS

- 8.1 "Chief Officers" means Strategic Directors and the Monitoring Officer and Chief Finance Officer

APPENDIX 1

APPOINTMENT OF HEAD OF PAID SERVICE, CHIEF OFFICERS AND OFFICERS PAID ON CHIEF OFFICER GRADES

1. This procedure applies to the appointment of the Head of Paid Service, Chief Officers and officers paid on Chief Officer grades (“relevant officers”) and has been incorporated into these Rules, as required by the Local Authorities (Standing Orders)(England) Regulations 2001.
2. In this procedure, “appointor” means, in relation to the appointment of a relevant officer, the committee, sub-committee or panel making the appointment, or, in the case of the appointment of the Head of Paid Service, making a recommendation to the Council.
3. An offer of an appointment as a relevant officer 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 Cabinet 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 in the making of the offer is to be made by the Leader on behalf of the Cabinet to the proper officer; and
 - (c) either:
 - (i) The Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither s/he nor any member of the Cabinet 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 Leader, or
 - (iii) The appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
4. The “proper officer” for the purposes of paragraph 3 will be the Head of Human Resources.

APPENDIX 2

DISMISSAL OF HEAD OF PAID SERVICE, CHIEF OFFICERS AND OFFICERS PAID ON CHIEF OFFICER GRADES

1. This procedure applies to the dismissal of the Head of Paid Service, Chief Officers and officers paid on Chief Officer grades (“relevant officers”) and has been incorporated into these Rules, as required by the Local Authorities (Standing Orders)(England) Regulations 2001.
2. In this procedure, “dismissal” means, in relation to the dismissal of a relevant officer, the Council or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the Council, that committee, sub-committee or other officer, as the case may be.
3. Notice of the dismissal of a relevant officer 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 Cabinet 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 Cabinet leader on behalf of the Cabinet to the proper officer, and
 - (c) either;
 - (i) The Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither s/he nor any other member of the Cabinet 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 Leader, or
 - (iii) The dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
4. The “proper officer” for the purposes of paragraph 3 will be the Head of Human Resources.

PART 5
CODES AND PROTOCOLS

CONTENT

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ROSSENDALE BOROUGH COUNCIL

CODE OF CONDUCT FOR
COUNCILLORS

INDEPENDENT AND OTHER
VOTING REPRESENTATIVES

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1. **PRINCIPLES OF THE CODE**

The following principles have been accepted by the Council.

Selflessness

Members and co-opted members should serve only the public interest and should never improperly confer an advantage or disadvantage on each other or any person.

Honesty and Integrity

Members and co-opted members should not place themselves in situations where their honesty and integrity may be questioned. They should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

Members and co-opted members should make decisions on merit including making appointments, awarding contracts or recommending individuals for rewards or benefits.

Accountability

Members and co-opted members should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

Members and co-opted members should be as open as possible about their actions and those of their authority and should be prepared to give reasons for those actions.

Personal Judgement

Members and co-opted Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others

Members and co-opted members should promote equality by not discriminating unlawfully against any person and by treating people with respect regardless of their race, age, religion, gender, sexual orientation or disability. Members should also respect the impartiality and integrity of the Authority's statutory officers and its other employees.

Duty to Uphold the Law

Members and co-opted members should uphold the law and on all occasions act in accordance with the trust that the public is entitled to place in them.

Stewardship

Members and co-opted members should do whatever they are able to do to ensure that their Authority has used its resources prudently and in accordance with the law.

Leadership

Members and co-opted members should promote and support these principles by leadership and by example and should always act in a way that secures or preserves public confidence.

2.0 SCOPE

2.1 In this code, “member” includes an independent or voting representative of the Council.

2.2 Members must observe the Council’s Code of Conduct whenever they

- (a) conduct the business of the authority;
- (b) conduct the business of the office to which they have been elected or appointed, or
- (c) act as a representative of the authority;

and references to a member’s official capacity shall be construed accordingly.

2.3 The Code of Conduct shall not, apart from paragraphs 3.3 and 3.4 below, have effect in relation to the activities of a Member undertaken other than in an official capacity.

2.4 Where a Member acts as a representative of the authority

- (a) on another relevant authority, he must, when acting for that other authority, comply with that other authority’s code of conduct; or
- (b) on any other body, he must, when acting for that other body, comply with the authority’s code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3.0 GENERAL OBLIGATIONS

3.1 **A member must**

- (a) promote equality by not discriminating unlawfully against any person;
- (b) treat others with respect; and
- (c) not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf, of the authority.

3.2 A member must not:

- (a) disclose information given to him in confidence by anyone, or information acquired which he believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required by law to do so: nor
- (b) prevent another person from gaining access to information to which that person is entitled by law.

3.3 A member must not in his official capacity, or any other circumstances, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute.

3.4 A member

- (a) must not in his official capacity, or any other circumstances, use his position as a Member to improperly confer on or secure for himself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use of others of the resources of the authority
 - (i) act in accordance with the authority's requirements; and
 - (ii) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive, to the discharge of the functions of the authority or of the office to which the member has been elected or appointed.

3.5.1 A member must when reaching decisions have regard to any relevant advice provided to him by

- (i) the authority's Chief Finance Officer acting in pursuance of his duties under section 114 of the Local Government Finance Act 1988 or any equivalent provision in any regulations made under Section 6(6) of the Local Government and Housing Act 1989; and
- (ii) the authority's Monitoring Officer acting in pursuance of his duties under section 5(2) of the Local Government and Housing Act 1989; and

3.6 A member must, if he becomes aware of any conduct by another member which he reasonably believes involves a failure to comply with the authority's code of conduct, make a written allegation to that effect to the Standards Board for England as soon as it is practicable for him to do so.

4.0 **INTERESTS**

4.1 **Personal Interests**

4.2 A member must regard himself as having a personal interest in any matter if the matter relates to an interest in respect of which notification must be given under paragraphs 5.2 and 5.3 below, or if a decision upon it might reasonably be regarded as affecting to a greater extent than other council tax payers, ratepayers or inhabitants of the authority's area, the well-being or financial position of himself, a relative or a friend or

- (a) any employment or business carried on by such persons;
- (b) any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
- (d) any body listed in sub-paragraphs (a) to (e) of paragraph 5.3 below in which such persons hold a position of general control or management.

4.3 **In this Code**

- (a) "relative" means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, a child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and
- (b) "partner" in paragraph 4.3(a) above means a member of a couple who live together.

4.4 **Disclosure of Personal Interests and Prejudicial Interests**

4.5 A member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

4.6 Subject to paragraph 4.8 below, a member with personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.

4.7 A member may regard himself as not having a prejudicial interest in a matter if that matter relates to:

- (a) another relevant authority of which he is a member;
- (b) another public authority in which he holds a position of general control or management;
- (c) a body to which he has been appointed or nominated by the authority as its representative;
- (d) the housing functions of the authority where the member holds a tenancy or lease with a relevant authority provided that he does not have arrears of rent with the relevant authority of more than two months, and provided that those functions do not relate particularly to the member's tenancy or lease;
- (e) the functions of the authority in respect of school meals, transport and travelling expenses, where the member is a guardian or parent of a child in full time education, unless it relates particularly to the school which the child attends.
- (f) the functions of the authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the member is in receipt of, or is entitled to the receipt of such pay from a relevant authority; and
- (g) the functions of the authority in respect of an allowance or payment made under sections 173 to 176 of the Local Government Act 1972 or section 18 of the Local Government and Housing Act 1989.

4.8 Overview and Scrutiny Committees

1. For the purpose of this Part, a member must if he is involved in the consideration of a matter at a meeting of an Overview and Scrutiny Committees of the authority or a sub-committee of such a committee, regard himself as having a personal and a prejudicial interest if that consideration relates to a decision made, or action taken, by another of the authority's –
 - (a) Committees or sub-committees; or
 - (b) joint committees or joint sub-committees, or which he may also be a member
2. But sub-paragraph 1. above shall not apply if that member attends that meeting for the purpose of answering questions or otherwise giving evidence relating to that decision or action.

4.9 Participation in Relations to Disclosed Interests

- 4.9.1 Subject to paragraph 4.8.2 below, a member with a prejudicial interest in any matter must:

- (a) withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he has obtained a dispensation(d) from the authority's standard's committee;
- (b) not seek improperly to influence a decision about the matter

4.9.2 A member with a prejudicial interest may, unless the interest is of a financial nature, and unless it is an interest of the type described in section 4.7 above, participate in a meeting of the authority's

- (a) Overview and Scrutiny Committees; and
- (b) joint or area committees

to the extent that such Panels are not exercising functions of the authority

4.10 For the purposes of this Code, "meeting" means any meeting of

- (a) the authority;
- (b) any of the authority's or its committees, sub-committees, joint committees, joint sub-committees, or area committees.

5.0 THE REGISTER OF MEMBERS' INTERESTS

5.1 Registration of Financial and Other Interests

5.2 Within 28 days of the provisions of an authority's code of conduct being adopted or applied to that authority or within 28 days of his election or appointment to office (if that is later), a member must register his financial interests in the authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to the authority's monitoring officer of

- (a) any employment or business carried on by him;
- (b) the name of the person who employs or has appointed him, the name of any firm in which he is a partner, and the name of any company for which he is a remunerated director;
- (c) the name of any person, other than a relevant authority, who has made a payment to him in respect of his election or any expenses incurred by him in carrying out his duties.
- (d) the name of any corporate body which has a place of business or land in the authority's area, and in which the member has a beneficial interest in the class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;

- (e) a description of any contract for goods, services or works made between the authority and himself or a firm in which he is a partner, a company of which he is a remunerated director, or a body of the description specified in sub-paragraph (d) above;
- (f) the address or other description (sufficient to identify the location) of any land in which he has a beneficial interest and which is in the area of the authority;
- (g) the address or other description (sufficient to identify the location) of any land where the landlord is the authority and the tenant is a firm in which he is a partner, a company of which he is a remunerated director, or a body of the description specified in sub-paragraph (d) above; and
- (h) the address or other description (sufficient to identify the location) of any land in the authority's area in which he has a licence (alone or jointly with others) to occupy for 28 days or longer.

5.3 Within 28 days of the provisions of the authority's code of conduct being adopted or applied to that authority or within 28 days of his election or appointment to office (if that is later), a member must register his other interests in the authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to the authority's monitoring officer of his membership of or position of general control or management in any

- (a) body to which he has been appointed or nominated by the authority as its representative;
- (b) public authority or body exercising functions of a public nature;
- (c) company, industrial and provident society, charity, or body directed to charitable purposes;
- (d) body whose principal purposes include the influence of public opinion or policy; and
- (e) trade union or professional association.

5.4 A member must within 28 days of becoming aware of any changes to the interests specified under paragraphs 5.2 and 5.3 above, provide written notification to the authority's monitoring officer of that change.

5.5 A member must within 28 days of receiving any gift or hospitality over the value of £25, provide written notification to the authority's monitoring officer of the existence and nature of that gift or hospitality.

CODE OF CONDUCT FOR EMPLOYEES

1. INTRODUCTION

This Code applies to all Council employees, particularly those involved in applications for services or resources, giving licences or statutory consents, buying in goods and services or dealing with contractors.

It takes into account the provisions of the law and national conditions of service.

It will be made readily available to all employees for reference.

Investigations of alleged breaches of the Code will be dealt with under the Council's disciplinary procedure.

2. STANDARDS

The public has the right to expect the highest standards of service from Council employees and their conduct must never be influenced by improper motives. Advice to members and other employees should be given with due impartiality. Any deficiency in the provision of services, impropriety or breach of procedure should be reported to the Head of Service or the Chief Executive.

3. DISCLOSURE OF INFORMATION

By law certain types of information must be made available to members, auditors, Government departments, service users and the public

Under the Local Government Act 1972 (as amended) certain information – generally, Committee Agendas, Reports and Background Documents must be made available to the public.

Employees must not use information obtained in the course of their employment for personal gain or benefit and must not pass information to others who might use it in this way.

If any employee considers that the non-disclosure of certain information is against the public interest he or she should advise his or her Head of Service or the Chief Executive of the information concerned.

4. POLITICAL NEUTRALITY

Employees serve the Council as a whole. They must ensure that the individual rights of all Members are respected regardless of their Political Group.

The Council is required to maintain a list of posts which are subject to restriction on political activity. They are prevented by law from taking part in certain political activities outside their work.

Restricted political activities mainly involve:

- a) standing as a candidate in any election above Parish Council level,
- b) holding office in a political party,
- c) canvassing at an election,
- d) speaking in public or publishing written or artistic work which appears to affect public support for a political party.

Breaking statutory rules on political activity would be a breach of contract liable for investigation under the Council's disciplinary procedure.

Any employee in doubt about political activities should consult his or her Head of Service or the Chief Executive

Employees, whether or not politically restricted, must follow every lawful policy of the Council and must not allow their own personal or political opinions to interfere with their work.

5. RELATIONSHIPS

Members

Mutual respect between Members and employees is essential to good local government, but relationships should be clearly professional and advice should be efficient and impartial. Employees must always remember their responsibilities to all groups and individuals within the community they serve. Close personal familiarity between employees and individual Members can damage the relationship and prove embarrassing to other employees and Members and, therefore, should be avoided.

The Local Community and Service Users

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all political groups and individuals within that community as defined by the policies of the Council.

Contractors

Any relationships of a business or private nature with contractors or potential contractors must be made known to the Head of Service or the Chief Executive. Orders and contracts must be awarded on merit by fair competition with no favouritism and no section of the community should be discriminated against.

Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had, or currently have, a relationship in a private or domestic capacity with a contractor, should declare that relationship to the appropriate manager.

6. APPOINTMENTS

All appointments must be made on the basis of merit. The Council's Equal Opportunities Policy must be carried out. It would be unlawful for any employee to make an appointment based on anything other than the ability of the candidate to undertake the work.

To avoid any accusations of bias, employees must not be involved in any appointment where they are related to an applicant or have a close personal relationship outside work with him or her.

Similarly, employees must not be involved in decisions about discipline, promotion or pay adjustments involving another employee who is a relative, partner etc.

7. OUTSIDE COMMITMENTS

Off duty activities are the employee's personal concern but they should not subordinate public duty to private interests or put themselves in a position where public duty and private interests conflict.

Employees would not be restricted unreasonably from undertaking additional work but this must not:

- a) conflict with or detrimentally affect the Council's interests,
- b) weaken public confidence in the conduct of the Council's business,
- c) affect the employee's ability to undertake his or her Council duties.

Officers above Scale 6 are expected to devote their service to the work of the Council and must not engage in other business or take an additional paid appointment without the agreement in advance of their Head of Service.

No outside work should take place in the workplace and any use of Council facilities for this purpose (for example, telephones, photocopying etc) is not allowed.

8. INTELLECTUAL PROPERTY

This is a generic term that includes inventions, creative writings and drawings. If these are created by the employee during the course of his or her employment then, as a general rule, they belong to the employer. Inventions are the property of the employer if:

- they have been made in the course of the employee's normal duties, or
- they have been made in the course of duties specifically assigned to the employee and where invention might be reasonably expected, or
- they have been made in the course of the employee's duties and at the time the employee had a special obligation to further the interests of the employer (because of the nature of his or her duties and particular responsibilities arising from them).

9. PERSONAL INTERESTS

Employees must declare to the Head of Service or the Chief Executive non-financial interests, membership of organisations or public bodies which may bring them into conflict with the Council's interests. Trade Union membership is exempt from this requirement.

Employees must declare to the Head of Service or the Chief Executive any financial interests which may conflict with the Council interests.

Employees must declare to the Head of Service or the Chief Executive membership of any organisation not open to the public without formal membership or commitment of allegiance and which has secrecy about its rules or membership or conduct (for example, the Freemasons)

Employees with any non-financial or financial interest must not involve themselves in the allocation of Council services or resources from which they, their family or friends might benefit. Any concern should be reported immediately to the Head of Service or the Chief Executive.

10. EQUALITY ISSUES

All members of the local community, customers and other employees have the right to be treated with fairness and equity. Employees must ensure that Council policies on equality, equal opportunities and the requirements of the law in these areas are fully complied with.

11. SEPARATION OF ROLES DURING TENDERING

Employees must be clear on the separation of client and contractor roles within the Council. Employees with a dual role must be aware of the need for openness and accountability.

Employees must exercise fairness and impartiality when dealing with all customers, suppliers, contractors and sub-contractors.

Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.

Employees must ensure that no special favour is shown to current or former employees or their partners, relatives or associates in awarding contracts to a business run by them or employing them.

Employees must fully comply with the Council's Contract Procedure Rules and Financial Regulations relating to the award of contracts.

12. CORRUPTION

Corruption may include receiving any payment, gift (other than a gift of a nominal value – see paragraph 14), hospitality, or any other benefit from any person or organisation with whom a member of staff deals in his or her work, irrespective of what it is in respect of, including tips, and payment for additional 'private work'. It is also irrelevant whether any benefits are directly to an employee or to the employee's family or friends.

Any case of suspected corruption will be fully investigated and any cases will be treated as gross misconduct and criminal prosecutions undertaken.

13. USE OF FINANCIAL RESOURCES

Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

14. GIFTS

Gifts other than nominal items such as calendars, diaries, etc must be declined by employees.

Gifts offered by members of the public can be accepted where the value is nominal, and refusal might otherwise give offence.

15. HOSPITALITY

Employees should treat with caution all offers of hospitality whenever any suggestion can arise of improper influence. Employees should accept offers of hospitality only if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or when the Council should be seen to be

represented. They should be authorised by the Head of Service or the Chief Executive and registered in the Register of Gifts and Hospitality.

Particular care is required where hospitality is offered by a person or body having or seeking business with, or a decision from, the Council, particularly where the offer is to an individual employee.

Hospitality should only be accepted where it is on a scale appropriate to the circumstances, reasonably incidental to the occasion and where it is apparent no issue could reasonably arise for adverse criticism about accepting it.

Acceptance of hospitality at conferences, courses and at meetings between Councils may be accepted where it is clear this is corporate rather than personal.

Where visits of inspection (for example, to view equipment) are needed these should be at the Council's expense to avoid jeopardising the integrity of subsequent purchasing decisions.

16. REGISTER OF GIFTS AND HOSPITALITY

Employees must record all gifts and hospitality accepted (apart from at conferences, courses and meetings between Councils) in the Register of Gifts and Hospitality kept by the Head of Legal and Democratic Services.

17. SPONSORSHIP

The basic rules on gifts and hospitality will also apply where any outside organisation wishes to sponsor local government activities whether by invitation, tender, negotiation or voluntarily.

Particular care must be taken if these organisations are contractors or suppliers or potential contractors or suppliers.

Where the Council wishes to sponsor an event or service, no employee, relative or friend must benefit without full disclosure to the Head of Service or the Chief Executive of any such interest. Similarly, where the Council through sponsorship, grant aid, financial or other means gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

18. PUBLIC MEETINGS

Invitations to attend public meetings in an official capacity should only be accepted where attendance by a Council employee is considered appropriate by a Head of Service or the Chief Executive. However, attendance should be restricted to meetings which are:

- a) clearly not part of any party political activity, and
- b) manifestly open to all.

ROSSENDALE BOROUGH COUNCIL

MEMBERS' PLANNING
CODE OF GOOD PRACTICE

ROSSENDALE BOROUGH COUNCIL
Members' Planning Code of Good Practice

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- 7. Lobbying by Councillors**
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ROSSENDALE BOROUGH COUNCIL

Members' Planning Code of Good Practice

Background

This Code of Good Practice has been prepared in response to the Local Government Association's Guidance Note on the preparation of Local Codes of Good Practice on Planning Matters in the light of the introduction of the new ethical framework and is based on a Model Code produced by the Association of Council Secretaries and Solicitors in consultation with the District Audit Service, Local Government Ombudsman and the Standards Board for England.

Introduction

The aim of this code of good practice: to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

The key purpose of Planning: to control development in the public interest.

Your role as a Member of the Planning Authority: to make planning decisions openly, impartially, with sound judgement and for justifiable planning reasons.

When the Code of Good Practice applies: this code applies to Members at all times when involving themselves in the planning process.

It also applies to any involvement you might have in respect of applications which are delegated to officers to determine. The Development Control Manager has delegated power to determine all applications which accord with Policies adopted by the Council except for:-

- All applications on Council-owned land, by or on behalf of the Council, its partner organisations, or other agents.
- All applications for the Council's own development.
- All applications where the decision would be prejudicial to, or in conflict with, National or Development Plan Policy.
- All applications where it is known that the decision could give rise to substantial claims for compensation or purchase notices which might be difficult to defend.

- All applications where it is known that they are submitted by, or on behalf of, either Members or Officers (and their spouses).
- All applications which, in the opinion of the Development Control Manager and Planning Officer, are likely to be contentious or to give rise to significant, novel or unusual issues.
- All applications for development requiring an Environmental Impact Assessment.
- All applications where it is intended to overrule material planning objections from 3 or more separate addresses.
- All major applications for residential development for more than 0.5 hectares or 10+ dwellings (excluding reserved matters).
- All major applications for non-residential development for more than 1000m² or more, or where the site will be 1 hectare or more.
- Any other application where a Councillor of the relevant ward in which the development is located requests in writing stating clear and articulate planning reasons (within 14 days of being informed that the application has been submitted) that it should be determined at Committee.

If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer, Linda Fisher telephone 01706 252447 or e-mail lindafisher@rossendalebc.gov.uk or one of her staff, and preferably well before any meeting takes place.

1. Relationship to the Members' Code of Conduct

- **Do** apply the rules in the Members' Code of Conduct first, which must be always be complied with.
- **Do** then apply the rules in this Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not abide by this Code of Good Practice, you may put:
 - the Council at risk of proceedings on the legality or maladministration of the related decision; and
 - yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the

Code of Conduct, a complaint being made to the Standards Board for England.

2. Development Proposals and Interests under the Members' Code

- **Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter.
- **Do** then act accordingly. **Where your interest is personal and prejudicial:-**
 - **Don't** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.
 - **Don't** try to represent ward/local views, get another Ward/Local Member to do so instead.
 - **Don't** get involved in the processing of the application.
 - **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a personal and prejudicial interest in a proposal, using your position to discuss that proposal with officers or members when other members of the public would not have the same opportunity to do so.
 - **Do** be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a personal and prejudicial interest to an appropriate officer, in person or in writing, the Code places greater limitations on you in representing that proposal than would apply to a normal member of the public. (For example, where you have a personal and prejudicial interest in a proposal to be put before a meeting, you will have to withdraw from the room or chamber whilst the meeting considers it, whereas an ordinary member of the public would be able to make use of the public speaking scheme to address the meeting on the proposal and observe the meeting's consideration of it from the public gallery.)
 - **Do** notify the Monitoring Officer of any planning application that you submit and note that:
 - notification to the Monitoring Officer should be made no later than submission of the application;
 - the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers; and
 - it is advisable that you employ an agent to act on your behalf on the

proposal in dealing with officers and any public speaking at Committee

- Personal and Prejudicial Interests are explained in Part 5 of the Council's Constitution in the Code of Conduct for Councillors Independent and other Voting Representatives. Members should not allow the impression to be created that they are, or may be, using their position to promote a private or personal interest rather than forwarding the general public interest. Private and Personal interests include those of family and friends, their employment as well as those arising through membership of or, association with, Clubs, Societies and other organisations such as the Freemasons, trade unions and voluntary bodies.
- A Personal interest will also be a prejudicial interest if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Members' judgment of the public interest.

3. Membership of Development Control Committee

- **It is important that members of the public have confidence in the Members who are making decisions on planning applications and in connection with other planning matters. Regarding the conduct of Members, not only should impropriety be avoided but also any appearance or grounds for suspicion, of improper conduct. Also, members of the public need to be confident that Members have reasonable capability, in terms of background knowledge, for making these decisions, and are making them in line with agreed and adopted policies, national guidance and legislation.**
- **Members who have businesses or other interests which may bring them into contact with the Council's planning system on a regular basis should not generally be considered for membership of the Development Control Committee.**

4. Fettering Discretion in the Planning Process.

Members of the Development Control Committee.

- **Don't** fetter your discretion and therefore your ability to participate in planning decision making at this Council by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning authority

and of your hearing the officer's presentation and evidence and arguments on both sides.

Fettering your discretion in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

- **Do** be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- **Do** also be aware that, whilst the Members' Code of Conduct provides for a presumption that you may regard yourself as not having a prejudicial interest in matters which relate to the organisations mentioned below, you must exercise your discretion in deciding whether or not to participate in each case and where:
 - you have been significantly involved in the preparation, submission or advocacy of a planning proposal on behalf of:
 - another local or public authority of which you are a member; or
 - a body to which you have been appointed or nominated by the Council as its representative; or
 - you are a trustee or company director of the body submitting the proposal and were appointed by the Council

you should always disclose a prejudicial as well as personal interest and withdraw.

Members of Consultee Bodies.

- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example, or both a borough and county councillor), provided:
 - the proposal does not substantially effect the well being or financial standing of the consultee body;
 - you make it clear to the consultee body that:
 - your views are expressed on the limited information before you only;

- you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
- you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
- you disclose the personal interest regarding your membership or role when the Committee comes to considers the proposal.
- **Don't** speak and vote on a proposal where you have fettered your discretion. You do not also have to withdraw, but you may prefer to do so for the sake of appearances.
- **Do** explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.

Ward Members

- **Do** take the opportunity to exercise your separate speaking rights as a Ward/Local Member where you have represented your views or those of local electors and fettered your discretion, but do not have a personal and prejudicial interest. Where you do:
 - advise the proper officer or Chairman that you wish to speak in this capacity before commencement of the item;
 - remove yourself from the member seating area for the duration of that item; and
 - ensure that your actions are recorded.

5. Contact with Applicants, Developers and Objectors

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should request the Development Control Manager to organise it. The officer will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- **Do** otherwise:
 - follow the rules on lobbying;

- consider whether or not it would be prudent in the circumstances to make notes when contacted; and
- report to the Development Control Manager any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

In addition in respect of presentations by applicants/developers:

- **Don't** attend a planning presentation unless an officer is present and/or it has been organised by officers.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application; this will be carried out by the appropriate Council Committee.
- **Do** be aware that a presentation is a form of lobbying and you must not express any strong view or state how you or other Members might vote.

6. Lobbying of Councillors

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the Committee's decision making to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.
- **Do** remember that your overriding duty is to the whole community not just to the people in your ward/local area and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum; its acceptance is declared as soon as possible and remember to register the gift or hospitality in accordance with the Council's Code of Conduct on gifts and hospitality for Councillors.
- **Do** copy or pass on any lobbying correspondence you receive to the Development Control Manager at the earliest opportunity.
- **Do** promptly refer to the Development Control Manager any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring Officer where you feel you have been exposed to

undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.

- **Do** note that, unless you have a personal and prejudicial interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:
 - listening or receiving viewpoints from residents or other interested parties;
 - making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
 - seeking information through appropriate channels; or
 - being a vehicle for the expression of opinion or speaking at the meeting as a Ward/Local Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

7. Lobbying by Councillors

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will have fettered your discretion and are likely to have a personal and prejudicial interest and have to withdraw.
- **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal.
- **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken
- **Don't** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

8. Site Visits

- **Do** try to attend site visits organised by the Council where possible.

- **Don't** request a site visit unless you feel it is strictly necessary because:
 - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- **Do** ensure that any information which you gained from the site visit is reported back to the Committee, so that all Members have the same information
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party with the exception of the Ward/Local Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- **Don't** express opinions or views to anyone.
- **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
 - you feel it is essential for you to visit the site other than through attending the official site visit,
 - you have first spoken to the Development Control Manager about your intention to do so and why (which will be recorded on the file) and
 - you can ensure you will comply with these good practice rules on site visits.

9. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

10. Officers

- All Members and Officers must ensure that contact between them in connection with planning matters accords with the established convention of mutual respect, despite possible personal and professional differences of opinion on particular issues. Any contact between them should not undermine working relationships which are crucial to the success of the Council and good local government.
- Officers have a duty to give impartial advice to Members and the Council on planning applications and other planning matters and to make recommendations to Committee in the light of the Council's adopted planning policies, national planning policies, and any other material consideration using their professional judgement. Members should not attempt to use their position to pressurise officers into making a particular recommendation.
- **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Development Control Manager, which may be incorporated into any committee report).
- **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

11. Decision Making

- **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your planning reasons are recorded and repeated in the report to the Committee.
- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** comply with section 54A of the Town and Country Planning Act 1990 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- **Do** consider other relevant legislation such as the Human Rights Act 1998,

Race Relations Act 1976 as amended, Crime and Disorder Act 1988.

- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- **Do** have recorded the reasons for Committee's decision to defer any proposal.
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge. In certain instances it may be preferable to defer the application to the next Development Control Committee so that Members can have a further report on the application in light of their proposed decision to determine the application contrary to the Officer's recommendation.

12. Application of the Code to the Development Plan process and other Planning Functions.

- In the Development process, decisions are made by the Council regarding allocations and policies which relate to specific sites, or general policies which are not site specific but can have a bearing on how and what land can be developed. All these affect private interests.
- During the Development Plan process the Council will be dealing with people putting forward proposals for inclusion in the Plan, whilst others will be objecting to the proposals in the Plan.
- The decision-making Committee in relation to the Development Plan is Development Regeneration and Environment Committee.
- Interested parties will primarily be landowners or developers and interest groups, together with statutory bodies and authorities, and local residents. All play a part in the process and interact with Members and Officers.
- In addition to planning applications, other development control functions include enforcement action, tree preservation orders and dealing with listed buildings and conservation areas. All these areas of work involve important

decisions being made which affect peoples interests, and this Code applies to these decisions as well.

- It is essential, therefore, that Members have regard to the guidance in this Code of Conduct in relation to these other areas of work besides planning applications.

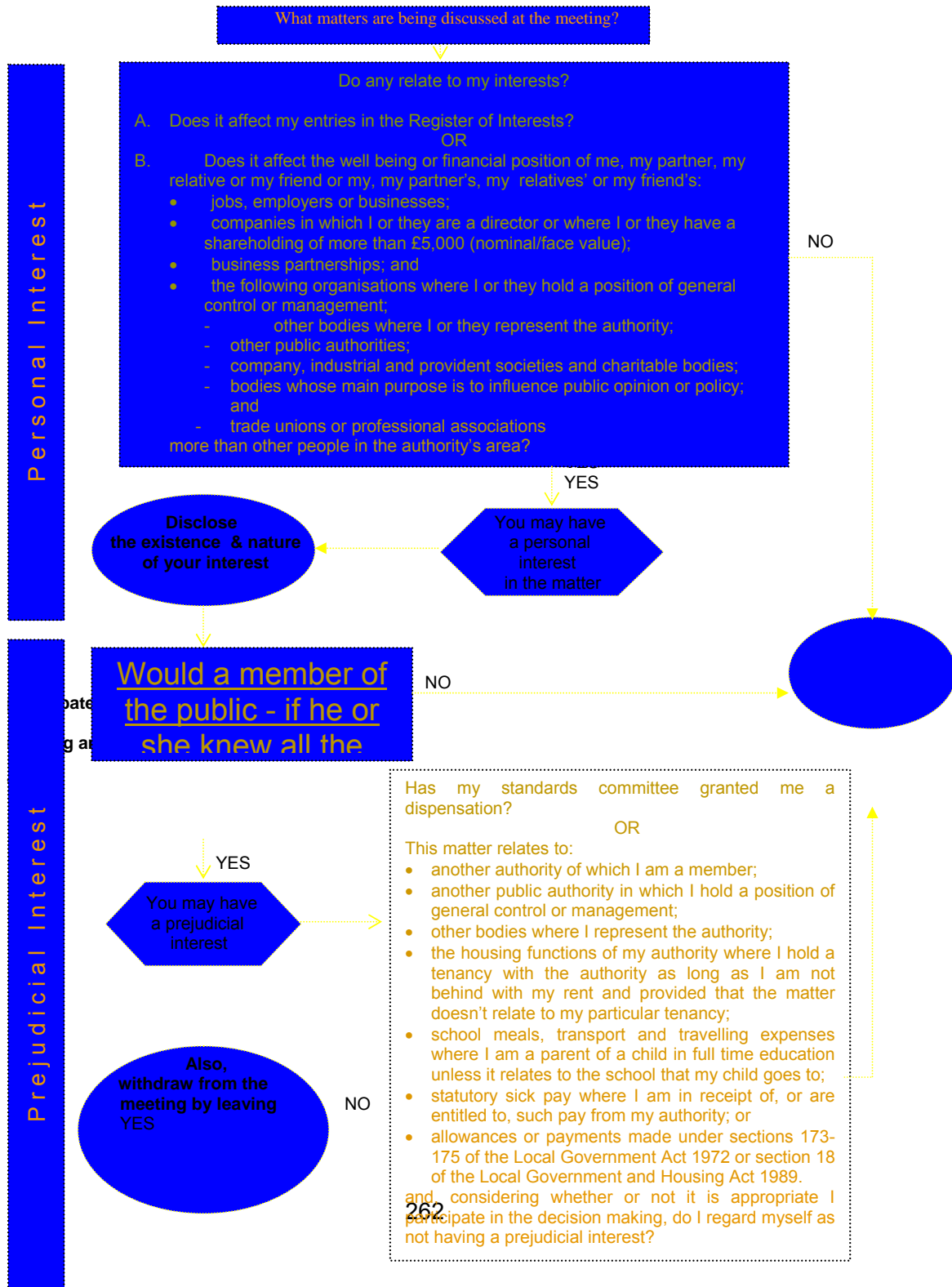
13. Training

- **Don't** participate in decision making at meetings dealing with planning matters if you have not attended planning training provided by the Council
- **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- **Do** participate in the annual review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.

14. Complaints

- Whatever procedures and practices are put in place it is possible that complaints will be made. However, the adoption of the advice in this Code should reduce the occasions on which complaints are justified. It should, hopefully, also provide less reason for people to complain in the first place.
- Complaints about the planning process will be dealt with through the Council's and Departmental complaints system. (Objections to planning applications are not treated as complaints). However, complaints by applicants/agents about the decision made (not the process) will not be entertained as a complaint as they are able to make use of the external statutory appeals process to the Secretary of State.

DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF (Non-Overview and Scrutiny Meetings)



PROTOCOL ON MEMBER/OFFICER RELATIONS

1. INTRODUCTION

The purpose of this protocol is to guide Members and Officers of the Council in their relations with one another.

Given the variety and complexity of such relations and the changes being brought about by the Government through its modernisation agenda, this protocol does not seek to be exhaustive. It seeks simply to offer guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other issues.

2. PRINCIPLES UNDERLYING MEMBER/OFFICER RELATIONS

The principles which underline this protocol are:

Selflessness

Members and officers should serve only the public interest and should never improperly confer an advantage or disadvantage on each other or any person.

Honesty and Integrity

Members and officers should not place themselves in official situations where their honesty and integrity may be questioned. They should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

Members and officers should make decisions on merit including making appointments, awarding contracts or recommending individuals for rewards or benefits.

Accountability

Members and officers should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

Members and officers should be as open as possible about their actions and those of their authority and should be prepared to give reasons for those actions.

Respect for Others

Members and officers should promote equality by not discriminating unlawfully against any person and by treating people with respect regardless of their race, age, religion, gender, sexual orientation or disability. Members should also respect the impartiality and integrity of the Authority's statutory officers and its other employees.

Duty to Uphold the Law

Members and officers should uphold the law and on all occasions act in accordance with the trust that the public is entitled to place in them.

Stewardship

Members and officers should do whatever they are able to do to ensure that their Authority has used its resources prudently and in accordance with the law.

Leadership

Members and officers should promote and support these principles by leadership and by example and should always act in a way that secures or preserves public confidence.

3. ROLES OF MEMBERS AND OFFICERS

All Councillors and officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Councillors are responsible for the strategic direction and control of the Council through their work at meetings of the Council, its committees and sub committees.

Officers are responsible to the Council. Their job is to give advice to Councillors and the Council and to carry out the Council's work under the direction and control of the Council, its committees and sub committees. Officers are responsible for the day to day management of services.

Mutual respect between Councillors and officers is essential to good Local Government. Close familiarity between individual Councillors and officers can damage this relationship and prove embarrassing to other Councillors and officers.

If a relationship exists between Councillors and officers who could give the appearance of an improper relationship, advice should be sought from the Chief Executive or from the Council Solicitor/Monitoring Officer.

If the guidelines in this protocol are followed there should be no dispute or conflict between Members and officers nor any harassment of staff. However, if in the event that a Member wishes to pursue a complaint against an officer or vice versa, then this must be done formally in writing to the Chief Executive (Complaints against Officers), the Standards Board for England (Complaints against Members).

4. RELATIONSHIP BETWEEN THE MAYOR AND OFFICERS

The Mayor is the first citizen of the Borough and the person who presides at meetings of the full Council. When dealing with Civic or ceremonial matters the Mayor will be assisted by the Mayor's Secretary. When presiding in meetings of the full Council, the Mayor may call upon the Head of the Paid Service and other Chief Officers to give advice and information as appropriate.

5. RELATIONSHIPS BETWEEN THE LEADER AND CHAIRS OF THE COMMITTEES AND OFFICERS

To enable the Authority to function effectively the Leader and Chairs of Committees will need briefings and other forms of regular liaison.

When the Leader and Chairs of Committees are formulating policy they must consider the advice of the appropriate Chief Officer and, when necessary, the Monitoring Officer and the Chief Financial Officer. When officer advice is given it must not extend to party or political business.

When the Leader and Chairs of Committees require information, briefings or officer attendance at a meeting etc, the request should be made to the appropriate Chief Officer who will determine how the support will be given. Chief Officers will not be able to refuse any reasonable request and in the event of a dispute the matter will be resolved by the Head of the Paid Service.

When the Leader or Chairs of Committees are being held to account by Overview and Scrutiny, it is they not officers who must be scrutinised.

However Chief Officers are expected to support Members who are being scrutinised.

6. RELATIONSHIPS BETWEEN CHAIR AND MEMBERS OF OVERVIEW AND SCRUTINY COMMITTEES AND OFFICERS

To enable Overview and Scrutiny to function effectively the Chair and Members of Overview and Scrutiny will need briefings and other forms of regular liaison. The Council will be asked to adopt a Scrutiny Pack to assist members and officers involved in the scrutiny function. Set out below is further information on the relationship between the Chair and Members of Overview and Scrutiny and Officers.

When the Committee scrutinises a decision of a Committee there should be no direct scrutiny of officers. The Committee must hold the Members to account. However Chief Officers are expected to support Committee Members who are being scrutinised.

When the Committee is conducting a Review an Independent Lead Officer may be appointed to assist the Committee. The Lead Officer together with an Administration Officer will help draft an initial report for The Committee. In any event the Chair and the Members of the Committee must consider the advice of the Independent Lead Officer and the Administration Officer and, when necessary, the advice of the Monitoring Officer and the Chief Financial Officer.

The Chair and Members of the Committee should consider holding regular briefing and liaison meetings with their Lead Officer and other Officers as necessary to ensure that Overview and Scrutiny can operate effectively.

7. RELATIONSHIP BETWEEN CHAIRS AND MEMBERS OF REGULATORY COMMITTEES AND OFFICERS

To enable Regulatory Committees to function effectively Chairs and Members of Regulatory Committees will need briefings and other forms of liaison.

In general it is the role of Members to make decisions and for officers to ensure that Members have all the relevant information including any appropriate guidance or policies.

In addition Members of the Development Control Committee will need to be familiar and have regard to the guidance in the Council's Code of Conduct. Members of the Licensing Committee will need to have regard

to the Policy Guidelines for the grant of Hackney Carriage and Private Hire Drivers Licences.

Chairs and Members of Regulatory Committees should consider holding regular briefing or liaison meetings with the appropriate Chief Officer as necessary to ensure that Regulatory Committees can operate effectively.

8. OFFICER RELATIONSHIPS WITH PARTY GROUPS

There is recognition of party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by all party groups.

The support provided by officers can take Members of the ruling group many forms, ranging from a briefing meeting with Chairs, or Opposition Members prior to a meeting, to a presentation to a full party group meeting. Whilst in practice such Officer support is likely to be in most demand from whichever group is for the time being in control of the Council, such support is available to all party groups.

Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:

- (a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party or political business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of party or political business are to be discussed.
- (b) Party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such.
- (c) Similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-committee when the matter in question is considered.
- (d) Relationships with a particular party group should not be such as to create any suspicion that an Officer favours that group above others.

Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the 'Council's Code of Conduct' (in particular the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Member only meeting.

The Chief Executive and Monitoring Officer need to be informed of any request for attendance at a party group meeting and authority to attend should be sought from the Chief Executive.

Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.

Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive and the Council Solicitor/Monitoring Officer who will discuss them with the relevant group leader(s).

9. MEMBERS IN THEIR WARD ROLE AND OFFICERS

Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the ward or wards affected should, as a matter of course, be invited to attend the meeting.

Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members must be notified at the outset of the exercise.

Whenever possible Councillors are encouraged to go directly to the appropriate officer when dealing with constituent's enquiry. However Members must not become over involved and abuse their positions when dealing with less senior members of staff. In the event of any difficulties the provisions of Section 3 of this protocol will apply.

10. COUNCIL ACCESS TO DOCUMENTS AND INFORMATION

Members are free to approach any Council Service for such information, explanation and advice (about that Service's functions) as they may reasonably need in order to assist them in discharging their role as members of the Council. This can range from a request for general information about some aspect of a Department's activities, to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the appropriate Chief Officer.

As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by common law. The statutory framework includes the Local Government Act 1972 and the Data Protection Acts 1985 and 1998. There are specific statutory prohibitions on the release of certain information contained in legislation. If in doubt, consult with the Council Solicitor or Chief Financial Officer.

Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, Committee or Sub-Committee meeting. This right does not, however, apply to documents relating to certain items which may appear as items on agenda for meetings. The items in question are those which contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, the care of children, contract and industrial relations negotiations, advice from counsel and criminal investigations in accordance with Schedule 12A to the Local Government Act 1972.

The common law right of Members is much broader and is based on the principle that any Member has a prima facie right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council. This principle is commonly referred to as the 'need to know' principle.

The exercise of this common law right depends therefore upon the Member's ability to demonstrate that he/she has the necessary 'need to know'. In this respect a Member has no right to 'a roving commission' to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the 'need to know'. The question must initially be determined by the Chief Executive, Director or Borough Officer of the Department which holds the document in question with advice from the Council Solicitor/Monitoring Officer. In the event of dispute, the question falls to be determined by Committee - i.e. the Committee in connection with whose functions the document is held or ultimately by the Courts.

In some circumstances (e.g. a Committee Member seeking to inspect documents relating to the functions of that Committee), a Member's 'need to know' will normally be presumed. In other circumstances (e.g. a Member seeking to inspect documents which contain personal information about third parties), a Member will normally be expected to justify the request in specific terms.

Whilst the term 'Council document' is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a member of one party group will not have a 'need to know', and therefore a right to inspect, a document which forms part of the internal workings of another party group.

Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Council Solicitor/Monitoring Officer.

Finally, any Council information provided to a Member must only be used by the member for the purpose for which it is provided, that is in connection with the proper performance of the Member's duties as a Member of the Council.

11. OTHER INDIVIDUALS WHO ARE MEMBERS OF COUNCIL BODIES

Independent Members and Co-opted Members perform an important role in contributing and supporting the work of Committees etc. To enable them to be effective they will also need briefings and other forms of liaison.

In general it is the role of other individuals who are members of Council bodies to share with Councillors their expertise and knowledge to help improve the effectiveness of the Council's decision making process. They will be able to contact the appropriate Chief Officers to seek from them information on matters relating to the work of the body to which they have been nominated. They should also normally be invited to attend any briefing or other liaison meetings which are convened for all members of the body. They will not normally be invited to attend Chairs or Party Group Briefings.

12. PRESS RELEASES

Press Releases will be issued on behalf of the Council by the Communications Officer. The Leader and Deputy Leader of the Council will meet regularly with the Communications Officer to control publicity.

If any press releases are to be made, the appropriate Chief Officer will contact the Communications Officer and where necessary the appropriate Members will be consulted on any comments which are to be attributed to them in the release.

13. CORRESPONDENCE

Correspondence either written or electronic between an Officer and a Member shall be personal to that Member and shall only be made available to another Member or Officer in the following circumstances:

- (a) Should the Member concern so request?
- (b) As a matter of course to the appropriate Chair with responsibility for the subject area, with the exception of minor operational matters.
- (c) to the Leader of the Council, the Chief Executive, the Monitoring Officer, the S151 Officer, the Chair of Overview and Scrutiny - at their request.
- (d) To the Officers' Director and/or Borough Officer responsible for the subject area - at their request.
- (e) To another Officer dealing with the matter in the absence of the Officer named on the face of the correspondence should the need arise.
- (f) To another Officer or Member who is named within the correspondence as assisting in dealing with the matter.

It will not normally be necessary for correspondence arising from day to day activity, to be in the name of a Member. Representation to external organisation such as Joint Authorities, Local Government Association, Government Departments etc should be in the name of the appropriate Chief Officer and clearly state that they are representing the views of the Council.

If a Chief Officer is responding to an enquiry on behalf of a Member the letter must state that it is on behalf of the Member and a copy sent to them for their information. Members if they wish can request the Members Secretary or Chief Officers to prepare responses to constituency matters in their name for their signature from time to time Members may write to

external bodies and when doing so must be careful to clarify in what capacity they are writing. It could be as a Chair or Member of a Council Body or as an individual member or as a Member of Political Party. Unless prior consent has been obtained, Members must take care that their individual comments cannot be interpreted to reflect on the Members of the Council or a Political Group.

PART 6

MEMBERS' ALLOWANCES SCHEME

MEMBERS' ALLOWANCES SCHEME

Rossendale Borough Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003, hereby makes the following scheme:

1. This scheme shall have effect for the year commencing on 1st April 2007 for the next 12 months.
2. In this scheme "Councillor" means a Member of the Rossendale Borough Council who is a Councillor;

Basic Allowance

3. Subject to paragraph 6 below, for each year a basic allowance of £2,568 shall be paid to each Councillor.

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 below.

(2) Subject to paragraph 6, the amount of each such allowance shall be the amount specified against that special responsibility in that schedule.

(3) No Councillor shall be entitled to receive more than one Special Responsibility Allowance

Renunciation

5. A Councillor may by notice in writing given to the Chief Executive elect to forego any part of any entitlement to an allowance under this scheme.

Part-year Entitlements

6. (1) The provisions of this paragraph shall have effect to regulate the entitlements of a Councillor to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that councillor becomes, or ceases to be, a councillor, or accepts or relinquishes a

special responsibility in respect of which a special responsibility allowance is payable.

(2) If an amendment to this scheme changes the amount to which a councillor is entitled by way of a basic allowance or a special responsibility allowance, then payment shall be made from the date of the change to the scheme.

(3) Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that Councillor to a basic allowance, and if applicable a special allowance, shall be based on the number of days in office expressed as a proportion of the total number of days in a year.

(4) Where this scheme is amended as mentioned in sub-paragraph (2) and the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of the councillor to a basic allowance, and if applicable a special responsibility allowance, shall be based on the number of days in office expressed as a proportion of the total number of days in a year which will be calculated in two parts. Firstly, on the scheme before change and secondly on the scheme after the change.

(5) Where a Councillor relinquishes or accepts a special responsibility for which an allowance is payable, the entitlement shall be calculated in accordance with sub section (3) above.

Payments

7. (1) Payments shall be made in respect of basic and special responsibility allowances, subject to sub-paragraph (2), in instalments of one-twelfth of the amount specified in this scheme on the twenty second day of each month or thereabouts (or as otherwise requested in exceptional circumstances);

(2) Where a payment of one-twelfth of the amount specified in this scheme in respect of a basic allowance or a special responsibility allowance would result in the councillor receiving more than the amount to which, by virtue of paragraph 6, the Councillor is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which the Councillor is entitled.

Travel and Subsistence

8. *Travelling and subsistence expenses will be paid at the appropriate rates as set out in Schedule 2 when elected Members undertake approved duties either in or out of the Borough. A list of approved duties is set out in Schedule 3. The mileage rates and amounts for subsistence allowance in Schedule 2 may be varied in accordance with the National Joint Council for Local Government Services rates applicable to staff.*

Child Care and Dependant Carers Allowance

9. This Allowance may be claimed in respect of children aged 14 years or under or in respect of other dependents where there is medical or social evidence that care is required.

Payments will not be payable to a member of the Elected Member's household. Payments will be based on receipted expenditure incurred.

The total amount of allowance which an individual Member may claim in any one year will be limited to £750

Co-opted members Expenses

10. This scheme does not provide for an allowance for co-opted members, except so as to provide for a Special Responsibility Allowance in circumstances where a co-opted member is appointed to Chair a Committee included in Schedule 1. However, the Council will pay the reasonable expenses claims of co-opted Members.

Suspension of Payments

11. If any Member is suspended or partially suspended from their duties the Standards Committee, upon the advice of the Monitoring Officer, are empowered under this scheme to stop payment of allowances to that Member.

Access to the Local Government Pension Scheme

12. Under this Scheme Members are entitled to access the Local Government Pension Fund based on their basic and any special responsibility allowances they receive

Claims

13. Any claims made under this scheme must be done so within two months of the expenditure being incurred

Calculation and Indexing of Allowances

14. The allowances in this Scheme are calculated using the Basic Minimum Wage and are based upon the following formula:-

$(2/3 \times \text{average weekly hours}) \times \text{Basic Minimum Wage} \times 48 \text{ working weeks}$
The average weekly hours worked in 2007/08 is estimated at 15.

The Basic Minimum Wage is reviewed in October each year and the level of allowances will be increased in line with the new rate in October each year. The use of Basic Minimum Wage as an index will be reviewed at least every four years, the next date for review being no later than April 2011.

Amendment of the Scheme

15. Amendments to this Scheme can only be made following a report by the Independent Remuneration Panel.



CHIEF EXECUTIVE

SCHEDULE 1

SPECIAL RESPONSIBILITY ALLOWANCES

The following are specified as special responsibilities in respect of which special responsibility allowances are payable in the amounts stated.

LEADERS/DEPUTY LEADERS	£
Leader of the Majority or Largest Group	10,272
Deputy Leader of the Majority or Largest Group	7,704
Leader of the Minority or Second Largest Group	5,136

CABINET MEMBERS

Cabinet Member	5,136
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COMMITTEE CHAIRS

Overview & Scrutiny Committee Management Committee	5,136
Policy Scrutiny Committee	2,568
Performance Scrutiny Committee	2,568
Audit Scrutiny Committee	2,568
Standards	2,568
Development Control	2,568
Licensing	2,568

COMMITTEE VICE-CHAIRS

Overview & Scrutiny Committee Management Committee	2,568
Standards	1,284
Development Control	1,284
Licensing	1,284

SCHEDULE 2

TRAVEL AND SUBSISTENCE ALLOWANCES

1. Travel and Subsistence Claims

- 1.1 Members incurring expenses in the course of approved duties in respect of travel, meals and overnight accommodation will be reimbursed approved expenses, subject to appropriate evidence of expenditure being produced, in accordance with the following arrangements.
- 1.2 Please refer to Section 8 with regard to expenses incurred in relation to individual training course expenses.
- 1.3 All claims for car mileage, public transport, taxis, car parking, meals and overnight accommodation must be made on the Council's Claim Form for Travel and Subsistence and paid through payroll, to ensure compliance with Inland Revenue Regulations. The form is available on the Intranet, within HR/Human Resources/Forms.
- 1.4 Appropriate receipts in respect of public transport, taxis, car parking, meals and overnight accommodation must be attached to the claim form.
- 1.5 Claim forms should be completed, signed and submitted monthly to the Committee and Member Services Manager, who is authorised to approve the claim, and will be forwarded to the Payroll section in order that they are received by the 30th of the month at the latest. Any forms with insufficient detail will be returned to the claimant.
- 1.6 Claims must be made no more than two months in arrears.

2 Car Mileage Allowances

2.1 Entitlement and Rates

- 2.1.1 A car mileage allowance is payable for Members required to use a car in the execution of their duties, the level of which depends upon the engine size. The rate of payment for mileage undertaken for an approved duty is the same as that for officers with casual car user status.
- 2.1.2 The following rates apply:-

	451 – 999 cc	1,000 cc or greater
Per mile first 8,500	39.7p	43.1p
Per mile after 8,500	12.1p	12.0

(Figures last revised 1st April 2006)

2.1.3 For the current rates refer to Personnel Circular 28, Car Allowances or refer to The National Joint Council for Local Government Services or the Council's Human Resources department. The Council has, by Resolution, restricted its mileage rate to the two lowest rates.

2.1.4 Members should ensure that claims for cars with a "1000" (cc) engine actually are that capacity (or greater) as this is the point at which a higher rate is paid. Check your vehicle registration sheet ("log book") and car manual and enter the exact cubic capacity.

2.2 Car Mileage Claims

2.2.1 The records of journeys on claim forms should contain enough detail for the journey to be verified and therefore should give:

- the specific time of the journey
- the start and finishing mileage
- the places travelled to and from and the route
- the reasons for the journey
- details of any passengers carried

2.2.2 Return journeys should be clearly indicated including brief details of the route taken if there are alternatives.

2.2.3 The use of recording by means of "Trip Meters" is forbidden for any journey. All meter readings are to be taken from the odometer on the car.

2.2.4 All journeys must follow the most economic, practical and timely route and avoid unnecessary duplication of car use if more people are attending the same event.

2.2.5 Mileage will normally be claimable from the Member's home.

2.2.6 Where a Member is using a mixture of methods of transport to attend an approved duty outside the Borough then the full circumstances should be recorded on the claim form, e.g. car journey to Place "X", Train Journey to Place "Y" and return.

2.2.7 Where a journey exceeds 50 miles each way it should be noted that second class rail fare is claimable or car allowance, whichever is the cheapest.

2.2.8 Where more than one Member is attending the same meeting, site visit etc., then arrangements should be made to share transport, wherever practicable.

2.2.9 In general, choose the option that is cheapest for the Council and demonstrate this by noting and recording information on the claim form.

2.3 Vehicle Insurance and Other Requirements for Business Use

2.3.1 Members using their vehicles for Council business must be insured for business purposes. This must be stated on their insurance certificate and the certificate must be shown to the Committee and Member Services Manager. This must be done each time insurance is renewed or car details changed. The Committee and Member Services Manager will keep a copy as insurance details are periodically subject to audit inspection.

2.3.2 Insurance certificates must be available for inspection when required by either the Head of Legal and Democratic Services or the Audit Department.

2.3.3 The car mileage allowance paid to Members contains an element for running costs so no further contributions will be made to Members where their insurance company demands an additional premium for business use cover.

2.3.4 Members not insured for business use must not use their car for Council duties, including ward working, even if they do not intend to claim the mileage. In an emergency where there are no properly insured drivers, public transport or a taxi should be considered (subject to approval by the Committee and Member Services Manager).

2.3.5 Members should be mindful that if they are stopped by the police whilst on Council business and have inadequate insurance cover for business use they may be prosecuted and subject to a referral to the Council's Monitoring Officer.

3 Public Transport

3.1 Bus fares will be reimbursed against the appropriate receipt or used ticket.

3.2 Travel by rail should be second class. The Council has an account for booking rail tickets. Members should contact the Member Support Assistant who will forward booking information to the Council's Insurance Officer, who will book a ticket. The Council will then be invoiced direct.

4 Taxi / London Underground

- 4.1 Taxi expenses are generally payable in instances where local routes are not known and the destination/location is not known, nor convenient if known. Expenses will be reimbursed against the appropriate receipt.
- 4.2 In London, use of the underground is encouraged rather than automatic use of a taxi. Expenses will be reimbursed against the appropriate receipt or used ticket.

5 Car Parking

- 5.1 The cost of car parking will be reimbursed against the appropriate receipt or used ticket.

6 Overnight Accommodation

- 6.1 Members who are required to make overnight stays in the performance of their duties should make every attempt to keep costs down to the minimum possible. Arrangements for accommodation should normally be made through the Member Support Assistant. Wherever possible, the Council should be invoiced direct for accommodation.

7 Subsistence

- 7.1 Claims for subsistence expenses may be made in relation to duties undertaken outside the Rossendale Borough, when supported by receipts and the subsistence is not provided as part of the event. The Council does not pay expenses for meals taken within the Borough.
- 7.2 Reimbursement will be made for actual expenditure up to the maximum amounts detailed below:-

Breakfast	£4.92
Lunch	£6.77
Tea/refreshments	£2.67
Evening Meal	£8.38

(Figures last revised 28th May 2002)

- 7.3 Where meals are taken on trains or in accommodation, which are in excess of the maximum amounts detailed above, reasonable expenses will be paid.
- 7.4 Breakfast allowance may be claimed if you leave home before 7.00 am.

7.5 Evening meal allowance may be claimed if you will be arriving home after 7.30 pm. This does not apply to Members attending evening Cabinet, Council, Committee or Sub-Committee meetings of the Council or when meals are provided by the establishment.

8 Individual Training Course Expenses

8.1 All expenses in relation to training courses must be claimed on the Claim Form for Travelling Expenses for Approved Training, which is available on the Intranet, within HR/Training and Development/Forms or from the Member Support Assistant.

SCHEDULE 3

APPROVED DUTIES

1. A meeting of the Cabinet.
2. A meeting of a Committee of the Cabinet.
3. A Council meeting.
4. A meeting of a Committee or Sub-Committee of the Council.
5. A meeting of any other body to which the Council makes appointments or nominations.
6. A meeting of a Committee or Sub-Committee of any other body to which the Council makes appointments or nominations.
7. A meeting which has both been authorised by the Council, Cabinet, a Committee or Sub-Committee of the Council or a Joint Committee of the Council and one or more Councils, or a Sub-Committee of a Joint Committee and to which representatives of more than one political group have been invited (if the Council is divided into several political groups) or to which two or more Councillors have been invited (if the Council is not divided into political groups).
8. A meeting of a Local Authority Association of which the Council is a member.
9. Duties undertaken on behalf of the Council in connection with the discharge of any function of the Council conferred by or under any enactment and empowering or requiring the Council to inspect or authorise the inspection of premises.
10. Task and Finish Groups established in connection with Overview and Scrutiny.
11. Area Forums and the Lancashire Local Rossendale.
12. Member Development sessions arranged in accordance with the Annual Training Schedule.
13. Any individual training event authorised in accordance with the procedure set out in the Quarterly Member Development Programme.
14. Any seminar or conference to which the Council, a Committee or Cabinet has nominated a delegate.

SCHEDULE 3

15. Site visits in connection with Council business.
16. Any other duty approved by the Council for the purposes of, or in connection with, the discharge of the functions of the Cabinet, Council, or any of its Committees or Sub-Committees.

NOTE: A Member may only claim travel and subsistence allowance for attendance at a meeting where he or she is has been formally appointed to serve on that body or is a nominated substitute. Members attending a Scrutiny Committee or the Cabinet in order to provide evidence or information on behalf of another Committee may also claim for travel and subsistence. Members attending as observers or in any other capacity will not be entitled to claim.

PART 7
MANAGEMENT STRUCTURE

Chief Executive

Deputy Chief Executive

E)

Head of Service
Human Resources

Head of Service
Street Scene and
Liveability

Head of Service
Spatial
Development

Head of Service
Economic Regeneration
and strategic Housing

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Head of Service
Customer Services
And ICT

Head of Service
Community
and Partnership

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Page 3: [18] Deleted 26	vissupport	09/05/2007 4:14 PM
Page 38: [19] Deleted (a) Promoting and maintaining high standards of conduct by Councillors, Co-opted Members;	vissupport	09/05/2007 12:52 PM
(b) Assisting Councillors, 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, Co-opted Members to train Councillors and Independent Members on matters relating to the Members Code of Conduct;
- (f) Granting dispensations to Councillors and co-opted Members from requirements relating to interests set out in the Members Code of Conduct;
- (g) Dealing with any reports from a case tribunal or interim case tribunal and any report from the Monitoring Officer on any matter which is referred by an Ethical Standards Officer to the Monitoring Officer;
- (h) Monitor the Constitution and make recommendations to Council in respect of any proposed amendments;
- (i) Consider and approve the Statement of Accounts;
- (j) Monitor the whistle-blowing policy;
- (k) Monitor the Council's Corporate Governance arrangements.

To exercise functions (a) to (g) in relation to Whitworth Town Council and the Members of Whitworth Town Council.

Rossendale Borough Council

OFFICER DELEGATION SCHEME

D

Responsible Officer	
Title/Subject Matter	
Status	
Summary	

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Implications

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Information taken into account

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Consultations

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Options Considered

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Decision (with reasons)

Decision Made by:	Signature	Date
Officers Consulted:		