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PART 3

RESPONSIBILITY FOR FUNCTIONS

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

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1. Introductions and Definitions

2. General Terms of Reference

3. Local Choice Functions

4. Terms of Reference of the Council

5. Terms of Reference of the Cabinet

6. Terms of Reference of the Overview & Scrutiny Committees

7. Terms of Reference of the Regulatory Committees

7.1 Development Control Committee

7.2 Licensing Committee

8. Standards Committee

9. Appointment & Appeals Committee

10. Audit & Accounts Committee

11. Working Groups

12. Neighbourhood Forums

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1. INTRODUCTION AND DEFINITIONS

1.1 Any reference in this Part of the Constitution to an Act of Parliament or other statutory provision includes any re-enactment of that Act or provision and any amending legislation. Where powers or duties of the Council under statutory provisions not mentioned in this Part of the Constitution relate to or are incidental to functions assigned to the Council, the Cabinet, a Panel or a Committee or delegated to officers in this Part of the Constitution those powers or duties are given to the Council, Cabinet, Panel or Committee to which the function has been assigned, or the officer to whom the function has been delegated.

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1.2 Where new functions are given to the Council by an Act of Parliament or other statutory provisions, which are related to the functions given to the Cabinet, a Panel or a Committee by this Part of the Constitution these new functions will be exercised by the Cabinet, Panel or Committee.

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1.3 This Scheme is subject to Parts 1 and 3 of the Council's Constitution.

1.4 Subject to any provisions to the contrary any reference in this Part of the Constitution:

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(a) to applications for permission, consents, approvals, certificates, licences, authorisations or registrations, includes power to grant (with or without conditions) or refuse them and to deal with any transfer, assignment, variation, suspension, revocation, consultations, appeal or other proceedings.

(b) to orders, schemes or directions, includes power to (or to apply to) make, vary or revoke them and to deal with any appeal or other proceedings.

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(c) to notices, includes power to serve, issue publish, vary or withdraw them and to deal with any appeal or other proceedings; and

(d) to any function, includes any power, discretion or duty contained in the relevant statutory provision or which is incidental or ancillary to the exercise of that function.

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1.5 In this Part of the Constitution, the following words and phrases shall have the following meaning:

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(a) **Executive functions** shall mean those functions which by law must be the responsibility of the Cabinet.

(b) **Non-executive functions** shall mean those functions which by law must not be the responsibility of the Cabinet.

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(c) **Local choice functions** shall mean those functions which the Council may decide to exercise itself or delegate to any part of the Council including the Cabinet. A list of local choice functions is included in

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Section 3 of this Part of the Constitution.

- (d) Standing Orders shall mean the standing orders and rules set out in Part 3 of this Constitution.

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2. GENERAL TERMS OF REFERENCE

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- 2.1 These Terms of Reference set out the functions of the Council, and those of its functions that have been given to the Cabinet, Panels and Committees.

- 2.2 The Council is responsible for the exercise of all functions which are set out in Article 4 and Part 4 below and for determining the allocation of executive functions to the Cabinet in accordance with section 15 of the Local Government Act 2000. The Council may delegate the exercise of non-executive or local choice functions to any other person or body subject to any statutory constraints.

- 2.3 Only the Council may exercise or delegate those functions described in section 4 of this Part of the Constitution.

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- 2.4 Subject to statutory requirements, Standing Orders and the matters reserved to the Council set out above, the Council delegates to the Cabinet, the Panels and the Committees and Officers shown in this Part of the Constitution the powers and duties set out, and such other powers and duties as the Council may from time to time specify. Any delegation of non-executive or local choice functions by the Council, shall not prevent the Council from exercising those functions itself.

- 2.5 The Cabinet is responsible for the exercise of all executive functions and any local choice functions delegated to it by the Council. It may further delegate those functions in accordance with section 15 Local Government Act 2000 and any regulations made under sections 17 to 20 Local Government Act 2000.

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- 2.6 Subject to statutory requirements and Standing Orders the Cabinet delegates to Officers set out in this Part of the Constitution the powers and duties set out and such other powers and duties as the Cabinet may from time to time specify. Any such delegation by the Cabinet shall not prevent the Cabinet from exercising those functions itself.

- 2.7 The Cabinet and each Committee shall be empowered to act subject to the following general conditions:-

- (a) Neither the Cabinet nor any Panel, or committee shall be empowered to raise money by council tax, precept, or loan or to make bylaws.
- (b) Subject to the urgency procedure in relation to executive decisions in the Access to Information in Part 3 of this Constitution any decisions made shall accord with the budget and policy framework
- (c) Before acting on any matter involving the adoption of any major new policy which changes the policy framework, the Cabinet, or any

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Committee must obtain the approval of the Council to its proposed course of action.

(d) Neither the Cabinet nor any Panel or Committee may make decisions in relation to a power or duty where its function is expressed to be advisory or limited to the making of recommendations or the submission of requests to the Council or another body.

2.8 Action by Cabinet and or Committee shall be subject to the restrictions imposed by Standing Orders.

2.9 Overview and Scrutiny Committees and the Regulatory Committees shall have power to:-

(a) Re-delegate to any Sub Committee appointed by it all or any of the powers and duties delegated to it by the Council.

(b) Impose any conditions or restrictions it thinks fit on the exercise of powers and duties by any of its Sub Committees.

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2.10 Any Panel shall have power to appoint a standing working party or a task and finish group to advise it on any power or duty delegated to it.

2.11 All member bodies shall have power to

(a) Re-delegate to an officer of the Council all or any of the powers and duties delegated to it by the Council

(b) Impose any conditions or restrictions it thinks fit on the exercise of powers and duties by an officer

(c) Seek advice from an officer of the Council

3. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

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

<u>Local Choice Function</u>	<u>Responsible Body or Person</u>	<u>Any Restriction</u>	<u>Statutory references</u>
<u>Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1 of the Regulations</u>	<u>Cabinet</u>	<u>None</u>	<u>Local Authorities (Functions and Responsibilities) (England) Regulations 2000</u>

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<u>Local Choice Function</u>	<u>Responsible Body or Person</u>	<u>Any Restriction</u>	<u>Statutory references</u>
<u>The determination of an appeal against any decision made by or on behalf of the authority.</u>	<u>Appeals Committee</u>	<u>Except to the extent powers are delegated to officers</u>	<u>Any enactment conferring a power on the Council to determine such appeals.</u>
<u>The appointment of review boards under regulations</u>	<u>Cabinet</u>	<u>None</u>	<u>Section 34 (4) of the Social Security Act 1998.</u>
<u>The conduct of best value reviews in accordance with the provisions of any order for the time being having effect.</u>	<u>Cabinet and Overview and Scrutiny Committees.</u>	<u>In accordance with the programme agreed by the Council. Recommendations to be made to the Cabinet.</u>	<u>Section 5 Local Government Act 1999</u>
<u>Any function relating to contaminated land.</u>	<u>Cabinet</u>	<u>Except to the extent powers are delegated to officers</u>	<u>Part IIA Environmental Protection Act 1990 and subordinate legislation.</u>
<u>The discharge of any function relating to the control of pollution or the management of air quality.</u>	<u>Cabinet</u>	<u>Except to the extent powers are delegated to officers</u>	<u>Pollution Prevention and Control Act 1999; Part IV Environmental protection Act 1990; Clean Air Act 1993</u>
<u>The service of an abatement notice in respect of a statutory nuisance.</u>	<u>Cabinet</u>	<u>Except to the extent that powers are delegated to officers</u>	<u>Section 80 (1) of the Environmental Protection Act 1990.</u>
<u>The passing of a resolution that Schedule 2 to the Act should apply in the authority's area</u>	<u>Cabinet</u>	<u>Except to the extent that powers are delegated to officers</u>	<u>Schedule 2 to the Noise and Statutory Nuisance Act 1993</u>

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

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4. TERMS OF REFERENCE OF THE COUNCIL

The Council shall be responsible for:

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4.1 Adopting, agreeing, amending or revoking the Constitution or any part thereof

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4.2 Approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land transfer

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4.3 Subject to the urgency procedure contained in the Access to Information Standing Orders in Part 3 of this Constitution, making executive decisions which are contrary to the policy framework or contrary to, or not wholly in accordance with, the budget

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4.4 Where required to do so under the provisions of the call-in procedure set out in the Overview and Scrutiny Standing Orders in Part 3 of this Constitution, to consider any decision which has been called in to the Council and determine the same.

4.5 The election of the Mayor and the appointment of the Deputy Mayor

4.6 The appointment of the Leader and members of the Cabinet and of councillors to serve on committees and working groups

4.7 Agreeing and/or amending the terms of reference for committees and panels, deciding on their composition and making appointments to them

4.8 Determining the allocation of executive functions to the Cabinet

4.9 The appointment of representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council

4.10 The adoption of a Members' allowances scheme

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4.11 Changing the name of the district or of a parish, or conferring the title of honorary Alderman or freedom of the borough

4.12 Confirming the appointment of the head of paid service, the monitoring officer and the chief finance officer and directors

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4.13 The duty to provide staff etc to a person nominated by the Monitoring Officer as set out in Sections 82A (4) and (5) of the Local Government Act 2000.

4.14 The power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal).

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4.15 Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills

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4.16 All local choice functions set out in this part of the Constitution which the Council decides should be undertaken by itself rather than the Cabinet

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4.17 Making arrangements for the proper administration of the financial affairs of the Council.

4.18 Approving the Council's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be)

4.19 Appointing proper officers for the purposes of any particular functions

4.20 The power to make payments or provide other benefits in cases of maladministration.

4.21 The following functions in relation to elections and electoral registration matters:

(a) the appointment of an electoral registration officer

(b) the assigning of officers in relation to requisitions of the registration officer.

(c) parishes and parish councils

(d) the dissolution of small parish councils

(e) orders for grouping parishes, separating and dissolving groups

(f) the appointment of the returning officer for local elections

(g) the provision of assistance at European Parliamentary elections

(h) the division of the constituency into polling districts

(i) the division of electoral divisions into polling districts (local elections)

(j) powers in respect of the holding of elections

(k) the payment of expenses properly incurred by electoral registration officers

(l) the filling of vacancies in the event of insufficient nominations

(m) duty to declare vacancy in office in certain cases

(n) duty to give public notice of a casual vacancy

(o) making temporary appointments to parish councils

(p) the determination of fees and conditions for the supply of copies of, or extracts from, election documents

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- (g) power to submit proposals to the Secretary of State for an order under Section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.

4.22 All other matters which, by law, must be reserved to Council

5. TERMS OF REFERENCE OF THE CABINET

5.1 Role

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

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

- a) Assets valued at over £100,000 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.
- e) Reports on all village green applications

5.2 Form and Composition

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

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5.3 Other Cabinet Members

Other Cabinet Members shall hold office until:

- e) They resign from office;
- f) 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);
- g) They are removed from office either individually or collectively by resolution of the Council;
- h) They are no longer Councillors;
- i) The date of the next Annual Council Meeting at the end of the Municipal Year

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5.4 Proceedings of the Cabinet

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

5.5 Exercise of Functions

- (a) The Cabinet shall be responsible for the exercise of all executive functions on behalf of the authority, i.e all of the local authority's functions which are not the responsibility of the full Council or any other part of the Council whether by law or under this Constitution.
- (b) The executive functions are allocated by the Council to the Cabinet as a collective decision-making body i.e the Leader and Cabinet members acting together.
- (c) There are 7 portfolios as shown in Article 6 onwards. Each member of the Cabinet shall be allocated a portfolio. A portfolio holder shall not have any decision-making powers, except as provided in Part []

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5.6 General Responsibilities of the Cabinet

5.6.1 Policy Framework and budget

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

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5.6.2 Promotion of well-being and community planning

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

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5.6.3 Best Value and Value for Money

Leading the search for best value, considering the outcomes of best value reviews carried out by Overview and Scrutiny Panels with a view to ensuring continuous improvement in the delivery of services and ensuring that those services provide, and can demonstrate, value for money.

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5.6.4 Effective Management and Resources

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

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(a) Ensuring that the organisation, establishment and management processes of the Council are designed to make the most effective contribution to the achievement of the Council's objectives.

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(b) Keeping them under review in the light of changing circumstances; and

(c) Making recommendations as necessary for change in either the democratic or departmental structure, or the distribution of functions and responsibilities.

5.6.5 Interests of the borough

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

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5.7 The management and control of land and buildings other than those appropriated to the Housing Revenue Account

(a) Emergency planning and dealing with emergencies; and

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(b) Schemes for subscriptions and grants to voluntary associations with the exception of those concerned with sports twinning.

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

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

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5.10 E-government and Government Connect.

5.11 The promotion and provision of access and facilities for disabled people.

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TERMS OF REFERENCE OF THE CABINET¶

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1. Role¶

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

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

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- 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 (... [1]

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6.1 TERMS OF REFERENCE OF THE OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE

- To set up Task and Finish Groups; with a maximum of two such Groups operating at any one time; and to agree terms of reference and project plans before work starts.
- To oversee the work and receive updates of the Overview and Scrutiny Committees and Task and Finish Groups
- To have a general role in the management, co-ordination, timetabling and monitoring of Overview and Scrutiny Committee work programmes and activities, including liaison with each Committee
- To receive update reports from the Overview and Scrutiny Committees
- To consider final reports from the Task and Finish Groups
- To receive presentations from external organisations and partners
- 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
- To liaise with external organisations whose operations affect the area to ensure that the interests of local people are enhanced by collaborative working
- To consider the Corporate Plan and make recommendations on the plan to the Cabinet
- To scrutinise the Crime and Disorder Reduction Partnership and to act as the Council's Crime & Disorder Committee

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6.2 TERMS OF REFERENCE OF THE OVERVIEW AND SCRUTINY MANAGEMENT SUB-COMMITTEE

- To consider any scrutiny forms that are received and determine the appropriate course of action
- To deal with any relevant Councillor Call for Action requests and determine the appropriate course of action
- To consider work programme requests and make recommendations on the work programme to the Overview and Scrutiny Management Committee
- To receive consultation documents as appropriate and agree a small response group to reply to specific documents, as necessary

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6.3 TERMS OF REFERENCE OF THE POLICY OVERVIEW AND SCRUTINY COMMITTEE

- To develop and review such policy matters as it sees fit
- To consider and implement mechanisms to encourage and enhance community participation in the development of policy options
- To question members of the Cabinet and/or Committees and or Officers about their views on issues and proposals affecting the area
- To monitor existing Council policies to ensure recommendations are being implemented

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- To monitor the Forward Plan and agree those policies to be scrutinised prior to decision by Cabinet/Full Council
- To 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
- To question and gather evidence from any person (with his or her consent)

6.4 TERMS OF REFERENCE OF THE PERFORMANCE OVERVIEW AND SCRUTINY COMMITTEE

- To monitor complaints handling
- To monitor Ombudsman Complaints
- To monitor and scrutinise National 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
- To 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)
- To monitor the revised funding and legal agreement agreed with Rossendale Leisure Trust and receive monthly financial/performance monitoring reports on a facility by facility basis.
- To oversee, monitor and respond to progress reports from:
 - The Pool Review Panel
 - The Bacup Leisure Hall Review Panel
 - The Strategic Leisure Review including options around the leisure delivery mechanism

7 TERMS OF REFERENCE OF REGULATORY COMMITTEES

7.1 TERMS OF REFERENCE OF THE DEVELOPMENT CONTROL COMMITTEE

1. Applications made by the Council, Councillors or their spouses or partners, Members of Staff or where the Executive Director of Business has been made aware that a member of the Council or an Officer has an interest in the property.
2. All planning applications on Council owned land, by or on behalf of the Council, its parties, organisations or other agents.
3. The consideration of objections and the confirmation/modification of tree

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preservation orders to which objections have been received.

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

5. Planning applications relating to strategic applications which include:-

(a) the provision of dwelling houses where:-

(i) 15 or more dwellings are to be provided; or

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

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

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

(d) developments which require an environmental statement.

6. Applications or notifications which have received three or more material planning objections and which are recommended by Officers for approval.

7. Applications which have been called in, in accordance with the call in procedure (set out in Part 4 of this Constitution).

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7.2 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
- Pet Shops Licences
- Animal Boarding Establishment Licences
- Guard Dog Licences
- Game Dealers Licences
- Scrap Metal Dealers Licences
- Rag Flock and Other Materials Act
- Riding Establishment Licences
- Breeding of Dogs Act Licences
- Acupuncture
- Tattooing, Ear Piercing and Electrolysis
- Licences to Plant trees in highways
- Licences re Caravan Sites and Control of Development Act, 1964 /sections 44 and 45
- Dangerous Wild Animals
- House to House and Street Collections

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- Licensing of Hackney Carriage Vehicles and Drivers
- Second Hand Dealers
- Hypnotism
- Sex Exstablishments
- Street Trading
- Licensing Matters (Licensing Act 2003)
- Licensing Matters Gambling Act 2005 -

8. TERMS OF REFERENCE OF THE STANDARDS COMMITTEE

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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) Maintaining an overview of the Council's Constitution in respect of Contract Procedure Rules, Financial Regulations and Codes of Conduct;
- (h) To consider and determine complaints about breaches of the Members' Code of Conduct under the Standards Committee (England) Regulations 2008 (as amended);
- (i) Appointing Assessment Sub-Committees, Review Sub-Committees and Standards Panels in relation to the local assessment of complaints against Members for breach of the Members' Code of Conduct;
- (j) Agreeing assessment criteria in respect of the local assessment of complaint of breaches of the Members' Code of Conduct;
- (k) Reviewing from time to time the said assessment criteria;
- (l) Dealing with any reports from a case tribunal or interim case tribunal and any report from the Monitoring Officer on any matter;

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- m) Considering applications from local authority employees for exemption from political restriction in respect of their posts; Formatted: Bullets and Numbering
- n) Where appropriate, issuing directions requiring the inclusion of a post in the list of politically restricted posts; Formatted: Bullets and Numbering
- o) Giving general advice on the application of criteria for designation of a politically restricted post; Formatted: Bullets and Numbering
- p) Reviewing any issues referred by the Chief Executive, Deputy Chief Executive or the Executive Director of Resources or the Executive Director or Regulatory Services; Formatted: Bullets and Numbering
- q) Monitoring the Constitution and make recommendations to the Full Council in respect of any proposed amendments; Formatted: Bullets and Numbering
- r) Monitoring Council policies on 'Whistleblowing' and the Anti-Fraud and Anti-Corruption Strategy and the Council's complaints process; Formatted: Bullets and Numbering
- s) Monitoring the Council's Corporate Governance arrangements, and receive reports from the Council's Governance Champions; Formatted: Bullets and Numbering
- (t) Agreeing joint working on Standards Joint Committees;
- (u) To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice;
- (v) To deal with 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;
- (w) To exercise functions (a) to (l) in relation to Whitworth Town Council and the Members of Whitworth Town Council.

9. TERMS OF REFERENCE OF THE APPOINTMENTS AND APPEALS COMMITTEE

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

2. Personal Appeals

To hear and determine appeals of Council staff in connection with:

- 1. the grading of posts
- 2. grievances
- 3. disciplinary action, including dismissal
- 4. other claims relating to individual contracts of employment

3. Other Appeals

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

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10. TERMS OF REFERENCE OF THE AUDIT AND ACCOUNTS COMMITTEE

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- 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.
- To consider the head of internal audit's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it gives over the Council's governance, risk management arrangements, internal control arrangements and environment and anti-corruption arrangements.
- To consider and approve any Council strategy relevant to the functions of the Audit Committee.
- To consider reports dealing with the management and performance of the providers of internal audit services.
- To comment on the scope and depth of both internal and external audit work, to ensure that there are effective working relationships and to ensure they give value for money.
- To consider the external auditors annual letter, relevant reports and the report of those charged with governance and to ensure the implementation of any appropriate action plan and seek assurance that action is being taken on risk related issues identified by the auditor (or any other inspection).
- To consider specific reports as agreed with the external auditor.
- To consider regular Internal Audit performance reports relating to Council services and the effectiveness of the Authority's governance arrangements.
- 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 and approve the Annual Internal Audit Plan and undertake monitoring of performance against this plan.
- To oversee the production of the authority's annual governance statement and to recommend its adoption and be satisfied that the authority's assurance statements properly reflect the risk environment and any actions to improve it.

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• To consider the Council's compliance with its own and other published standards and controls.

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• To make recommendations to the Cabinet, Council and other organisations where appropriate.

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• Ensure the value of the audit process is actively promoted.

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11. WORKING GROUPS

ACCOMMODATION WORKING GROUP

Number of Councillors: 7

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 Full 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 Full Council as necessary.
- To oversee on behalf of the Council the execution of any contract to deliver the solution, advising the Cabinet and Full Council as necessary.

GOVERNANCE WORKING GROUP

Number of Councillors: 7

Quorum: 3

Terms of Reference

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

GRANTS ADVISORY WORKING GROUP

Number of Councillors: 7

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:

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SCHEDULE OF DELEGATION ARRANGEMENTS FOR DEVELOPMENT AND RELATED MATTERS TO BE DETERMINED BY DEVELOPMENT CONTROL COMMITTEE

1. Applications made by the Council, Councillors or their spouses or partners, Members of Staff or where the Executive Director of Business has been made aware that a member of the Council or an Officer has an interest in the property.¶

¶
2. All planning applications on Council owned land, by or on behalf of the Council, its parties, organisations or other agents.¶

¶
3. The consideration of objections and the confirmation/modification of tree preservation orders to which objections have been received.¶

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4. The nomination of a member of the Development Control Committee to represent the Council at any hearing or Inquiry, where the decision was made cont... [2]

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- 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 WORKING GROUP

Number of Councillors:

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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.
- To promote the Protocol on Member/Officers Relations

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CIVIC MATTERS WORKING GROUP

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Number of Councillors:

5 (Group Leaders, Mayor and Deputy Mayor)

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Quorum:

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Terms of Reference

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ROSSENDALE MARKETS LIAISON WORKING GROUP

Number of Councillors:

~~7~~

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.

12. TERMS OF REFERENCE – NEIGHBOURHOOD FORUMS

Also refer to Article 2 of the Council’s Constitution for the Operational Framework of the Neighbourhood Forums.

1. To appoint representatives from organisations based in the area and core partner bodies
2. To influence partners to promote the development and delivery of a Neighbourhood Action Plan.
3. To influence the way in which partners plan and allocate short medium and long term resources to meet local priorities identified in the Neighbourhood Action Plan
4. To ensure that all partners work together to deliver joint actions to help achieve the shared vision as set out in Rossendale’s Sustainable Community Strategy (SCS) and Neighbourhood Action Plans.
5. To encourage applications for grant funding.
6. To receive regular updates from organisations/groups - sharing information and best practice.
7. To receive and monitor implementation of Neighbourhood Action Plans
8. To make representations and recommendations to the Cabinet, Council or Committees, the relevant Rossendale Partnership Theme Group or the Rossendale Partnership Executive or other relevant organisation ion respect of neighbourhood matters.

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9. To receive reports from the Rossendale Partnership Executive, theme groups and operational delivery agencies such as the Multi Agency Problem Solving (MAPS) team on issues of local relevance.
10. To consider partnership and public consultation issues.
11. To set up a Working Group of three Borough Council Members which has delegated authority to consider and allocate Neighbourhood Forum grants received from the Council. A member of the community voluntary sector to be in attendance as an observer at the meetings.
12. To consider feedback from Neighbourhood Forum grant recipients.
13. To discuss Community Cohesion.
14. To prepare an Annual Report to be submitted to Full Council and the Rossendale Partnership Executive.
15. To consider policy matters, as appropriate for the purpose of consultation.
16. To discuss any matter affecting the area covered by the Neighbourhood Forum.
17. To promote the interests of the neighbourhood and assist the area's residents, businesses and community groups in meeting their needs and aspirations for the neighbourhood.
18. To act as a consultation mechanism in respect of issues affecting the neighbourhood and its residents.
19. To invite organisations/groups to Neighbourhood Forum meetings, as appropriate.
20. To deal with issues relating to Christmas Lights:-
 - To be consulted by the Borough Council on its expenditure for the provision of Christmas Lights.
 - To decide on the Christmas Lights displays within the Neighbourhood Forum area, specifically:
 - To seek opportunities for contributions from local businesses, and other forms of sponsorship.
 - Short Term Strategy and Action Plan for lighting arrangements in the Neighbourhood Forum area.
 - Longer Term Strategy and Action Plan which seeks to provide improved Christmas lighting in the Neighbourhood Forum area.
 - To be consulted on all matters relating to placement of lights, switch-on events, including promotion of the events, the format of the switch-ons, to agree the date of switch-ons, consultation with schools.
 - To monitor and allocate spend for the allocated budget for Christmas Lights for the Neighbourhood Forum Area.

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- To deal with any other matters in relation to Christmas Lights for the Neighbourhood Forum Area

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GUIDANCE FOR OFFICERS

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1.0 Introduction

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

1.2 This Scheme of Delegation has been agreed which will give greater empowerment to officers. This means that the Full Council and the Cabinet

have delegated the day to day management of services to Officers unless otherwise stated.

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

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- 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 Full Council and a Cabinet can arrange for the discharge of functions through a Committee, Sub-Committee or Officer of the authority, or any other local authorities. Committees can delegate to Sub-Committees or to Officers, and Sub-Committees can delegate to Officers, unless expressly prohibited. Section 32 of the Local Government Act 2000 enables the Secretary of State through Regulations to provide for the discharge of functions by:

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

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

3.0 Decision Making – The Process

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

- (i) the facts upon which the decision must be based;

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- (ii) any legislative requirements, including the need to secure Best Value and value for money;
- (iii) the strategies and policies of the Full Council including any plans, objectives relating to his or her Service or the Full Council;
- (iv) any relevant national or regional guidance;
- (v) the available options;
- (vi) the financial, staffing and legal implications, following consultations with the Head of Financial, the ~~Director of Business~~ and the ~~Head of People and Policy~~, 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 the Chief Executive or relevant ~~Director or Service Head~~ whose services may be affected and whether any consultation has taken place;
- (x) the need to inform the appropriate Members such as the relevant Chair or Vice Chair or the Leader or Deputy Leader or Ward Members;
- (xii) the Constitution, including the Contract Procedure Rules and the Financial Procedure Rules.

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

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4.0 Decision Making - Accountability

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- 4.1 Decisions are open to challenge and review in a number of ways and it is, therefore, important to be able to demonstrate that decisions have been taken in a proper manner that avoids challenge.
- 4.2 It is important to remember that decisions which are overturned will invariably have been successfully challenged not because they were 'wrong', but because they have been reached following a flawed process.
- 4.3 The principal avenues for challenge to a decision are:

Designated Officers – Head of Paid Service, Monitoring Officer and Chief Finance Officer
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 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 the Chief Executive or relevant Director, Head of Service and Service Manager 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.

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Other decisions which need to be recorded are those which:

- (a) relate to human resources matters as set out Part 2 Section 4.0 of this Scheme;

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- (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 valuation;
- (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 the Council 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 Director of Business with a completed Record of Decision Form (attached at Appendix 2) within three clear working days of the date of taking the decision.

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5.3 The Director of Business 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 Director of Business will also ensure that the Record of Decisions is available for inspection during all normal office hours; 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.

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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 relation to that interest.

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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 when 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 body or 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.

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PART II **GENERAL DELEGATIONS TO OFFICERS**

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1.0 General Delegation

1.1 The Chief Executive and 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.

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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 Director of Business 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' absence the Finance and Audit Manager will act as Head of Financial Services.

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1.5 In cases of emergency, when the Chief Executive, 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 Cabinet or Committee or Sub-Committee.

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2.0 Financial Matters

2.1 Revenue Expenditure

(a) To incur expenditure in respect of items included in approved revenue budgets in accordance with the Council's policies, procedures and Financial Regulations and Rules of Procedures. Items outside this framework must be referred to the appropriate body or Committee;

(b) In an emergency, to incur immediately necessary lawful expenditure that shall be reported to the Head of Financial Services and subsequently to the Cabinet or appropriate Committee or Sub-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.

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3.0 Contract Issues

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

4.0 Human Resources Issues

4.1 Appointments and Dismissals

- (a) In consultation with the [Head of People and Policy](#), 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;
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- (b) In consultation with the [Head of People and Policy](#), to exercise control and discipline in accordance with the Council's agreed human resources policies and procedures;
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- (c) In consultation with the [Head of People and Policy](#), to consider appeals made within the disciplinary procedure on disciplinary sanctions up to and including final written warning;
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- (d) In consultation with the [Head of People and Policy](#), to consider appeals made under the Council's grievance procedure.
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4.2 Establishment

- (a) In consultation with the [Head of People and Policy](#), 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 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 Portfolio Holder and Committee Chair, Vice Chair, Officers and relevant trade unions;
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- (b) In consultation with the [Head of People and Policy](#), to approve planned overtime payments to Officers, subject to there being budgetary provision;
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- (c) In consultation with the [Head of People and Policy](#), to approve or otherwise requests for variations of periods of notice to terminate employment;
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- (d) In consultation with the [Head of People and Policy](#), to consider applications for re-grading subject to the Council's agreed human resources policies and procedures
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- (e) In consultation with the Head of People and Policy, to determine applications for early retirement on medical grounds in respect of all posts for which he or she is responsible for the purposes of the Superannuation regulations in cases where the Community Physician recommends early retirement on the grounds that an Officer is incapable of performing their duties (or the duties of his or her former employment in the case of a former Officer) and the Officer concerned agrees in writing with that recommendation

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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 he or she is responsible, subject to sufficient resources being available within his or her 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, the Head of People and Policy and the Director of Business must consider the significance of the decision and whether or not to consult with the Chief Executive).

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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 and Financial Regulations, the Chief Executive, and Directors, Heads of Service and Service Managers are authorised to carry out any function or task to ensure the effective and efficient day to day management of Council Services;
- (b) To approve the level of any fees and charges for Council Services provided by his or her Service, subject to the approval of the Head of Financial Services, the Leader and the Leader of the Opposition;

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- (c) To take any action delegated to him or 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 Legislation, including the legislation set out in Appendix 1 or any other statute or regulations through the :
- serving of notices
 - granting or refusal of permissions
 - determination of applications
 - exercising of powers
 - issuing of certificates
 - servicing of warrants
 - making of orders
 - authorisation of officers
 - taking of enforcement action
 - institution of legal proceedings
 - issuing of licences
 - determination of grants
 - determination of plans
 - taking of samples
 - entering of premises
 - undertaking of data matching exercises
 - obtaining of information
 - obtaining of particulars of persons interested in land
 - undertaking any other necessary powers or duties of the Council

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.

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PART III
DELEGATIONS TO SPECIFIC OFFICERS

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1.0 General Exceptions

1.1 The following delegations to specific Officers provide for the discharge of any functions of the Council with the exception of:

- (i) those functions reserved to the Full Council;
- (ii) those functions reserved to Officers by legislation;
- (iii) those matters which the Chief Executive, Directors or Heads of Service consider that the delegated authority should not be exercised and that he or she should be referred to the Cabinet or an appropriate Committee or Sub-Committee for consideration.

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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

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2.2 The Chief Executive shall be authorised to act as the Council's proper officer for the purpose of any function not otherwise delegated under these arrangements.

2.3 The Chief Executive is also authorised to act in place of the Directors or Heads of Service in cases of absence or unavailability unless statutory provisions prevent this.

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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 all Political Groups shall be authorised to agree any in year amendments or changes to the appointment of Members to Cabinet, Committees, Sub Committees, Outside Bodies or Working Groups and that these changes be reported to the next Full Council meeting for information.

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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.

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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.

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2.9 To make any amendments to the Committee meetings schedule approved at the Annual meeting of the Council.

3.0 **Head of People and Policy**

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

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3.2 The Head of People and Policy is responsible for the day to day management of the Council's functions in relation to:

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

(e) organisational development

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3.3 In consultation with the Portfolio Holder for Finance and Resources and the Chief Executive to develop and implement all appropriate policies in relation to Equalities and Employment.

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4.0 **Director of Customers and Communities**

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4.1 The Director of Customers and Communities shall be authorised to exercise strategic control of: Transportation, Engineering, Environmental Services, Culture, Community Planning, Urban Renewal, ICT, Operations and Neighbourhoods, Economic Regeneration, Strategic Housing, Economic Strategy, Customer Services and E. Government (including the Service Assurance Team), Community and Partnership; and shall be responsible for the day to day management of the Council's functions in relation to:

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- (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) tourism
- (c) developing partnership arrangements
- (d) developing community involvement

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(e) the Strategic Governance Board for Capita

5. **Head of Regeneration**

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

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

6. **Director of Customers and Communities**

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The **Director of Customers and Communities** is responsible for the day to day control and management of environmental health, environmental protection, public health, land drainage, NEAT Teams, Refuse and Recycling, Management of Parks and Open Spaces (including cemeteries), Neighbourhood Management, Community Safety, including the following powers under the Clean Neighbourhoods and Environmental Protection Act 2005:

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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 to issue notice of removal of vehicles immediately.

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- (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 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 these offences; where the Authority sets no amount, the fixed penalty shall be £75.
- (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 the Authority sets no amount, the base amount is £75.

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- (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 issue notices under Section 71(2) of the Environmental Protection Act 1990 to include functions conferred by new Sections 34C and 34D of the 1990 Act.
- (g) Under Section 48 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; where the Authority sets no amount, the fixed penalty shall be £100.

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- (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.

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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 the Local Authority sets no amount, the fixed penalty shall be £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.

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- (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; where the Authority sets no amount the fixed penalty is £100.

- (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.

The Director of Customers and Communities has powers to deal with Statutory Nuisances, including:

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- (1) the power to deal with the following nuisances:
 - (a) Under Section 101 amending Section 79 of the Environmental Protection Act 1990 so as to include in the statutory nuisances listed in that section “insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance.

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(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”.

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(2) Emergency Planning

The power to deal with emergency planning issues.

(3) The power to deal with:

(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

(h) statutory duties under the Environmental Protection Act 1990

(i) all environmental health issues.

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7. **The Director of Business and Monitoring Officer**

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7.1 The Director of Business and Monitoring Officer is responsible for the control of Legal, Planning, Building Control, Licensing and Environmental Health.

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7.2 The Director of Business and Monitoring Officer shall be authorised to act as Solicitor to the Council and to take any action intended to give effect to a decision of the Full Council, Committees, Sub-Committees or an Officer.

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7.3 The Director of Business and Monitoring Officer is also authorised to discharge the functions of the Monitoring Officer; (the Principal Solicitor shall act as Deputy Monitoring Officer in the absence of the Monitoring Officer) and authority is given by Full Council on 24th September 2008 to provide that the Monitoring Officer may update the list of Legislation at Appendix 1 as required.

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7.4 The Director of Business and Monitoring Officer 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, Freedom of information Act 2000 and the Regulation of Investigatory Powers Act 2000
- (e) Regulatory licensing matters.

- House to House and Street Collections
- Licensing of Hackney Carriage Vehicles and Drivers
- Licensing of Private Hire Operators, Vehicles and Drivers
- Second Hand Goods Dealers
- Hypnotism
- Sex Establishments
- Street Trading
- Licensing Matters (Licensing Act 2003)
- Licensing Matters (Gambling Act 2005)

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- (b) 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 ... [7]

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- c) Building Control
- d) Development Control
- e) Conservation
- f) Land Charges
- g) Environmental Health

7.5 The Director of Business and Monitoring Officer has power to determine planning applications.

MATTERS DELEGATED TO THE DIRECTOR OF BUSINESS

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

- (1) Development Control
- (2) Conservation
- (3) Forward Planning
- (4) Building Control

To act on behalf of the Council and in accordance with the legislation, in relation

to all Town and Country Planning and Development Control matters as set out in Regulation 2 and Schedule 1 to the Local Government (Functions and Responsibilities)(England) Regulations 2000, including determining applications for planning permission or advertisement control applications for listed building, tree works consent and Conservation Area Consent, lawful development certificates and under the Building Regulations, responding to consultations and all other matters submitted for the determination formal approval or comments of the Council as Local Planning Authority under the relevant Town and Country Planning Act and associated legislation.

the determination of the validity of applications;

the refusal of any planning application for insufficient information (all applications);

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

determination of whether variations and amendments to existing permissions may be treated as working amendments and the determination of these amendments and variations. Where a planning application is not required.

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

prior notifications and determinations of details (including those where prior approval is not required) where the period of response is less than 42 days;

certificates of lawfulness of existing or proposed uses or development.

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

enforcement action, service of enforcement notices, breach of condition notices, stop notices, temporary stop notices, tree replacement notices and untidy land notices under the Town and Country Planning Act 1990;

enforcement action, service of repair, urgent works, and building preservation notices under the Planning (Listed Buildings and Conservation Areas) Act 1990;

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

service of planning contravention notices and consideration of any offers and representations pursuant to such notices;

service of discontinuance notices under the Town and Country Planning

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(Control of Advertisements) Regulations;

notices and action under the Building Act 1984;

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

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

the making of Article 4 Directions withdrawing permitted development rights conferred by a development order, subject to consultation with the Portfolio Holder for Regeneration.

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

all powers to serve notices shall include power to withdraw such notices.

to determine all complaints made under Part 8 of the Anti Social Behaviour Act 2003 for high hedges.

injunction proceedings;

to exercise powers of entry under the Anti Social Behaviour legislation and deal with;

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

authorising the prosecution of offenders for offences under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Building Act 1984, and Regulations made under those Acts;

~~substitution of house types up to 15 in number;~~

the settlement of the amount of costs awarded to or against the Council on appeal;

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

the determination of reasons for refusal;

responses to consultations from other local planning authorities on applications other than relating to strategic applications/ consultations on LDF documents.

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

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received;

consent to fell, lop or top protected trees;

appointment of consultants in connection with any planning applications or any appeal;

to authorise the use of powers of entry under Local Government Legislation;

applications for approval of reserved matters which do not fall within the following:-

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(a) the provision of dwellinghouses where:-

(i) 15 or more dwellings are to be provided; or

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

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

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

(d) developments which require an environmental statement.

this delegation to be read in addition to the current scheme of delegation and all powers conferred by paragraph 5(e) above of the Council's Constitution.

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applications or notifications which receive objections and which are recommended by Officers for refusal.

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those matters not listed for decision by the Development Control Committee

MATTERS TO BE SUBJECT TO CONSULTATION WITH THE PORTFOLIO HOLDER

Amendments to minutes in cases of error

Consultations on Strategic planning applications in cases in which the time limit for response expires before the next Committee

Consultation responses to Government papers

EXERCISE OF DELEGATED POWERS

The Director of Business may authorise the Planning Manager/Building Control Manager and other officers to determine these matters on their behalf.

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(The Head of Financial Services is responsible for submitting all planning applications on behalf of the Council (See Terms of Reference of the Development Control Committee)).

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

8. The Director of Business

8.1 The Director of Business shall be authorised to exercise strategic control of Financial Services, Policy and Performance, Elections, Civic and Ceremonial, Committee Management, Committee and Member Services, and Town Twinning.

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9. Head of Financial Services

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

9.2 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 Executive Director and Head of Service, authority to determine requests for grants, financial assistance including hardship and discretionary charitable relief and support up to £5000
- (c) the treasury management function (borrowing and investments)
- (d) the client officer for computer contracts
- (e) accountancy
- (f) the Council's insurance arrangements and risk management
- (g) the writing off of debts up to £2000
- (h) pensions
- (i) creditor payments
- (j) collection of sundry debtors
- (k) banking arrangements
- (l) setting the Council tax base
- (m) contract management of the audit function

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(n) procurement

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(o) management, maintenance and exploitation of the Council's property portfolio.

9.3 The Head of Financial Services is responsible for the day to day management control of Property Services, asset management and facilities management including:

- (a) All Council Buildings
- (b) The Asset Management Plan
- (c) Signage

9.3.1 The Head of Financial Services, in consultation with the Portfolio Holder for Risk and Management, has authority to deal with all assets where the Council's Valuer values the asset at less than £100,000.

9.3.2 The Head of Financial 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) property valuation
- (b) authority, in consultation with the Portfolio Holder for Finance and Risk Management 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.

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(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.

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

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(a) the administration of benefits

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

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(c) benefit fraud

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(d) Customer Services

(e) Contract management arrangements in relation to telephones and IT

(f) e-government and information services

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

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(a) performance management

(b) preparation and monitoring of the Corporate Plan

12. **The Elections Manager** is responsible for the day to day management of electoral matters.

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**PART 4
PROPER OFFICERS**

1.0 **LEGISLATION**

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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

Director of Business

Deleted: Executive Director of Regulatory Services

Section 8 Representation of People Act 1983
Registration Officer

Chief Executive

Section 35 Representation of People Act 1983
Returning Officer

Chief Executive

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

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 as amended
- Building Act 1984
- Building Regulations 2001 (as amended)
- Caravan Sites Act 1968
- Caravan Sites and Control of Development Act 1960
- Cinema Licence Act 1985
- Cinematograph Acts 1909 to 1982
- 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
- [Criminal Justice and Public Order Act 1994, s167](#)
- [Criminal Procedures and Investigations Act 1996](#)
- Dairy Products (Hygiene) Regulations 1995
- Dangerous Dogs Act 1991
- Dangerous Wild Animals Act 1976
- Data Protection Acts 1984 and 1998
- Defective Premises Act 1972
- [Deregulation \(Taxis and Private Hire Vehicles\) Order 1998, SI 1998/1946](#)
- Disability at Work Act 1994
- [Disability Discrimination Act 1995, ss 32 – 38](#)
- [Disability Discrimination Act 1995 \(Taxis\) \(Carrying of Guide Dogs etc\) \(England and Wales\) Regulations 2000, SI 2000/2990](#)
- Dogs Act 1906
- Environment Act 1995

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Environmental Protection Act 1990
European Communities Act 1972
Food and Drugs (Control of Food Premises) Act 1976
Food and Environment Protection Act 1985
Food Hygiene (England) Regulations 2006
Food Premises (Registration) Regulations 1991
Food Safety Act 1990
Food Safety (Fishery Products) Regulations 1992
Freedom of Information Act 2000

Gambling Act 2005

Gas Safety (Installation and Use) Regulations 1998

General Food Regulations 2004

Greater London Authority Act 1999 (Hackney Carriages and Private Hire Vehicles) (Transitional and Consequential Provisions) Order 2000, SI 200/412

Guard Dogs Act 1975

Health Act 2006

Health and Safety at Work etc. Act 1974

Highways Act 1980 (as amended)

Home Energy Conservation Act 1995

House to House Collections Act 1939

House to House Collections regulations 1947

Housing Acts 1957, 1961, 1969, 1974, 1980, 1985, 1996 and 2004

Housing Benefit (General) Regulations 1987

Housing (Financial Provisions) Act 1958

Housing Grants, Construction and Regeneration Act 1996

Human Rights Act 1998

Hypnotism Act 1952 (as amended)

Land Drainage Act 1991

Landlord and Tenants Acts 1985 and 1990

Leasehold Reform Act 1967

Legislative Reform (Local Authority Consent Requirements) (England and Wales) Order, SI 2008/2840

Licensed Taxis (Hiring at Separate Fares) Order 1986, SI 1986/1386

Licensing Act 2003

Litter Act 1983

Local Authorities (Funds) (England) Regulations 1992

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Gambling Act 2005 (Gaming in Clubs) Regulations 2007

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Gambling Act 2005 (Club Gaming Permits) (Authorised Gaming) Regulations 2007¶

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Local Government Act 1999 / 2000 / 2003

Local Government Acts 1972 and 1974

Local Government Act 1972, Sch 14

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Local Government Finance Acts 1988 and 1992

Local Government (Miscellaneous Provisions) Act 1976

Local Government (Miscellaneous Provisions) Act 1982, Sch 4

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Local Government and Housing Act 1989

Local Government (Miscellaneous Provisions) Acts 1976 and 1982

Local Government Public Involvement in Health Act 2007 and associated Regulations

Local Services (Operation by Taxis) Regulations 1986, SI 1986/567

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 Act 1996

Noise and Statutory Nuisance Act 1993

Noise Insulation Regulations 1975

Offices, Shops and Railway Premises Act 1963

Party Wall Act 1996

Performing Animals (Regulation) Act 1925

Pet Animals Act 1951

Planning Act 2008

Planning and Compensation Act 1991

Planning and Compulsory Purchase Act 2004

Planning (Control of Major Accident Hazards) Regulations 1999

Planning (Listed Buildings and Conservation Areas) Act 1990

Planning (Hazardous Substances) Act 1990

Planning (Hazardous Substances) Regulations 1992

Police and Criminal Evidence Act 1984

Police, Factories, etc (Miscellaneous Provisions) Act 1916

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Pollution Prevention and Control Act 1999

Prevention of Damage by Pests Act 1949

Private Hire Vehicles (Carriage of Guide Dogs etc) Act 2002

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Private Security Industry Act 2001 S 19 (2)

Products of Animal Origin (Third Country Imports)(England) Regulations 2006

The Products of Animal Origin (Third Country Imports)(England)(Amendment) Regulations 2007

Protection from Harassment Act 1997

Public Health Act 1936 and 1961

Public Health Act 1875, s 171

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Public Health Act 1925 s 76

Public Health Act 1936, ss 300 - 302

Public Health (Control of Disease) Act 1984

Public Passenger Vehicle Act 1981, ss 1 and 2 and Sch 1

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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

Regulatory Enforcement and Sanctions Act 2008

Rehabilitation of Offenders Act 1974

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Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, SI 1975/1023

Rent (Agriculture) Act 1976

Reservoirs Act 1975

Riding Establishments Acts 1963 and 1964

Road Traffic Act 1972

Road Traffic Act 1988

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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

Smoke-free (Premises and Enforcement) Regulations 2006

Smoke-free (Signs) Regulations 2006

Social Security Administration Act 1992

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Social Security Administration (Fraud) Act 1997

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Social Security Fraud Act 2001

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Sporting Events (Control of Alcohol etc.) Act 1985

Sunday Trading Act 1994

Sustainable Communities Act 2007

[Taximeters \(EEC Requirements\) Regulations 1979, SI 1979/1379](#)

[The Measuring Instruments \(Taximeters\) Regulations 2006, SI 2006/2304](#)

Theatres Act 1968

Thefts Act 1968 and 1978

Town and Country Planning (Use Classes) Order 1987

Town and Country Planning Act 1990 (as amended)

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

[Town Police Clauses Act 1847, ss 37 – 68](#)

[Town Police Clauses Act 1889, ss 3 - 6](#)

Trade Descriptions Acts 1968-72

Transport Acts 1968 and 1985

[Transport Act 1980 s 64](#)

[Transport Act 1981 s 35](#)

[Transport Act 1985 s 10 – 13 and Sch 7, para 1](#)

[Transport Act 1985, S 15 – 16 and Sch 7, para 3](#)

Workplace (Health Safety and Welfare) Regulations 1992

Zoo Licensing Act 1981

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COMMITTEE DELEGATIONS

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

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**OFFICER DELEGATION SCHEME
RECORD OF DECISION FORM**

Date	
-------------	--

Ref No	
---------------	--

Responsible Officer:

Title/Subject Matter-

Status

Summary :

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Implications:

Information taken into account:

Options Considered:

Decision (with reasons)

Officers Consulted:

Signature

Date

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- Date
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- Officers Consulted:
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Line Manager		
Head of Financial Services		
Executive Director of Regulatory Services		
Trade Unions		
Portfolio Holder		
Decision Made by:		

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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.

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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.

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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:-

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Director of Business)

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Head of Financial Services)

if appropriate

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Head of People and Policy)

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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.

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2. Signed copies of the form to be sent to the following:-

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Director of Business)

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Head of Financial Services)

if appropriate

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Head of People and Policy)

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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 Full Council and other Committees in respect of matters that are referred to Full Council for decision.

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

- a) Assets valued at over £100,000 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.
- e) Reports on all village green applications

Form and Composition

The Cabinet will consist of the Leader together with up to 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:

He or she resigns from the office;

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);

He or she is no longer a Councillor;

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.

Other Cabinet Members

Other Cabinet Members shall hold office until:

They resign from office;

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);

They are removed from office either individually or collectively by resolution of the Council;
They are no longer Councillors;
The date of the next Annual Council Meeting at the end of the Municipal Year

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.

SCHEDULE OF DELEGATION ARRANGEMENTS FOR DEVELOPMENT AND RELATED MATTERS

MATTERS TO BE DETERMINED BY DEVELOPMENT CONTROL COMMITTEE

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

7. Applications which have been called in, in accordance with the call in procedure.

PLANNING CALL-IN PROCEDURE FOR DELEGATED APPLICATIONS

1. This procedure must be followed if a member is to require an application, which is delegated to be determined by the Executive Director of Business, to be referred to the Development Control Committee.

All members will receive a weekly list of all planning applications received.

Any member considering calling in an application must first discuss the reason for call-in with the Executive Director of Business or the Planning Manager, to ensure reason for call in fits in with planning framework

A member may only call-in an application if it is within their ward area and one of the nominated Councillors within the Groups on the Development Control Committee agrees that the matter should be called in.

The call-in period is 14 working days from the receipt of the weekly list of planning applications.

There will be two nominated Call-in Councillors on the Development Control Committee who will organise and submit the call-in and who must agree with the Ward member to the use of the planning call-in and that nominated Councillors will complete the call-in form. The names of the two nominated Councillor must be provided to the Executive Director of Business after Annual Council.

Where an application is amended and subject to re-notification of neighbours, the ward member shall be re-notified in writing and a 10 day call-in period shall recommence.

The attached Call-In Form must be used for Call-In. This will be attached to the weekly list. Call-ins will not be valid unless submitted on this form.

Call-Ins will be date stamped on receipt. They must be emailed to the Planning Manager.

Material Planning reasons for Call-In are required, eg not simply because Development Control Committee considered the matter previously.

When a Call-In is received outside the Call-In period, the member will be notified that the Call-In is invalid. If there has been no Call-In within the Call-In period the application will be decided by the Executive Director of Business.

Members may withdraw a call-in once made.

NB

Call-Ins should be kept to a minimum, as they increase costs and processing times. They have also affected National Indicator performance targets as due to call-ins we have been unable to place all required applications on the agenda.

Call in form
for planning applications.

Planning Application number _____

2009 /.....

Material Planning reasons for call-in

Date the weekly list was received

**(NB call-in to be received by the Planning Manager
within 14 working days of receipt of the weekly list)**

Councillor calling in the decision

Signed

Consultation with Nominated Council for call in

y/n

**(if the call-in is sent by email
no signature will be required)**

Dated

Signature of Planning Manager

Date received

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4.2 **Other amendments to the Constitution**

That the Committee Schedule should be submitted to the last meeting of the Council in the Municipal Year, to help with preparing the Council diary.

That the following be deleted from the Constitution:

(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 Cabinet, Committees and Sub-committees and of any changes to the names of persons appointed to such bodies and to appoint representatives to outside bodies;

And the following be amended:

“The Chief Executive in consultation with the Leader and Deputy Leader of the Council and the Leaders of all Political Groups shall be authorised to agree any in-year amendments or changes to the appointment of Members to Cabinet, Committees, Sub Committees, Outside Bodies or Working Groups and that these be reported to the next Full Council meeting for information”.

That the following be amended in relation to Part 4 of the Constitution (proper officers):

Section 8 Representation of People Act 1983 (Registration Officer) – Chief Executive

Section 35 Representation of People Act 1983 (Returning Officer) – Chief Executive

MEMBERS' QUESTION TIME AT CABINET/PUBLIC QUESTION TIME

That the Constitution is amended so that no specific members' question time is added to the agenda and that all non-Cabinet members that attend Cabinet can ask a question when the report is debated.

Speaking Procedures to be amended to include the following:-

Public Question Time to last usually up to 30 minutes.

No statements to be permitted – only questions

Only 1 question from each person to be submitted, the Chair to have discretion to allow a follow up question

Village Green Applications are reported to Cabinet.

The deletion of the Accounts Committee

End of Section

TERMS OF REFERENCE OF THE ACCOUNTS COMMITTEE

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.

End of Section

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) Maintaining an overview of the Council's Constitution in respect of Contract Procedure Rules, Financial Regulations and Codes of Conduct;
- (h) Receiving complaints about breaches of the Members' Code of Conduct;
- (i) Appointing Assessment Sub-Committees, Review Sub-Committees and Standards Panels in relation to the local assessment of complaints against Members for breach of the Members' Code of Conduct;

Agreeing assessment criteria in respect of the local assessment of complaint of breaches of the Members' Code of Conduct;

Reviewing from time to time the said assessment criteria;

Dealing with any reports from a case tribunal or interim case tribunal and any report from the Monitoring Officer on any matter;

Considering applications from local authority employees for exemption from political restriction in respect of their posts;

Where appropriate, issuing directions requiring the inclusion of a post in the list of politically restricted posts;

Giving general advice on the application of criteria for designation of a politically restricted post;

Reviewing any issues referred by the Chief Executive, Deputy Chief Executive or the Executive Director of Resources or the Executive Director or Regulatory Services;

Monitoring the Constitution and make recommendations to the Full Council in respect of any proposed amendments;

Monitoring Council policies on 'Whistleblowing' and the Anti-Fraud and Anti-Corruption Strategy and the Council's complaints process;

Monitoring the Council's Corporate Governance arrangements, and receive reports from the Council's Governance Champions;

- (t) Agreeing joint working on Standards Joint Committees;
- (u) To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice;
- (v) To deal with 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;
- (w) To exercise functions (a) to (l) in relation to Whitworth Town Council and the Members of Whitworth Town Council.

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TERMS OF REFERENCE OF THE POLICY OVERVIEW AND 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 OVERVIEW AND 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)

Page Break

TERMS OF REFERENCE OF THE AUDIT COMMITTEE

To consider the head of internal audit's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it gives over the Council's governance, risk management arrangements, internal control arrangements and environment and anti-corruption arrangements.

To consider and approve any Council strategy relevant to the function of the Audit Committee.

To consider reports dealing with the management and performance of the providers of internal audit services.

To comment on the scope and depth of both internal and external audit work, to ensure that there are effective working relationships and to ensure they give value for money.

To consider the external auditors annual letter, relevant reports and the report of those charged with governance and to ensure the implementation of any appropriate action plan and seek assurance that action is being taken on risk related issues identified by the auditor (or any other inspection).

To consider specific reports as agreed with the external auditor.

To consider regular Internal Audit performance reports relating to Council services and the effectiveness of the Authorities governance arrangements.

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 and approve the Annual Internal Audit Plan and undertake monitoring of performance against this plan.

To oversee the production of the authority's annual governance statement and to recommend its adoption and be satisfied that that the authority's assurance statements properly reflect the risk environment and any actions to improve it.

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.

Ensure the value of the audit process is actively promoted.

TERMS OF REFERENCE OF THE NEIGHBOURHOOD FORUMS

The purpose of the Neighbourhood 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;

Have delegated authority to consider and allocate grants received from the Council;

Set up a Working Group of three Elected Members to make recommendations to the Neighbourhood Forum regarding the allocation of grants

Deal with issues relating to Christmas Lights.

Allocate any monies granted by the Council for the provision of Christmas Lights.

To decide on the Christmas Lights displays within the Neighbourhood Forum area, specifically:

To seek opportunities for contributions from local businesses, and other forms of sponsorship. Short Term Strategy and Action Plan for lighting arrangements in the Neighbourhood Forum area.

Longer Term Strategy and Action Plan for 2008/09 beyond which seeks to provide improved Christmas lighting in the Neighbourhood Forum area.

To deal with all matters relating to placement of lights, switch-on events, including promotion of the events, the format of the switch-ons, to agree the date of switch-ons, consultation with schools.

To monitor and allocate spend for the allocated budget for Christmas Lights for the Neighbourhood Forum Area.

To deal with any other matters in relation to Christmas Lights for the Neighbourhood Forum Area.

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.

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17/09/2009 3:23 PM

CAR PARKING WORKING GROUP

Number of Councillors: 6

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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01/09/2009 10:37 AM

- b) 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

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20/08/2009 10:59 AM

MATTERS NOT SUBJECT TO CALL IN PROCEDURE (NB matters marked # are still
subject to call-in)