



# Agenda

## Council

**Thursday, 18 May 2023 at 7.00 pm,**  
Council Chamber, Town Hall, Accrington

### Membership

Councillor Abdul Khan (Mayor) in the Chair at the commencement of the meeting,  
Councillors Judith Addison, Dominik Allen, Josh Allen, Heather Anderson, Noordad Aziz,  
Mike Booth, Scott Breton, Peter Britcliffe, Steve Button, Danny Cassidy, Andrew Clegg,  
Jodi Clements, Loraine Cox, Paul Cox, Munsif Dad BEM JP, Bernard Dawson MBE,  
Peter Edwards, Melissa Fisher, Marlene Haworth, Susan Hayes, Carole Haythornthwaite,  
Terry Hurn, Zak Khan, Sajid Mahmood, Colin McKenzie, Caroline Montague, Dave Parkins,  
Joyce Plummer, Kath Pratt, Paddy Short, Steven Smithson, Kate Walsh, Kimberley Whitehead and  
Mohammed Younis

## A G E N D A

### 1. **Election of Mayor 2023/24**

To elect the Mayor of the Borough for the Municipal Year 2023/24.

It is a statutory requirement to appoint the Mayor as the first item of business. The ceremonial handing over to the new Mayor will take place at the Mayor-Making Council meeting on Saturday, 27<sup>th</sup> May 2023 at 10.30am in the Council Chamber.

### 2. **Election of Deputy Mayor 2023/24**

To elect a Deputy Mayor of the Borough for 2023/24.

### 3. **Apologies for absence**



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Published on Wednesday, 10 May 2023

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**4. Declarations of Interest and Dispensations**

**5. Announcements**

- a) Mayor
- b) Acting Leader of the Council
- c) Chief Executive

**6. Confirmation of Minutes** *(Pages 5 - 14)*

To confirm as a correct record the minutes of the last Council meeting held on 23<sup>rd</sup> March 2023.

**7. Appointment of the Council Leader 2023/24 to 2026/27** *(Pages 15 - 18)*

Report attached.

**8. Declaration of the Returning Officer for the Local Elections on 4th May 2023**  
*(Pages 19 - 20)*

Report attached.

**9. Appointment of Committees, Sub-Committees, Panels and Working Groups 2023/24** *(Pages 21 - 72)*

Report attached.

**10. Appointments to Outside Bodies 2023/24** *(Pages 73 - 80)*

Report attached.

**11. Scheme of Delegation 2023/24** *(Pages 81 - 132)*

Report attached.

**12. Review of the Constitution** *(Pages 133 - 210)*

Report attached.

**13. Annual Review of the Planning and Licensing Codes of Practice** *(Pages 211 - 240)*

Report attached.

**14. Timetable of Meetings 2023/24 (Pages 241 - 242)**

To approve the Timetable of Meetings for the Municipal Year 2023/24 (attached).

**15. Record of Attendance at Council Meetings 2022/23 (Pages 243 - 246)**

Report attached.



Chief Executive  
Scaitcliffe House,  
Ormerod Street,  
ACCRINGTON BB5 0PF

Wednesday, 10 May 2023

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## COUNCIL

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**Thursday, 23rd March, 2023**

**Present:** Councillor Abdul Khan (Mayor), Councillors Judith Addison, Josh Allen, Mohammad Ayub, Noordad Aziz, Scott Breton, Peter Britcliffe, Danny Cassidy, Andrew Clegg, Loraine Cox, Paul Cox, Munsif Dad BEM JP, Bernard Dawson MBE, Peter Edwards, Melissa Fisher, June Harrison, Marlene Haworth, Susan Hayes, Carole Haythornthwaite, Eamonn Higgins, Terry Hurn, Zak Khan, Sajid Mahmood, Patrick McGinley, Colin McKenzie, Caroline Montague, Miles Parkinson OBE, Joyce Plummer, Paddy Short, Steven Smithson and Kimberley Whitehead

**Apologies:** Councillors Dominik Allen, Jodi Clements, Kath Pratt and Kate Walsh

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**351 Apologies for absence**

Apologies for absence were submitted on behalf of Councillors Dominik Allen, Jodi Clements, Kath Pratt and Kate Walsh.

**352 Declarations of Interest and Dispensations**

There were no declarations of interest or dispensations notified.

**353 Announcements**

The Mayor made the following announcements:

1) Thanks

The Mayor indicated that this was his last full meeting in the chair and commented on how much he had enjoyed the honour of serving as Mayor. The role had allowed him to enjoy many fabulous experiences and to meet so many fantastic people along the way.

The Mayor thanked fellow councillors and the Council's staff, as well as a number of people who had been central to his successful year, including members of his charity committee, the Chief Executive and Executive Director Legal and Democratic Services.

He wished good luck to those councillors who would be seeking re-election in May and best wishes to those who intended to retire. He also wished his successor, Councillor Terry Hurn well for his term of office in 2023/24.

2) Mayor's Ball

The Mayor expressed delight at seeing so many councillors at his Mayor's Ball earlier in the month, which had been an excellent occasion. He gave a special mention to Scott Dawson Advertising for their organisation and support. Everyone had had a super time and, of course, the real purpose of the Ball had been to raise funds for the Mayor's four chosen

charities. It was estimated that in the region of thirteen thousand pounds had been raised for local good causes.

Councillor Miles Parkinson OBE, Leader of the Council, briefly congratulated the Mayor on his year in office before making the following announcements.

3) Elections

The Leader noted that Councillor Eamonn Higgins had announced that he would retire following the Elections and he wished him well. The Leader also confirmed that he would stand for office again. He wished other councillors well for the future and thanked them for their hard work.

4) Huncoat Garden Village

The Leader mentioned that he had provided an update yesterday at the Cabinet meeting on the Huncoat Garden Village proposals. He had reported that, following the Cabinet's approval to progress this project, a bid had been submitted to Homes England for some £30m funding. Their National Investment Panel Executive had recently endorsed the case for the project and it would now proceed to the second stage, during which a detailed assessment would be undertaken. If approved, the project would deliver some 1,800 new homes over a 15 year period. Their final decision was expected during the summer. The current announcement was no guarantee as to the future success of the bid, but was an important step towards the Council's ambitious grand plan.

The Chief Executive then praised the Mayor and recounted the excellent working relationship that had been enjoyed by both throughout this mayoral year.

**354 Confirmation of Minutes**

The Minutes of the Council Budget meeting held on 23<sup>rd</sup> February 2023 were provided.

**Resolved**

- **That the Minutes of the Council Budget meeting held on 23<sup>rd</sup> February 2023 be approved as a correct record.**

**355 Question Time**

The Mayor reported that no questions had been submitted under this Agenda Item.

**356 Draft Pay Policy 2023/24**

Members considered a report of Councillor Joyce Plummer, Portfolio Holder for Resources, regarding a draft Pay Policy for 2023/24.

The Leader highlighted that the report confirmed that the Council's lowest paid employees received the Foundation Living Wage, that the salaries of the Chief Executive and Corporate Management Team were determined by proper procedures and provided for the retention of long-serving and well respected individuals and that the pay award for other staff was determined in accordance with national agreements. Councillor Munsif Dad added that the Council's employees were critical to its success and worked hard.

Councillor Plummer provided a brief summary of the report. The Localism Act 2011 required all local authorities to set out various pieces of information relating to the

remuneration of its employees. The Policy had to be approved by the Council in open forum, by the end of March each year and then be published on its website.

Accordingly the Pay Policy document was produced on an annual basis and included:

- The pay structure of the Council and how it was set.;
- A link to the Council's statement of accounts where details of the pay grade for posts defined as Chief Officer and the accompanying allowances were listed;
- The relationship between the salaries of the CEO and other employees;
- Details of the lowest paid posts within the Council. At Hyndburn, the lowest paid staff were paid the Foundation Living Wage;
- Employer's Pension Contribution details; and
- Termination of employment payments.

The national pay negotiations were not yet concluded for 2023 so any increases, if agreed, were likely to be backdated to April 2023.

**Resolved** - **That the draft Pay Policy be agreed and be published on the Council's website.**

### **357 The Scheme of Delegation 2022/23 to take account of the Elections Act 2022**

Members considered a report of Councillor Miles Parkinson OBE, Leader of the Council, seeking approval to amend the scheme of delegation of non-executive functions to officers for 2022/23 to take account of the provisions of the Elections Act 2022.

It was good practice to review the scheme of delegation regularly to keep it up to date. This helped to ensure that the Council's decision-making processes operated as effectively as possible and in accordance with legal requirements. The scheme was updated annually at the Council's Annual Meeting and also as required to take account of changes in legislation.

The proposed amendment to the scheme of delegation for 2021/22 was set out in Schedule 1 to the report and related to the changes made to the election process by the Elections Act 2022. The Act imposed additional statutory responsibilities on the Electoral Registration Officer and the Returning Officer. Those were statutory roles currently held by the Executive Director (Legal & Democratic Services). Council's attention was particularly drawn to the new requirement for all voters to produce evidence of identity in the polling station before they could be issued with a ballot paper and the requirement for the issue of electoral identity cards by the Electoral Registration Officer, as these provisions were now in force and would apply at the upcoming May local elections. The amendment was intended to ensure that officers had the necessary power to administer the upcoming elections in accordance with the new legal requirements.

The report also included a summary of the Elections Act 2022. The Council's website contained a list of the acceptable forms of voter ID and a detailed explanation of the process for applying for an electoral identity document.

**Resolved** - **That Council agrees amend the scheme of delegation to officers by adding the additional delegation to the Executive Director (Legal & Democratic Services) as set out in Schedule 1 to the report.**

### **358 Nominations for the Title of Honorary Freeman**

Members considered a report of Councillor Miles Parkinson OBE, Leader of the Council, seeking approval for the conferment of the title of Honorary Freeman of the Borough of Hyndburn on Ms Catherine (Cath) Holmes and Mr Jawid Hussain.

#### Ms Cath Holmes

Accrington resident, Cath, had been involved in numerous projects across the Borough and had volunteered on several groups over a long period of time. She had been improving Hyndburn's Green spaces for over 20 years.

Cath was currently chair of the Hyndburn Green Spaces Forum, which had been instrumental in helping the authority to improve many of the Borough's parks and open spaces and had resulted in Hyndburn receiving no less than 10 prestigious Green Flag Awards. Her work with the Forum would continue to drive improvements and bring in funding for residents, such as the development of the new play area and recreation space underway in Knuzden

Cath was also involved in the Prospects Foundation and Hyndburn Federation of Allotments, and was a keen supporter of Hyndburn's historical heritage and, in particular, the Accrington Pals.

Cath's work in numerous voluntary roles and her work to improve the natural environment demonstrated that she had rendered eminent service to the Borough of Hyndburn.

#### Mr Jawid Hussain

Accrington resident and entrepreneur, Jawid, was a key figure within local business and the wider Hyndburn community.

Jawid had found success as one of the founders of Blackburn-based Accrol Papers in 1998, but had stood aside from running its successor Accrol UK in 2016 when it was floated on the Stock Market. However, he remained active in the world of business as a director of companies including Nisiac, JH Estent and Acsini Investments. His business connections with Hyndburn continued, as his family's company JH Estent Ltd bought Hyndburn Council's shares in Globe Enterprises in 2020. The company remained committed to securing further long-term private sector investment to create jobs and wealth within the Borough.

Jawid was also a founder member and a remained a patron of the iconic Raza Jamia Masjid, which, as well as supporting the Muslim community as a place of worship, had achieved so much in serving the needs of the whole community both before, during and after the pandemic. This £8.3m facility, which had opened in 2017, was used for conferences, business meetings, educational workshops and everything from first aid training to functions.

Jawid was also a trustee of the JMWM Hussain Foundation, a charity whose aim was to advance such charitable purposes as the trustees saw fit from time to time, in particular by providing grants.

Jawid's contribution to business, the local community and his charitable works demonstrated that he had rendered eminent service to the Borough of Hyndburn.

The Leader noted the achievements of the two nominees and indicated that there would be an opportunity to say more at the Mayor Making Meeting later in the year. Councillor Dad

added that both nominees had firmly made their mark in the voluntary sector and he hoped that the honours would be a suitable reward for their efforts.

**Resolved**

- (1) **That in accordance with Section 249(5) of the Local Government Act 1972, Ms Catherine Holmes and Mr Jawid Hussain be conferred with the title of Honorary Freeman of the Borough and be presented with the award at the Mayor Making Council on 27<sup>th</sup> May 2023, or should that not prove possible due to the unavailability of the recipients, at some stage during the remainder of the Municipal Year 2023/24.**
- (2) **That the Chief Executive, in consultation with the Leader of the Council, be authorised to make the necessary arrangements.**

**359 Minutes of Cabinet**

The minutes of the meetings of Cabinet held on 25<sup>th</sup> January and 8<sup>th</sup> February 2023 were submitted.

**Resolved**

- **That the Minutes be received and noted.**

**360 Minutes of Committees**

The Minutes of the following meetings were submitted:

<b>Meeting (Municipal Year 2022/23)</b>	<b>Date</b>
Audit Committee	28 <sup>th</sup> November 2022
Resources Overview and Scrutiny Committee	15 <sup>th</sup> December 2022
Standards Committee	19 <sup>th</sup> December 2022
Management Review Committee	17 <sup>th</sup> January 2023
Planning Committee	18 <sup>th</sup> January 2023
Licensing Sub-Committee	31 <sup>st</sup> January 2023
Planning Committee	15 <sup>th</sup> February 2023
Resources Overview and Scrutiny Committee	16 <sup>th</sup> February 2023

**Resolved**

- **That the Minutes be received and noted.**

**361 Motion(s) submitted on Notice**

**1) Motion Submitted on Notice – Levelling Up Bid Outcome**

The following motion was proposed by Councillor Peter Britcliffe and seconded by Councillor Peter Edwards under Council Procedure Rule A9:-

“That this Council wishes to put on record and write to the MP and stakeholders regarding the successful levelling up fund bid outcome and to thank them for their involvement in securing this historic investment.”

Councillor Britcliffe commented that, not long ago, the public, traders and some councillors had said that Accrington was in decline. However, the Council had subsequently announced that it had developed a plan and this had started to come to fruition over the last

few months. Closer working between the Conservative group, the MP, stakeholders and independent councillors had prompted positive change. The Council was no longer managing decline, but was overseeing regeneration. Residents and businesses previously felt ignored, but now they felt engaged and enthusiastic. Citizens would no longer feel that Hyndburn was falling behind other towns and cities. Over £20m of investment had already been brought into Accrington.

Councillors Zak Allen, Josh Allen, Marlene Haworth and Patrick McGinley all spoke in support of the level of funding achieved and the ambitious project that would be delivered. Councillors Melissa Fisher, Colin McKenzie, Bernard Dawson MBE and Noordad Aziz were also pleased to see the investment being made, but had some concerns or observations, as indicated below.

- Uncertainty expressed by some members of the public over the viability of the food court plans for the Market Hall;
- A comment that the grant funding provided was insignificant compared to the overall funding lost from the Revenue Support Grant since 2010;
- Lack of direct funding for the townships from Levelling Up monies;
- An overarching need to create social mobility and economic prosperity within the Borough in order to provide the footfall necessary for the longevity of existing and new town centre businesses; and
- The need for an anchor attraction or amenity within the town centre to generate greater footfall.

There was an acknowledgment that the Levelling Up bid had needed to be tailored to the funding criteria to maximise potential for the bid to be successful and that there was much more that could be done if additional investment was realised in the future. The plans were not just about the Market Hall, but involved two other key town centre buildings which would provide office space and a culture and heritage centre. It was estimated that some £41m in total could flow into the Borough from other sources, including from Lancashire County Council.

In accordance with Council Procedure Rule A16.5, six Members present at the meeting called for a recorded vote.

The **MOTION** was then put to the **VOTE**.

#### *For the Motion*

Councillors Abdul Khan (Mayor), Judith Addison, Josh Allen, Mohammad Ayub, Noordad Aziz, Scott Brereton, Peter Britcliffe, Danny Cassidy, Andrew Clegg, Loraine Cox, Paul Cox, Munsif Dad BEM JP, Bernard Dawson MBE, Peter Edwards, Melissa Fisher, June Harrison, Marlene Haworth, Susan Hayes, Carole Haythornthwaite, Eamonn Higgins, Terry Hurn, Zak Khan, Sajid Mahmood, Patrick McGinley, Colin McKenzie, Caroline Montague, Miles Parkinson OBE, Joyce Plummer, Paddy Short, Steven Smithson and Kimberley Whitehead

#### *Against the Motion*

None

#### *Abstentions*

Councillors Noordad Aziz, Scott Brereton, Bernard Dawson MBE and Colin McKenzie

Accordingly, the **MOTION** was **CARRIED** and it was:-.

**Resolved**

- **That this Council wishes to put on record and write to the MP and stakeholders regarding the successful levelling up fund bid outcome and to thank them for their involvement in securing this historic investment.**

**2. Motion Submitted on Notice – Future Use of Mercer Hall**

The following motion was proposed by Councillor Carole Haythornthwaite and seconded by Councillor Peter Edwards under Council Procedure Rule A9:-

“That the Council resolves to continue working together with the residents of Great Harwood, the Leisure Trust and fellow councillors across the parties to seek the best possible use for Mercer Hall, for the benefit of the Borough.”

Councillor Haythornthwaite commented that Mercer Hall was a beautiful and significant building in Great Harwood town centre. However, the Council was coming to terms with the fact that it was no longer viable as a swimming pool. Accordingly, the local community were being invited to put forward ideas for its future use. Funding was available for the repurposing of the building.

Councillors Marlene Haworth, Munsif Dad BEM JP, Miles Parkinson OBE and Zak Khan spoke in favour of the motion and reiterated that residents needed to engage with the Council about its future use and that councillors should work together to determine the optimum solution. Councillor Andrew Clegg outlined a need for a live music venue in the area which could be one possible use. Councillor Noordad Aziz noted that Mercer Hall could be Great Harwood’s jewel in the crown, with appropriate investment. Councillor Colin McKenzie expressed the view that consultation with residents needed to be meaningful and this view was endorsed Councillor Scott Breton, who also urged Members to continue to consider alternative sites for a swimming pool in Great Harwood.

On being put to the vote the **MOTION** was **APPROVED**.

**Resolved**

- **That the Council resolves to continue working together with the residents of Great Harwood, the Leisure Trust and fellow councillors across the parties to seek the best possible use for Mercer Hall, for the benefit of the Borough.**

**3. Motion Submitted on Notice – Improvement of Parks and Green Spaces**

Councillor Kimberley Whitehead declared a personal interest in the following item, as secretary to Hyndburn Green Spaces Forum.

The following motion was proposed by Councillor Zak Khan and seconded by Councillor Loraine Cox under Council Procedure Rule A9:-

“That this Council resolves to continue to seek external funding to improve our parks and green spaces across Hyndburn.”

Councillor Zak Khan provided a brief introduction to the motion and observed that the Council was doing some great work in its parks and open spaces. Hyndburn had the

largest proportion of public green space in Lancashire. Work was on-going on projects such as the new country park at Bury Meadows, Oswaldtwistle, and various planned improvements to local parks. He thanked Councillor Steven Smithson, Portfolio Holder for Environmental Services, and his predecessor Councillor Paul Cox for their efforts. He also commented that the Borough was fortunate that the Prospects Foundation, a community owned environmental charity, was based in Hyndburn.

Councillors Sajid Mahmood, Paul Cox, Colin McKenzie, Steven Smithson, Munsif Dad BEM JP, Noordad Aziz, June Harrison and Loraine Cox all spoke in favour of the motion. Some observations made were as follows:

- The relevant Portfolio Holder had been working to introduce a weekend burial service in the Council's cemeteries;
- A new cricket pitch was due to be installed at Bullough Park next month;
- Acknowledgement that much of the groundwork for the successes in the Borough's parks and open spaces had been developed over a long period of time and with the involvement and support of the various 'Friends of' groups and other bodies and by maximising external funding;
- The need to improve accessibility for disabled people wherever possible;
- There were some good examples of cross-party working to improve park facilities;
- Thanks was expressed to the Council staff who worked hard to maintain these green spaces;
- An aspiration to develop some open space in Accrington West during its regeneration, but which had, unfortunately, not been realised;
- The need to bring in external funding, such as monies from the Woodland Trust;
- The possible use of legacy Area Council funding to improve facilities;
- On-going discussions between Play4Uz2 and Hyndburn Leisure about the possible provision of play facilities for disabled children and young adults and a possible dedicated facility at Wilson Playing Fields; and
- A list of the individual improvements made in 2022/23 and those proposed for 2023/24 was provided.

Councillor Zak Khan summed up by noting the concerns about accessibility and gave an assurance that this would be looked into. He also thanked the various groups of volunteers who worked to improve the Borough's green spaces.

On being put to the vote the **MOTION** was **APPROVED**.

**Resolved**

**That this Council resolves to continue to seek external funding to improve our parks and green spaces across Hyndburn.**

#### **4. Motion Submitted on Notice – Youth Investment Fund**

The following motion was proposed by Councillor Loraine Cox and seconded by Councillor Zak Khan under Council Procedure Rule A9:-

"That this Council looks to improve the youth facilities across Hyndburn and welcomes the Youth Investment Fund from the Government. The Council resolves to write a letter of support for the Youth Investment Fund proposals to the Government."

Councillor Loraine Cox commented that expressions of interest had been made last year from relevant organisations in the Borough which had resulted in over £100k being provided

to date. An additional phase of funding had been announced, for which a further bid was being submitted in June 2023 involving Lancashire County Council, Hyndburn Leisure and other partners, for a purpose-built space for young people Hyndburn. There would be a formal youth plan for the area and a lead organisation would be appointed in April 2023.

Councillors Kimberley Whitehead, Marlene Haworth, Noordad Aziz, Munsif Dad BEM JP and Zak Khan spoke in support of the motion and most recounted some of their own personal experiences of positive youth engagement across a variety of voluntary organisations.

Councillors Scott Brerton and Noordad Aziz commented that it was disappointing to see that Lancashire County Council were selling the former Young People's Centre premises in Great Harwood. Councillor Brerton expressed the view that Government cuts had decimated youth provision generally. Councillor Britcliffe responded that the decision to close the Centre in Great Harwood had been taken by the previous Labour administration at the County Council.

Councillor Melissa Fisher indicated that she was Vice-Chair of Clayton Amateur Boxing Club. She noted the importance of youth provision and cited police reports that anti-social behaviour in Clayton had fallen following the establishment of the boxing club.

On being put to the vote the **MOTION** was **APPROVED**.

**Resolved**

**That this Council looks to improve the youth facilities across Hyndburn and welcomes the Youth Investment Fund from the Government. The Council resolves to write a letter of support for the Youth Investment Fund proposals to the Government.**

**5. Motion Submitted on Notice – Fly-Tipping**

The following motion was proposed by Councillor Josh Allen and seconded by Councillor Judith Addison under Council Procedure Rule A9:-

“That this Council welcomes the reduction of fly-tipping across the Borough and the introduction of FPNs which have helped to tackle it. That the Council resolves to continue with this work and thanks the Cabinet Member and officers for their work in implementing these changes which are having a positive effect.”

Councillor Josh Allen provided a brief introduction to the motion and thanked Councillor Steven Smithson, Portfolio Holder for Environmental Services, and his predecessor, Councillor Paul Cox, as well as staff and volunteers, including litter pickers, for their work. The money saved by deterring littering could be reinvested in other priorities.

Councillor Smithson noted that fly-tipping had reduced year on year since COVID-19. He added that an application had recently been made for £50k in grant funding to support these activities.

Councillor Kimberley Whitehead commented that there were still some hotspots for fly-tipping, such as in Spring Hill. She invited the Portfolio Holder to visit the area, and the invitation was duly accepted. She also reported that the use of a risk assessment form for volunteers was sometimes off-putting. She asked whether funding could be obtained for CCTV to be installed in problem locations.

Councillor Judith Addison recalled the Keep Britain Tidy campaign dating back to 1954. She surmised that if the sunken gardens on Broadway in Accrington were still in existence they would be strewn with litter. After the recent carnival in Oswaldtwistle, Rhyddings Park was full of litter left over from picnics. Accordingly she was in favour of strong measures to deter and punish those who littered. The offence of littering was covered by the Environmental Protection Act 1990 and subsequent amendments have allowed a range of fixed penalty notices (FPNs) to be issued, which had helped to manage the issue. She reported that Neighbourhood Watch around Rhyddings Park had reported incidents on a number of occasions, but had become disillusioned by the lack of an effective response by the Police and Council. She thanked the volunteers who went out regularly to clear litter. She also hoped that the Council would be able to bring in measures to tackle blight on private land caused by absentee landlords.

On being put to the vote the **MOTION** was **APPROVED**.

**Resolved**

**That this Council welcomes the reduction of fly-tipping across the Borough and the introduction of FPNs which have helped to tackle it. That the Council resolves to continue with this work and thanks the Cabinet Member and officers for their work in implementing these changes which are having a positive effect.**

The Mayor thanked all for their attendance. He reiterated that he had greatly enjoyed his mayoral year and thanked all councillors for their support.

He reminded Members that the next Council meeting would be the Annual Meeting on 18<sup>th</sup> May 2023 at which the reins would be handed over to Councillor Terry Hurn. He also thanked those councillors who would not be returning in 2023/24 for their valued service.

Signed:.....

Date: .....

Chair of the meeting  
at which the minutes were confirmed

# Agenda Item 7.

<b>REPORT TO:</b>	Council	
<b>DATE:</b>	18 May 2023	
<b>REPORT AUTHOR:</b>	Executive Director (Legal and Democratic Services)	
<b>TITLE OF REPORT:</b>	<b>APPOINTMENT OF COUNCIL LEADER, 2023/24 TO 2026/27</b>	
<b>EXEMPT REPORT (Local Government Act 1972, Schedule 12A)</b>	<b>No</b>	Not applicable
<b>KEY DECISION:</b>	<b>No</b>	If yes, date of publication: n/a

## **1. Purpose of Report and Decision required**

1.1 Council is asked to appoint the Leader of the Council for a four-year term, from this meeting until the Council's Annual Meeting in 2027.

## **2. Reasons for Recommendations and Background**

2.1 In December 2010, the Council adopted the Leader and Cabinet Executive (England) Model, in accordance with the Local Government and Public Involvement in Health Act 2007. This took effect from 9th May 2011.

2.2 Under this arrangement, Council elects the Leader for a four-year term. The Localism Act 2011 subsequently took out the specification for the Leader to be elected for a four-year term, leaving the duration of tenure to local choice. It is recommended that the Leader will continue with a four-year term.

2.3 The Leader is responsible for –

- determining the size of the Cabinet (3 or more to a maximum of 10, including the Leader)
- appointing the members of the Cabinet
- allocating portfolios or areas of responsibility to the various Cabinet Members
- allocating decision-making powers to the Cabinet and to individual Cabinet Members, and
- removing and replacing Cabinet Members.

2.4 In addition, the Leader is responsible for determining the Council's executive functions and its scheme of delegation for executive functions. Council will still approve a scheme of delegation to officers for non-executive functions (to be considered later in the agenda).

2.5 The Leader must also nominate a Deputy Leader, who will exercise the Leader's powers if the Leader is unable to act, or the post becomes vacant.

2.6 Council is therefore requested to elect a Leader in accordance with these arrangements.

**3. Alternative Options considered and Reasons for Rejection**

3.1 The Council must comply with legislation and therefore does not have the option to do nothing or take an alternative course of action

**4. Consultations**

4.1 Prior consultation was not necessary; this is a decision for the Council to take.

**5. Implications**

<b>Financial implications (including any future financial commitments for the Council)</b>	None identified
<b>Legal and human rights implications</b>	This process complies with the Localism Act 2011.
<b>Assessment of risk</b>	None identified
<b>Equality and diversity implications</b> A <i>Customer First Analysis</i> should be completed in relation to policy decisions and should be attached as an appendix to the report.	None identified

**6. Local Government (Access to Information) Act 1985: List of Background Papers**

6.1 HBC Constitution  
Localism Act 2011  
Report to AGM, 24<sup>th</sup> May 2011 – Appointment of Leader

**7. Freedom of Information**

7.1 The report does not contain exempt information under the Local Government Act 1972, Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.

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# Agenda Item 8.

## Hyndburn Borough Council Elections 2023

### Persons elected at the Borough Council Elections on 4<sup>th</sup> May 2023

Electoral Ward	Name and Address of Elected Councillor	Party
Altham	Councillor Steve Button 34 Meadowside Avenue, Clayton le Moors, Accrington, BB5 5XF	Labour
Barnfield	Councillor Michael David Booth 57 Manchester Road, Accrington, BB5 2BW	Labour
Baxenden	Councillor Kathleen Iris Pratt 120 Hollins Lane, Accrington, BB5 2JS	Conservative
Central	Councillor Mohammed Younis 68-70 Nuttall Street, Accrington, BB5 2HL	Conservative
Church	Councillor Loraine Cox 27 Pansy Street South, Accrington, BB5 4BS	Conservative
Clayton-le-Moors	Councillor Melissa Margaret Fisher 33 Collingwood, Clayton le Moors, Accrington, BB5 5QP	Labour & Cooperative
Huncoat	Councillor David Parkins 25 Elder Court, Huncoat, Accrington, BB5 6JP	Labour
Immanuel	Councillor Judith Helen Addison 77 Catlow Hall Street, Oswaldtwistle, Accrington, BB5 3EZ	Conservative
Milnshaw	Councillor Paul Cox 27 Pansy Street South, Accrington, BB5 4BS	Labour
Overton	Councillor Heather Margaret Anderson 4 Wordsworth Drive, Great Harwood, BB6 7LA	Labour
Rishton	Councillor Katie-Louise Walsh 72 Livesey Street, Rishton, BB1 4DY	Labour & Cooperative
St Oswald's	Councillor Zak Khan 24 Aspen Fold, Oswaldtwistle, Accrington, BB5 4PH	Conservative

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# Agenda Item 9.

<b>REPORT TO:</b>	Annual Council Meeting	
<b>DATE:</b>	18 May 2023	
<b>REPORT AUTHOR:</b>	Julian Joinson, Member Services Manager	
<b>TITLE OF REPORT:</b>	Appointment of Committees, Sub-Committees, Panels and Working Groups 2023/24	
<b>EXEMPT REPORT:</b>	<b>No</b>	
<b>KEY DECISION:</b>	<b>No</b>	If yes, date of publication: n/a

## 1. Purpose of Report

- 1.1 To approve the terms of reference and membership of the Committees, Sub-Committees, Panels and Working Groups for the Municipal Year 2023/24; and
- 1.2 To make appointments to those bodies.

## 2. Recommendations

- 2.1 That the terms of reference of Council, Cabinet and other constituted bodies, as outlined in Appendices 1 and 2, to be circulated separately, be approved.
- 2.2 That the political composition of Committees and Sub-Committees of the Council, to be circulated separately, be approved.
- 2.3 That the membership of those Committees and Sub-Committees and the proposed Chairs and Vice-Chairs, to be circulated separately, be approved, or in the event that the details are not available in time for the meeting, that the Chief Executive be authorised to approve the membership in consultation with the leaders of the relevant political groups and in the case of Independent Members in consultation with those Members directly.
- 2.4 That the membership of Panels and Working Groups, together with the proposed Chairs, to be circulated separately, be approved, or in the event that the details are not available in time for the meeting, that the Chief Executive be authorised to approve the membership in consultation with the leaders of the relevant political groups and in the case of Independent Members in consultation with those Members directly.
- 2.5 That a Councillor unable to attend a meeting, of which he/she is a member, be authorised to appoint a Councillor not serving on that particular Committee, Sub-Committee, Panel or Working Group to act as a substitute in accordance with Council Procedure Rule A26.8.

## 3. **Appointment of Committees, Sub-Committees, Panels and Working Groups 2023/24**

- 3.1 The annual meeting of Council is required to establish Committees, Sub-Committees, Panels and Working Groups and to determine their terms of reference.

3.2 The terms of reference are set out in Part 3 of the Constitution - Responsibility for Functions and the appendices indicated below will follow:-

Appendix 1: Terms of Reference of Council, Cabinet and Committees.  
Appendix 2: Terms of Reference of Panels and Working Groups.

3.3 Where appropriate, minor and consequential amendments will have been made to the existing Terms of Reference, to incorporate revised legislation and changes to national policies.

#### **4. Allocation of Seats**

4.1 The Local Government and Housing Act 1989 and Local Government (Committees and Political Groups) Regulations 1990 require that the number of seats on committees and sub-committees reflects the overall political balance of the Council.

4.2 The number of seats held by each political group and others for the 2023/24 Municipal Year is:-

Conservative Group	16
Labour and Co-operative Group	16
Green	2
Independent	1

The Council comprises 35 elected members.

4.3 There is no legislative requirement to include councillors who are not members of a formal political group (such as Independent members) in the political balance calculation. However, the Council may choose to offer seats to Independent councillors as it has done on previous occasions.

4.4 Details of the Council's committees and sub-committees, the number of seats available and allocation of seats will be available prior to the meeting.

#### **5. Establishment and Membership of Panels and Working Groups**

5.1 The membership of Panels and Working Groups does not need to be politically balanced. A schedule of these bodies, including the number of seats available will be provided prior to the meeting.

5.2 The terms of reference and composition of the Panels and Working Groups will follow as Appendix 2.

5.3 The proposed membership will be circulated before the meeting, if possible. Where this is not possible a delegated authority to the Chief Executive to make the appointments in consultation with the relevant political group leaders may be required.

#### **6. Cabinet**

6.1 Cabinet membership and allocation of portfolio responsibilities is within the power of the Leader. The Cabinet membership and positions for 2023/24 will be determined as soon as

practicable and circulated for information. If possible, this will information be made available before the Annual Council meeting.

## **7. Appointment of Co-opted Members to Overview and Scrutiny Committees**

7.1 It should be noted that, except for the Special Overview and Scrutiny Committee, each overview and scrutiny committee may appoint up to four members of the public (as agreed on 16<sup>th</sup> May 2019), who the committee deems to have relevant experience of topics related to that scrutiny meeting, as non-voting co-optees. The Special Overview and Scrutiny Committee may appoint up to two such co-optees. Co-opted members are appointed for two year period and the current post-holders remain appointed until the end of 2023/24.

7.2 A separate report will be provided in respect of any changes required if a co-optee is no longer eligible to serve in that capacity.

## **8. Appointment of Substitute Members**

8.1 A member of the Council who cannot attend a meeting can appoint a reserve member not serving on that particular Committee, Sub-Committee, Panel or Working Group to act as a substitute, in accordance with Council Procedure Rule A26.8.

8.2 It should be noted that no substitute members may be appointed in respect of the Standards Committee.

8.3 It should also be noted that, members of the Licensing Committee, Judicial Committee (Private Hire and Hackney Carriage Licensing) and Planning Committee and their substitutes are required to undertake specific training because of the quasi-judicial nature of the decisions taken.

8.4 As in previous years, it is proposed to widen the scope of the substitution arrangements to allow for any member, rather than just a reserve member, to be appointed, subject to the limitations described in paragraphs 8.2 – 8.3 above.

## **9. Alternative Options considered and Reasons for Rejection**

9.1 The Council would not be able to meet its statutory responsibilities without the appointment of committees. The number and terms of reference of the various committees, panels and boards is a matter for Members.

## **10. Consultations**

10.1 The appointments will be made in consultation with the political groups.

## **11. Implications**

<b>Financial implications (including mainstreaming)</b>	None
<b>Legal and human rights implications</b>	The report meets the statutory requirements in relation to appointment of members to Committees and the political balance rules.

<b>Assessment of risk</b>	None
<b>Equality and diversity implications</b> A <i>Customer First Analysis</i> should be completed in relation to policy decisions and should be attached as an appendix to the report.	This is not deemed to be necessary.

**12. Local Government (Access to Information) Act 1985:  
List of Background Papers**

12.1 Hyndburn Borough Council Constitution - Part 3 – Responsibility for Functions

**13. Freedom of Information**

13.1 The report does not contain exempt information under the Local Government Act 1972, Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.

**Annual Council – 18 May 2022**  
**Addendum to Sections 3, 4 and 5 of Agenda Item 9**

**3. Appointment of Committees, etc - Terms of Reference**

Appendix 1- Terms of Reference of Council, Cabinet and Committees  
Appendix 2 – Terms of Reference of Panels and Working Groups

**4. Allocation of Seats**

4.1 The Local Government and Housing Act 1989 and Local Government (Committees and Political Groups) Regulations 1990 require that the number of seats on committees and sub-committees reflects the overall political balance of the Council.

4.2 The number of seats held by each political group and others for the 2023/24 Municipal Year is:-

Conservative Group	16
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Green	2
Independent	1

The Council comprises 35 elected members.

4.3 There is no legislative requirement to include councillors who or not members of a formal political group (such as Independent members) in the political balance calculation. However, the Council may choose to offer seats to Independent councillors as it has done on previous occasions.

4.4 The total seats available should, in so far as is practicable, be divided between the political parties in the following ratio 45.71% (Conservative) and 45.71% (Labour and Co-operative) and 5.71% (Green). The same ratio should be applied, in so far as is practicable, to the allocation of seats on each individual Committee/Sub-Committee. If the suggestion at paragraph 4.3 is accepted, a proportionate allocation of seats to the Independent Member would be 2.86%.

4.5 The basic calculation to allocate seats to committees of various sizes would be as shown below. However, some adjustment to the ratios shown may be required in the final allocation of seats across the Council to take into account the following principles as required by the legislation

- Not all seats to go to the same group;
- If a Group has a majority on the Council, it should receive a majority of seats on each committee;
- Total number of seats across all bodies must be proportionate (subject to (a) and (b));
- Seats on each body must be proportionate (subject to (a) to (c)).

No of seats on Committee	Cons	Lab	Green	Indep	Notional Ratio
3 members	1.4	1.4	0.2	0.1	2:1:0:0
4 members	1.8	1.8	0.2	0.1	2:2:0:0
5 members	2.3	2.3	0.3	0.1	3:1:0:0
6 members	2.7	2.7	0.3	0.2	3:3:0:0
7 members	3.2	3.2	0.4	0.2	4:3:0:0
8 members	3.7	3.7	0.5	0.2	4:4:0:0
9 members	4.1	4.1	0.5	0.3	4:4:1:0
10 members	4.6	4.6	0.6	0.3	5:5:0:0
11 members	5.0	5.0	0.6	0.3	5:5:1:0
12 members	5.5	5.5	0.7	0.3	5:6:1:0
13 members	5.9	5.9	0.7	0.4	6:6:1:0
14 members	6.4	6.4	0.8	0.4	6:7:1:0
15 members	6.9	6.9	0.9	0.4	7:7:1:0

4.6 It is proposed to disestablish the Judicial Committee (External Funding), as this body has not met for some considerable time and no separate budget exists for the provision of grants. Also, bearing in mind principle (c) outlined above, a number of committee sizes are proposed to be adjusted to provide scope for minority parties to have a proportionate allocation of the overall number of seats. Adjustments have been made to the size of the following committees/sub-committees:

- Communities and Wellbeing OSC;
- Management Review Committee;
- Resources OSC; and
- Standards Committee

The proposals also make available 3 seats for the Independent Member, principally on the largest sized committees, which is considered to be reasonable and proportionate and in keeping with previously established custom and practice. In addition, it is recommended that the Standards Hearing Sub-Committee be increased from 2 to 5 Members to ensure a broader base for the consideration of Code of Conduct cases and to ensure an odd number of Members for decision-making purposes. To accommodate these changes, the total number of available seats across all Committees and Sub-Committees will decrease from 86 to 85.

4.7 The schedule of Committees and Sub-Committees along with the proposed allocation of seats to reflect the political balance calculation with regard to the principles set out in Paragraph 4.5, is attached at Appendix 3. The schedule includes names of nominees where these have been notified to officers in advance. A summary of the committee sizes is also set out below.

<b>Committee</b>	<b>Total No. of Seats</b>	<b>No. of seats by political group</b>
		<b>(Conservative : Labour &amp; Co-operative : Green : Independent)</b>
Audit Committee	6	3:3:0:0
Communities & Wellbeing Overview & Scrutiny Committee	7 (proposed increase from 6)	3:3:1:0
Judicial Committee (External Funding)	Disestablish	
Judicial Committee (Private Hire & Hackney Carriage Licensing)	6	3:2:0:1
Licensing Committee	14 (no change)	6:6:1:1
Licensing Sub-Committee	3	3 from Licensing Committee, one of whom must be the Chair or Vice-Chair of the Licensing Committee (1:2:0:0 where practicable)
Management Review Committee	5 (proposed increase from 4 and change to Terms of Reference)	2:2:1:0 (Leader and Deputy Leader of the Council, Leader and Deputy Leader of Main Opposition and the Leader of each of the other political groups or their respective nominees)
Planning Committee	13 (no change)	6:6:1:0
Planning (Trees) Sub-Committee	5 (no change)	2:2:1:0
Resources Overview & Scrutiny Committee	7 (proposed decrease from 9)	2:3:1:1
Special Overview & Scrutiny Committee	6 (no change)	3:3:0:0
Standards Committee	8 (increase)	4:4:0:0

	from 7)	
Standards Committee – Hearing Sub-Committee	5 (proposed increase from 2)	For matters relating to Hyndburn Borough Council: 5 members plus 1 non-voting independent person  For matters relating to Altham Parish Council: 5 members, plus 1 independent person and 1 parish representative  (3:2:0:0) where practicable)
<b>Total</b>	85	38 – Lab & Co-op (44.71%) 38 – Cons (44.71%) 6 – Green (7.06%) 3 – Indpt (3.53%)

4.8 Proposals put forward by the political groups for membership of Committees and Sub-Committees, based on the political balance above, will be circulated before the meeting, if possible. Where this is not possible a delegated authority to the Chief Executive to make the appointments following consultation with the relevant political group leader may be required.

## 5. Establishment and Membership of Panels and Working Groups

5.1 The membership of Panels and Working Groups does not need to be politically balanced. The schedule of Panels and Working Groups proposed to be appointed is as shown below. The following groups have not met within the last 12 months and it is, therefore, proposed to disestablish these bodies:

- Auditor Panel;
- Health and Communities Working Group; and
- Regeneration and Housing Panel.

Name	Total no. of seats	Proposed No. of seats by political group  (Conservative : Labour & Co-operative : Green : Independent)
Auditor Panel	It is proposed to disestablish this body	
Health and Communities Working Group	It is proposed to disestablish this body	
Leaders Policy Development Board	6	3:2:1:0

Learning & Development Panel	5	2:2:0:1
Local Joint Negotiating/ Consultative Committee	2	1:1:0:0
Local Plan Member Working Group	6	3:3:0:0
Regeneration and Housing Panel	It is proposed to disestablish this body	
Standards (Recruitment of Independent Members Panel)	2 Councillors from Standards Committee	2 Councillors from Standards Committee
Standards (Assessment Panel)	For matters relating to Hyndburn Borough Council: 2 members plus 1 non-voting independent person For matters relating to Altham Parish Council: 2 members, plus 1 independent person and 1 parish representative	For matters relating to Hyndburn Borough Council: 2 members plus 1 non-voting independent person For matters relating to Altham Parish Council: 2 members, plus 1 independent person and 1 parish representative

5.2 The terms of reference and composition of the Panels and Working Groups are attached as Appendix 2.

5.3 The proposed membership will be circulated before the meeting, if possible. Where this is not possible a delegated authority to the Chief Executive to make the appointments in consultation with the relevant political group leaders may be required.

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**Terms of reference for:**

1. Full Council
2. Leader and Cabinet
3. Cabinet Committee (Scrap Metal Dealers Act 2013)
4. Cabinet Committee (Street naming)
5. Cabinet Committee (land and property)
6. Cabinet committee (digital economy)
7. Communities and Wellbeing Overview and Scrutiny Committee
8. Resources Overview and Scrutiny Committee
9. Special Overview & Scrutiny Committee
10. Standards Committee
11. Standards Committee - Hearing Sub-Committee
12. Planning Committee
13. Planning (Trees) Sub-Committee
14. Judicial Committee (Private Hire and Hackney Carriage Licensing)
15. Licensing Committee
16. Audit Committee
17. Management Review Committee

## **FULL COUNCIL**

**MEMBERSHIP:** 35 councillors

**REPORTS TO:** Council is the sovereign body for all non-executive matters

### **TERMS OF REFERENCE:**

- To adopt and agree changes to the Council's constitution
- To appoint the leader of the Council in accordance with the Local Government Act 2000.
- To remove and replace the leader and appoint a replacement.
- Annually to appoint a mayor and deputy mayor (neither of whom may be the leader, deputy leader or a member of the cabinet).
- To agree and amend the terms of reference of committees, determine their composition, make appointments to them, appoint the chair and vice chair and fill any casual vacancies which occur.
- To agree the delegation of non-executive functions to officers.
- To make appointments to outside bodies.
- To make or confirm the appointment of the head of paid service, subject to compliance with the Officer Employment Procedure Rules.
- To enact, alter, re-enact and revoke bylaws and promote or oppose the making of local legislation.
- To determine the list of other officer posts reserved for member level appointment, having regard to any regulations made under the Local Government Act 2000 and to agree the procedure for recruitment and selection.
- To change the name of the Borough.
- To confer the title of Freedom of the Borough and to appoint honorary aldermen.
- To adopt and agree any amendments to the Code of Conduct for Members of the Council.
- To determine and delegate responsibility for all local choice functions prescribed by any regulations made under the Local Government Act 2000.
- To take decisions in respect of non-executive functions which have not been delegated by the Council to committees, officers, joint arrangements or other local authorities.

- To receive reports from the monitoring officer or chief finance officer in exercise of their statutory functions.
- To receive reports from committees on the discharge of their functions.
- To undertake any other matter that must, by law, be reserved to the Council.
- To approve and amend the Council's Petitions Scheme
- To approve and amend the Council's Pay Policy

#### Budget and Policy Framework

- To approve, amend and revoke the plans and strategies comprising the Council's policy framework.
- To agree the Council's financial strategy and annual budget, including the following:
  - the Council's revenue and capital budgets and plans
  - the Council Tax to be levied
  - the borrowing limits
- To make decisions on proposals for the exercise of executive functions which are not in accordance with the Council's budget and / or policy framework
- To determine the level and pensionability of members' allowances, subject to any regulations made under the Local Government Act 2000.
- To formulate a plan or strategy for the control of the Council's borrowing, investments and / or capital expenditure

## **LEADER AND CABINET**

**MEMBERSHIP:** 8

councillors

**REPORTS TO:** Leader and Cabinet is sovereign for all executive decisions

### **TERMS OF REFERENCE**

#### **MAIN TERMS OF REFERENCE**

To provide overall leadership to the Council and be responsible for all functions of the Council which are not the responsibility of any other part of the Council, whether by law or under this constitution.

#### **DETAILED TERMS OF REFERENCE**

- To formulate proposals for the Council's budget and policy framework and make recommendations to the Council.
- To formulate and approve all policies, plans and strategies not forming part of the Council's policy framework.
- To be responsible for the effective implementation of Council policy and for the delivery of Council services in line with those policies.
- To manage the budget determined annually by the Council.
- To report to the Council on projected variations to income and expenditure during the year.
- To monitor the delivery of policies, services, projects and budgets during each year and make such adjustments, additions or other decisions as appropriate to achieve the Council's overall objectives.
- To ensure the delivery of best value, the continuous improvement in Council services and the implementation of best practice within the Council.
- To develop appropriate consultation arrangements to enable the views of partner organisations, groups and the local community to be taken into account in decision-making.
- To develop and approve partnerships and joint venture arrangements involving public, private or voluntary agencies to promote the economic, social and environmental well being of the Borough.
- To make arrangements for the effective management of land and property in the Council's ownership.

- To submit recommendations to the Council in respect of decisions on executive functions where such decisions are not in accordance with the Council's budget and policy framework.
- To undertake the following local choice functions prescribed by regulations made under the Local Government Act 2000:
  - functions relating to contaminated land (Part IIA Environmental Protection Act 1990)
  - functions relating to control of pollution and management of air quality (Pollution Prevention and Control Act 1999, Environmental Protection Act 1990 and Clean Air Act 1993)
  - inspection and investigation of complaints of statutory nuisance (Environmental Protection Act 1990)
  - the service of abatement notices in respect of statutory nuisance (Environmental Protection Act 1990)
  - resolutions applying Schedule 2 Noise and Statutory Nuisance Act 1993 to the Borough
  - obtaining information as to interests in land or particulars of persons interested in land preliminary to the exercise of powers of compulsory purchase of land (Town & Country Planning Act 1990)
- To form policy development boards to assist with and make recommendations for the development of Council policy.
- To deal with matters relating to traffic regulation
- To delegate responsibility for executive functions to officers (see note below).

## **RESPONSIBILITIES OF THE LEADER**

The Leader of the Council shall:

- determine the size of the executive and appoint, remove and replace the deputy leader and other cabinet members.
- allocate broad functional responsibilities and corporate themes to individual cabinet member (portfolios) and to adjust or reallocate those portfolios during the year.
- delegate executive functions to cabinet committee's, and officers of the Council
- object on behalf of the Council to any proposed decision by the Council on the budget and policy framework, subject to the Budget and Policy Framework Procedure Rules.

Note: this function has been delegated to the Cabinet by the Leader of the Council

## **CABINET COMMITTEE (SCRAP METAL DEALERS ACT 2013)**

**MEMBERSHIP:** 3 Members of Cabinet (with a quorum of 3)

**REPORTS TO:** Cabinet

### **TERMS OF REFERENCE**

- To determine whether to grant, renew, revoke or vary scrap metal licences pursuant to the Scrap Metal Dealers Act 2013 where the applicant or licensee (as the case may be) has informed the Council that they wish to make oral representations in accordance with paragraphs (7) and (8) of Schedule 1 of that Act
- To discharge the Council's functions under paragraph 8 Schedule 1 of the Scrap Metal Dealers Act 2013.

## **CABINET COMMITTEE (STREET NAMING)**

**MEMBERSHIP:** 3 Members of Cabinet (with a quorum of 3) and a councillor nominated by the Leader of the main opposition group may attend

**REPORTS TO:** Cabinet

### **TERMS OF REFERENCE**

- To discharge the Council's functions in respect of the naming and renaming of streets pursuant to sections 17 and 18 Public Health Act 1925

### **Cabinet Committee (Land and Property)**

**MEMBERSHIP:** 3 Members of Cabinet (with a quorum of 3)

**REPORTS TO:** Cabinet

#### **TERMS OF REFERENCE**

- To have oversight of the Council's land and property holdings and the management thereof; and
- To identify land and property that is surplus to the Council's requirements and to identify sites that are suitable for disposal and to make recommendations to Cabinet accordingly; and
- To monitor the progress of both acquisitions and disposals of land and property by the Council

### **Cabinet Committee (Digital Economy)**

**MEMBERSHIP:** 3 Members of Cabinet (with a quorum of 3)

**REPORTS TO:** Cabinet

#### **TERMS OF REFERENCE**

- To consider the impact of the digital economy on the Borough, in particular in respect of its impact on town centres and retailers; and
- To advise Cabinet and to formulate proposals and strategies in respect of the same for approval by Cabinet.

## **COMMUNITIES AND WELLBEING OVERVIEW AND SCRUTINY COMMITTEE**

**MEMBERSHIP:** 7 councillors, plus up to 3 non-voting co-optees

**REPORTS TO:** Full Council

### **MAIN TERMS OF REFERENCE:**

To monitor implementation of Hyndburn's Community Strategy and the achievement of Community Strategy targets and objectives

To monitor the implementation of the Council's policies and strategies in respect of community safety and promote community safety across the Council's policies and services

In accordance with the Police and Justice Act 2006 to act as the Council's crime and disorder committee by reviewing and scrutinising decisions made, or other action taken, by the responsible authorities in connection with the discharge of their crime and disorder functions

To monitor the performance of external public service providers, the impact of those services on the wellbeing of the Borough and the contribution of those services to the achievement of Community Strategy objectives.

To review and scrutinise and to make reports and recommendations on matters relating to education and health services in Hyndburn

To monitor progress in respect of the development of sustainable communities, including neighbourhood management, sustainable market towns, regeneration and housing market renewal

To conduct investigations and report in respect of issues affecting the wellbeing of the Borough or particular areas of the Borough

To monitor progress in respect of safeguarding the environment

### **DETAILED TERMS OF REFERENCE:**

- To scrutinise the work of the Cabinet falling within the committee's terms of reference
- To review and scrutinise the decisions made by and the performance of the Cabinet, committees and Council officers, both in relation to individual decisions and over time
- To conduct research and community and other consultation in respect of issues impacting upon the well-being of the Borough or particular area of the Borough.
- To question members of the Cabinet, committees and officers at service head level or above about their views on issues and proposals affecting the wellbeing of the Borough, including the implementation of the Community Strategy

- To liaise with external organisations operating in the Borough, whether national, regional or local, to:
  - ensure that the interests of local people and the wellbeing of the Borough are enhanced by collaborative working;
  - monitor the effectiveness and impact of the services provided by such organisations
- To review and scrutinise the performance of other public bodies in Hyndburn and invite reports from them by requesting them to address the committee about their activities and performance.
- Monitor the Council's contribution to the implementation of the Community Strategy
- To make recommendations to the Cabinet and/or committees and/or the Council arising from the outcome of the scrutiny process.
- To question and gather evidence from any person with their consent.
- To exercise the right to call in, for reconsideration, decisions made but not yet implemented by the Cabinet (and/or area councils where these relate to executive functions) subject to the Overview and Scrutiny Procedure Rules.
- To discuss topics of neighbourhood concern in response to a "councillor call for action" subject to the requirements of the Scrutiny Procedure Rules

## RESOURCES OVERVIEW AND SCRUTINY COMMITTEE

**MEMBERSHIP:** 7 councillors, plus up to 3 non-voting co-optees

**REPORTS TO:** Full Council

### **MAIN TERMS OF REFERENCE**

To monitor the performance of Council services and make suggestions for service improvements

To consider the Cabinet's proposals to achieve a balanced budget in advance of the budget being determined by the Council

To monitor the Council's budgetary position throughout the year and advise in respect of possible efficiency savings and steps required to address any projected budget deficit

To monitor and review the Council's Treasury Management Strategy and Policies

To assist with the development and review of Council policies and services, including those delivered in partnership

### **DETAILED TERMS OF REFERENCE**

- To scrutinise the work of the Cabinet falling within the Committee's terms of reference
- To review and scrutinise the decisions made by, and the performance of, the Cabinet, committees and Council officers, both in relation to individual decisions and over time.
- To review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas.
- To question members of the Cabinet and/or committees and officers at service head level or above about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives and projects.
- To make recommendations to the Cabinet and/or committees and/or the Council arising from the outcome of the scrutiny process.
- To assist the Council and the Cabinet in the development of the Council's budget and policy framework by in depth analysis of policy issues.
- To conduct research, community and other consultation in the analysis of policy issues and possible options.
- To consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
- To question members of the Cabinet, committees and officers at service head level or above about their views on issues and proposals affecting the Borough.
- To question and gather evidence from any person with their consent.

- To exercise the right to call in, for reconsideration, decisions made but not yet implemented by the Cabinet (and/or area councils where these relate to executive functions) subject to the Overview and Scrutiny Procedure Rules.
- To discuss topics of neighbourhood concern in response to a “councillor call for action”, subject to the requirements of the Scrutiny Procedure Rules

## **SPECIAL OVERVIEW AND SCRUTINY COMMITTEE**

**MEMBERSHIP:** 6 councillors, plus up to 2 non-voting co-optees

**REPORTS TO:** Full Council

### **TERMS OF REFERENCE**

In connection with the following:

- bids to the Levelling Up Fund;
- the County Deal
- devolution issues
- Accrington Town Centre
- to review and scrutinise decisions made by the Cabinet falling within the Committee's terms of reference; and
- to make recommendations to the Cabinet and/or committees and/or the Council arising from the outcome of the scrutiny process; and
- to consider mechanisms to encourage and enhance community participation in the development of policy options; and
- to question and gather evidence from any person with their consent; and
- to exercise the right to call in, for reconsideration, decisions made but not yet implemented by the Cabinet (and/or area councils where these relate to executive functions) subject to the Overview and Scrutiny Procedure Rules.

## **STANDARDS COMMITTEE**

**MEMBERSHIP:** 8 councillors, and 3 non-voting representatives of Altham Parish Council

**REPORTS TO:** Full Council

### **MAIN TERMS OF REFERENCE**

To promote and maintain high standards of conduct by members, co-opted members and officers of the Council and Altham Parish Council

### **DETAILED TERMS OF REFERENCE**

- To advise the Council on the adoption and revision of the members' code of conduct and to monitor the operation of the members code of conduct
- To advise, train or arrange to train councillors and co-opted members on matters relating to the members code of conduct.
- To consider reports from the monitoring officer on complaints or investigations undertaken in respect of the conduct of councillors
- To undertake the above functions in respect of Altham Parish Council
- To consider and determine requests from any member or co-opted member who has a financial or other interest which would prevent or restrict them from participating in any business before the Council for a dispensation in accordance with any regulations governing the grant of such dispensations.
- To monitor the operation of the Council's Member / Officer Relations Protocol, Planning Code of Conduct, Licensing Code of Conduct, Joint Venture Protocol and any other local codes or protocols relating to member or officer conduct
- To monitor the operation of and advise on revisions to the Council's code of conduct for employees
- To monitor the operation of and advise on revisions to the Council's whistleblowing policy
- To monitor the outcome of investigations by the Local Government Ombudsman
- To monitor the operation of and advise on revision of the Council's constitution
- To monitor the operation of and advise on revisions to the Council's complaints handling procedures
- To advise the Council on the introduction or revision of policies relating to ethical matters
- To make delegations to officers within its terms of reference

## **STANDARDS COMMITTEE**

## **HEARING SUB-COMMITTEE**

### **MEMBERSHIP**

For matters relating to Hyndburn Borough Council 5 members, plus 1 non-voting independent person

For matters relating to Altham Parish Council 5 members, plus 1 independent person and 1 parish representative

The Sub-Committee shall not include any member, independent person or parish representative who has already considered the allegation to be determined.

### **MAIN TERMS OF REFERENCE**

To hear complaints against members of Hyndburn Borough Council and Altham Parish Council following investigation by the Monitoring Officer, to determine whether there has been a breach of the relevant member code of conduct and, where appropriate, to impose a sanction.

### **DETAILED TERMS OF REFERENCE**

1. To conduct the hearing of an allegation that a councillor or parish councillor is in breach of the relevant code of conduct and to do so in accordance with the law and the Council's procedures for dealing with such hearings .
2. To make one of the following findings at the conclusion of a hearing:
  - a. that the subject member has not failed to comply with the code of conduct; or
  - b. that the subject member has failed to comply with the code of conduct but that no action needs to be taken in respect of the matters considered at the hearing; or
  - c. that the subject member has failed to comply with the code of conduct and that a sanction should be imposed.
3. Following a determination in accordance with paragraph 3c above, to impose any one, or any combination of, the following sanctions:
  - Censure
  - Recommendation to Council that the subject member be removed a member from any committee or sub-committee
  - Recommendation to the Leader of the Council that the subject member be removed from Cabinet or their portfolio responsibilities changed
  - Recommendation to the subject member that he or she undergo training

- Recommendation to Council that the subject member be removed from outside appointments / bodies
- Withdrawal of Council facilities (provided this is proportionate and provided the member concerned is still allowed access to Council and committee meetings)
- Exclusion from Council premises (provided this is proportionate and provided the member concerned is still allowed access to Council and committee meetings)

## **PLANNING COMMITTEE**

**MEMBERSHIP:** 13 councillors

**REPORTS TO:** full Council

### **TERMS OF REFERENCE**

#### **MAIN TERMS OF REFERENCE**

To discharge the Council's functions relating to town and country planning and development control as specified in Schedule 1 Local Authorities (Functions and Responsibilities) (England) Regulations 2000 ("the 2000 Regulations") in so far as these have not been delegated to the Chief Planning and Transportation Officer - this excludes the preparation of the local plan, the production of supplementary planning guidance, the designation of conservation areas and the removal of permitted development rights, which are executive functions.

#### **DETAILED TERMS OF REFERENCE**

##### **PLANNING CONTROL**

- To determine all applications for planning permission, listed building consent, conservation area consent, hazardous substances consent and advertisement consent which have not been delegated to the Chief Planning & Transportation Officer.  
The applications referred to are those made pursuant to Part III Town and County Planning Act, Part I Chapter II Planning (Listed Buildings and Conservation Areas) Act 1990. The Planning (Hazardous Substances) Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1991 or any enactment or regulations which replace or amend them
- To enforce planning control (including advertisements and land which is detrimental to local amenity)
- To handle all matters relating to trees and hedgerows (including the matters referred to in the terms of reference of the Planning (Trees) Sub-Committee) which have not been delegated to the Chief Planning & Transportation Officer
- To consider and determine applications for certificates of lawful use and lawful development
- To exercise local planning authority powers relating to highways
- To consult with the Secretary of State and other planning authorities
- To advise the leader and cabinet on the content of the draft local and structure plans and the local transport plan

- To make any other non-executive decision within the responsibility of the local planning authority which has not been delegated to the Chief Planning & Transportation Officer
- To authorise agreements regulating the development or use of land.
- To revoke planning permissions.
- To register common land and town and village greens.
- To register the variation of rights of common.
- To discharge the Council's powers under Part 8 Anti-social Behaviour Act 2003 (relating to high hedges)
- To exercise the Council's powers and duties under sections 20-23, 25 and 26 Planning and Compulsory Purchase Act 2004 relating to local development documents which are development plan documents
- To decide whether to permit or refuse to permit the exercise of permitted development rights pursuant to the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 where an objection has been received from the owner or occupier of adjoining land or premises.
- To exercise the Council's powers and duties under sections 150 and 151 of the Town and Country Planning Act 2016, the Town and Country Planning (Brownfield Land Register) Regulations 2017 and the Town and Country Planning Act 2016, the Town and Country Planning (Permission in Principle) Order 2017

### **RIGHTS OF WAY**

- To discharge the Council's functions relating to public rights of way as specified in Schedule 1 of the 2000 Regulations

### **BUILDING CONTROL**

- To deal with all matters connected with the determination of applications under and enforcement of Building Regulations and the Building Acts not delegated to the Chief Planning & Transportation Officer
- To make decisions under local Acts concerning building work
- To set charges under the Building (Local Authority Charges) Regulations 2010

## **PLANNING (TREES) SUB-COMMITTEE**

**MEMBERSHIP:** 5 councillors (who must be members of the Planning Committee)

**REPORTS TO:** Planning Committee

### **TERMS OF REFERENCE**

1. To exercise all the powers and duties conferred on the Council by Part VIII Chapter 1 (sections 197 – 214D of the Town and Country Planning Act 1990 (as amended) and the Town and Country Planning (Tree Preservation) (England) Regulations 2012 and any replacement or amending legislation or regulations.
2. Without prejudice to the generality of the forgoing, to make and confirm tree preservation orders, to determine objections to the making of tree preservation orders, to revoke or vary tree preservation orders and to grant consent for the felling or the carrying out of work to any trees or woodlands protected by a tree preservation order or which are located in a conservation area.
3. To exercise all powers and duties conferred on the Council by the Hedgerows Regulations 1997 and Part 8 (sections 65 – 84) Anti-Social Behaviour Act 2003 (High Hedges).
4. To authorise an officer or other suitably qualified and / or experienced person to exercise any functions of the Planning (Trees) Sub-Committee

## **JUDICIAL COMMITTEE (PRIVATE HIRE AND HACKNEY CARRIAGE LICENSING)**

**MEMBERSHIP:** 6 councillors

**REPORTS TO:** Full Council

### **MAIN TERMS OF REFERENCE:**

To deal with all matters where the Council is required to adjudicate between two or more opposing views and reach a decision in a quasi-judicial manner where such decision is not required to be the function of the leader and cabinet by virtue of the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 ("the 2000 Regulations").

### **DETAILED TERMS OF REFERENCE:**

- To discharge the Council's licensing and regulatory functions as specified in Schedule 1 of the 2000 Regulations and in particular, to determine applications and proposals for the grant, renewal amendment, transfer, revocation or refusal of licences, permits and consents relating to the following, where the decision has not been delegated to the Council's Executive Director (Legal & Democratic Services):
  - Hackney carriages
  - Private hire vehicles
- To determine any other matter that falls within the general terms of reference above and which has not been delegated to any other committee of the Council
- To make delegations to officers within its terms of reference

## **LICENSING COMMITTEE**

**MEMBERSHIP:** 14 councillors

**REPORTS TO:** Full Council

### **MAIN TERMS OF REFERENCE**

To deal with all matters where the Council is required under the Licensing Act 2003 to refer that matter to the Licensing Committee or where it is required to adjudicate between two or more opposing views and reach a decision in a quasi-judicial manner where such decision is not required to be the function of the leader and cabinet by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended (“the 2000 Regulations”)

### **DETAILED TERMS OF REFERENCE**

- To discharge the Council's functions under the Licensing Act 2003 with the exception of:
  - making a statement of licensing policy; and
  - any function or matter referred to another committee in accordance with the scheme of delegation contained in the Statement of Licensing Policy

in accordance with the scheme of delegation contained in the Statement of Licensing Policy

- To appoint a chair, vice-chair and two sub-committee chairs
- To determine whether to grant, renew, revoke or vary scrap metal licences pursuant to the Scrap Metal Dealers Act 2013 where the applicant or licensee (as the case may be) has informed the Council that they wish to make oral representations in accordance with paragraphs (7) and (8) of Schedule 1 of that Act
- To appoint from time to time a Licensing Sub-Committee to discharge its functions under the Licensing Act 2003, the Gambling Act 2005 and paragraph 8 Schedule 1 of the Scrap Metal Dealers Act 2013 subject to the following provisions:
  - The Licensing Sub-Committee shall comprise 3 members of the Licensing Committee, one of whom must be the chair or vice chair of the Licensing Committee or one of the chairs of the Licensing Sub-Committee
  - The quorum of the Licensing Sub-Committee shall be 3
  - The membership of the Licensing Sub-Committee is not required to be proportionately representative of the political balance of the Council
- To discharge the Council's licensing and regulatory functions as specified in Schedule 1 of the 2000 Regulations and in particular to determine applications and proposals for the grant, renewal, amendment, transfer, revocation and refusal of licences, permits and consents relating to the following where the decision has not been delegated to the Council's officers:

Street and house-to-house collections

Sex establishments

- To discharge the Council's functions under the Gambling Act 2005 except for the functions under section 349 (publication of statement of licensing policy), section 166 (issue of casino licenses) and section 212 (setting of fees for licenses)

## **AUDIT COMMITTEE**

**MEMBERSHIP:** 6 councillors

**REPORTS TO:** Full Council

### **MAIN TERMS OF REFERENCE:**

- To monitor the operation and performance of the Council's internal and external audit services
- To consider the audit plan, management letter and other audit related issues and discuss the same with the Council's external auditor
- To approve (but not direct) the strategy, plan and performance of the Council's internal audit service
- To review summary internal audit reports and the main issues arising, and seek assurance that action has been taken where necessary
- To consider the reports of external audit and inspection agencies
- To consider the effectiveness of the Council's risk management arrangements and control environment and seek assurances that action is being taken on risk related issues identified by auditors and inspectors
- To satisfy itself that the Council's assurance statements, including the annual governance statement, properly reflect the risk environment and any actions required to improve it
- To ensure that there are effective relationships between the Council's internal and external audit services and other agencies
- To review financial statements, external auditors opinion and reports and monitor management action in response to issues raised by external audit.
- To approve expenditure out of any items of unspent budget allocation identified in the final accounts for the immediately preceding financial year
- To approve the Council's final accounts on behalf of the Council.

## **MANAGEMENT REVIEW COMMITTEE**

**MEMBERSHIP:** Leader and Deputy Leader of the Council, the Leader and Deputy Leader of the Main Opposition Group and the Leader of each of the other political groups on the Council or their respective nominees.

**REPORTS TO:** Council

### **MAIN TERMS OF REFERENCE:**

- To review the terms and conditions of employment of the Council's Chief Executive and Deputy Chief Executive and to agree any changes to the same deemed necessary following such review. In carrying out a review to obtain such internal or external support and advice that is required to enable a review to be fully and properly undertaken.
- To determine the collective terms and conditions of employment of employees of the Council
- To agree changes to staffing structures where these fall outside the scope of the scheme of delegation to officers
- To agree the regrading of posts where this falls outside the scope of the scheme of delegation to officers
- To consider and determine disciplinary appeals in respect of Chief Officers<sup>1</sup>

**Terms of reference for:**

1. Local Joint Negotiating & Consultative Committee
2. Learning & Development Panel
3. Standards Committee (Recruitment Of Independent Persons Panel)
4. Standards Committee (Assessment Panel)
5. Leaders Policy Development Board

## LOCAL JOINT NEGOTIATING CONSULTATIVE COMMITTEE

### TERMS OF REFERENCE AND CONSTITUTION FOR EMPLOYEES EMPLOYED UNDER N.J.C. FOR LOCAL GOVERNMENT SERVICES TERMS AND CONDITIONS OF EMPLOYMENT

#### **TITLE**

The Committee is a consultative Committee and shall be named the Local Joint Negotiating and Consultative Committee for N.J.C. for Local Government Services Employees.

#### **SCOPE**

The functions of the Local Joint Negotiating Consultative Committee shall relate to all employees of Hyndburn Borough Council within the scope of the N.J.C. for Local Government Services.

#### **MEMBERSHIP**

The Council's side of the L.J.N.C.C is to be chaired by the Leader of the Council or his delegated representative. Membership to include the Leader of the Opposition or his/her delegated representative. One Member from the controlling group i.e. the Leader/Deputy Leader or Portfolio Holder who will be allocated a seat and may choose to attend the meeting. The Council side will be supported by the Head of Policy & Organisational Development. Departmental nominees may attend to respond to agenda items.

The Unions will be allocated the following seats:

UNISON	4 Seats
T & GWU	1 Seat
GMB	1 Seat

Any **Trade Union** member of the L.J.N.C.C. may be represented at a meeting by a substitute, provided that such a substitute has been duly appointed by the appropriate trade union.

If a member of the L.J.N.C.C. ceases to be an employee of the Council or a trade union representative he/she shall cease to be a member of the L.J.N.C.C. On occurrence of a vacancy, a new member shall be appointed by the body in whose representation the vacancy occurs and shall be a member until the end of the period for which the previous member was appointed.

Each L.J.N.C.C. shall be supported by the Head of Policy & Organisational Development or their nominated representative. Departmental nominees will attend to respond to agenda items. The Executive Director (Legal and Democratic Services) shall nominate an employee from the Member Services section to service and timetable the Committee.

## **FUNCTIONS**

The L.J.N.C.C.'s guiding functions and principles are to support and encourage:

- a spirit of co-operation
- high quality services delivered by a well trained, motivated workforce in a climate of security of employment. To this end the Council endeavours to provide training and development opportunities for all its employees subject to its set budget constraints;
- equal opportunities in employment and the removal of all discrimination.; equality is a core principle which underpins both service delivery and employment relations;
- a flexible approach to providing services to the community, which where possible meets the needs of employees as well as the employers;
- stable industrial relations, negotiation and consultation between the Council and recognised trade unions;
- the development of local agreements on pay and conditions within the framework of relevant national and regional agreements;
- the application of employment legislation through policy development

Where any matter relates to any particular employee this shall **not** be considered by the L.J.N.C.C. The Council's grievance procedure is the correct vehicle for employees raising matters of concern.

In the event of a dispute over terms and conditions of employment arising between the two sides of the Council the dispute shall, if requested by either side, be referred for settlement by arbitration. The arbitration shall be accepted by both sides and shall be treated as though it was an agreement between the two sides.

## **CONDUCT OF BUSINESS**

Attendance of non-members in an advisory capacity;

Other officers or member of the Trade Unions or other persons with specialist knowledge, may attend meetings in an advisory capacity, by invitation on either side, but they may only speak with the agreement of the Chair of the meeting.

Full time officials of the relevant recognised Trade Unions may also attend meetings in an advisory capacity or as a substitute representative.

## **CHAIR AND VICE CHAIR**

The Chair and Vice-Chair shall be appointed annually on a rotation basis. The Chair will be nominated by management and may be the elected member or the Executive Director (Legal & Democratic Services), with the Vice-Chair being elected by the staff side.

The Chair shall preside at the meetings. In the absence of the Chair the Vice-Chair shall preside over the meeting.

## **MEETINGS & PAPERWORK**

Meetings will be held quarterly.

Any scheduled meeting of the L.J.N.C.C. may be cancelled where the Chair, Executive Director (Legal & Democratic Services) and Vice Chair agree to the cancellation.

The Executive Director (Legal & Democratic Services) must be notified of the matters to be considered at any scheduled meeting at least 7 working days in advance. At the same time, the management/trade union representatives requesting the item to be considered by the L.J.N.C.C. must also provide a brief written statement relating to each item.

These statements will be supplied (by the originator(s)) to both parties – see Appendix 1. Where the statement concerns a particular service area, the relative Chief Officer (or vice versa the relative Trade Union representative) will be responsible for supplying any further written comments for consideration from their own viewpoint.

Other than in very exceptional circumstances the only business to be considered at any meeting is that which has been notified. Other business may only be considered if the item is admitted by the Chair or Vice-Chair of the meeting

## **RESOLUTION OF ISSUES**

Where a resolution cannot be agreed at the meeting, the options available to either party are:

- a) refer the matter to the Chief Executive (should this fall within his delegated powers) for re-consideration in the first instance prior to either side registering a failure to agree.
- b) refer the matter to Cabinet and then to Council to determine final approach where changes to terms and conditions occur
- c) to call in ACAS to assist in resolution if all parties are agreeable
- d) register a failure to agree with the option to bring in the Joint Secretaries to deal with matters of interpretation.

## **MINUTES**

The Minutes of each meeting shall be submitted to attendees and the Portfolio Holder for information. The L.J.N.C.C. may also submit recommendations through the Portfolio Holder for Policy and Corporate Governance.

## **QUORUM**

The quorum of the L.J.N.C.C. shall be TWO representatives of each side.

## **CONFIDENTIALITY**

Members of the L.J.N.C.C. shall have full regard to the Council's Code of Conduct if confidential information is made available to them in the course of consultation.

## **AGENDA ITEMS**

Where an issue has been unable to be resolved at departmental level and requires the intervention of the LJNCC, the representative/officer requesting the agenda item should submit this completed form to the Head of Policy & Organisational Development.

## **LEARNING & DEVELOPMENT PANEL**

**REPORTS TO:** **Leader and Cabinet**

**MEMBERSHIP:** **5 Councillors**

### **TERMS OF REFERENCE**

- To support the review and development of organisational learning and development strategies for elected members
- To enable councillors and officers to discuss and promote issues relating to the planning, delivery and evaluation of member development activities
- To assist in identifying elected member training needs and providing information on resources
- To monitor and evaluate performance regarding elected member development to ensure that all activities are planned and implemented within agreed budgets
- To benchmark and improve activities against quality standards such as the North West Charter on Elected Member Development

**STANDARDS COMMITTEE**  
**(RECRUITMENT OF INDEPENDENT PERSONS PANEL)**

**Membership:** 2 members of Standards Committee.

**Reports To:** Council

**Terms of Reference**

To assist in the recruitment of independent members of the Council's Standard's Committee by shortlisting and interviewing applicants and making recommendations for appointment to the Council.

**STANDARDS COMMITTEE**  
**(ASSESSMENT PANEL)**

**Membership**

For matters relating to Hyndburn Borough Council 2 members, plus one independent person

For matters relating to Altham Parish Council 2 members, plus 1 independent person and 1 parish representative

**Main Terms of Reference**

To undertake an initial assessment of complaints of breach of the member code of conduct in respect of members of Hyndburn Borough Council and Altham Parish Council and to determine whether the complaint merits investigation

**Detailed Terms of Reference**

1. To receive allegations that a councillor or parish councillor is in breach of the member code of conduct and to determine:
  - (a) That the allegation should be referred to the monitoring officer for investigation or with a direction to take some other action; or
  - (b) That no action be taken.
2. At its discretion, to refer an allegation to another relevant authority where the allegation relates to a person who is no longer a member of the Council or the Parish Council but is a member or co-opted member of that other relevant authority.
3. To determine whether any request for confidentiality on the part of the complainant should be granted and to what extent.

## LEADER'S POLICY DEVELOPMENT BOARD

**Reports To:** Leader and Cabinet

**Membership:** 6 (Leader and Deputy Leader of the Council, plus one other Cabinet member, together with the Leader and Deputy Leader of the Main Opposition Group and the Leader of any other political groups represented on the Council).

### **Terms of Reference**

- To monitor and review:
  - the implementation of modernised political management structures within the Council.
  - the operation and effectiveness of the Council's constitution
- any recommendations from the Council's Independent Remuneration Panel and the operation and administration of the Council's members allowances scheme
- To assist the Leader of the Council to monitor and review the delivery and performance of any services within his portfolio
- To assist the Leader of the Council to consider and formulate proposals for the development and amendment of plans, policies and strategies within his portfolio
- To make recommendations to the Leader and Cabinet (as appropriate) in respect of the above.

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Municipal Year 2023/24

Approved at the Annual General Meeting May 2023

## APPOINTMENT OF COMMITTEES, SUB-COMMITTEES, PANELS AND WORKING GROUPS 2023/24

Committee	Total No. of Seats	No. of Seats by Political Group (Conservative : Labour & Co-operative : Green : Independent)	Membership, including Chairs and Vice-Chairs
Audit Committee	6 <b>No Change</b>	3:3:0:0	<p><b><u>Conservative</u></b></p> <p>Councillor Susan Hayes (Chair) Councillor Peter Edwards (Vice Chair) Councillors Dominik Allen</p> <p><b><u>Labour &amp; Co-operative</u></b></p> <p>Councillors Noordad Aziz, Jodi Clements and Bernard Dawson</p>
Communities & Wellbeing Overview & Scrutiny Committee	7 <b>Increase to Committee size from 6</b>	3:3:1:0	<p><b><u>Conservative</u></b></p> <p>Councillor Peter Edwards (Chair) Councillors Dominik Allen and Carole Haythornthwaite</p> <p><b><u>Labour &amp; Co-operative</u></b></p> <p>Councillors Heather Anderson, Scott Brerton and Colin McKenzie</p> <p><b><u>Green</u></b></p> <p>Councillor Caroline Montague (Vice Chair)</p>

Judicial Committee (Private Hire & Hackney Carriage Licensing)	6 <b>No Change</b>	3:2:0:1	<p><b><u>Conservative</u></b></p> <p>Councillor Peter Britcliffe (Chair) Councillor Sajid Mahmood (Vice-Chair) Councillor Loraine Cox</p> <p><b><u>Labour &amp; Co-operative</u></b></p> <p>Councillors Bernard Dawson and Melissa Fisher</p> <p><b><u>Independent</u></b></p> <p>Councillor Joyce Plummer</p>
Licensing Committee	14 <b>No Change</b>	6:6:1:1	<p><b><u>Conservative</u></b></p> <p>Councillor Terry Hurn (Chair) Councillor Danny Cassidy (Vice-Chair) Councillors Judith Addison, Loraine Cox, Kath Pratt and Steven Smithson</p> <p><b><u>Labour &amp; Co-operative</u></b></p> <p>Councillors Heather Anderson, Steve Button, Jodi Clements, Paul Cox, Abdul Khan and Kimberley Whitehead</p> <p><b><u>Green</u></b></p> <p>Councillor P Short</p> <p><b><u>Independent</u></b></p> <p>Councillor Joyce Plummer</p>

Licensing Sub-Committee	3 <b>No Change</b>	3 from Licensing Committee, one of whom must be the Chair or Vice-Chair of the Licensing Committee (2:1:0:0 where practicable)	Selected from parent committee, as necessary, on a case by case basis
Management Review Committee	5 <b>Increase to Committee size from 4 and amendment to Terms of Reference</b>	2:2:1:0	<p>Leader and Deputy Leader of the Council and the Leader and Deputy Leader of the Main Opposition and Leader of each of the other political groups or their respective nominees.</p> <p><b><u>Conservative</u></b></p> <p>Councillor Marlene Haworth Statutory Deputy Leader (TBC)</p> <p><b><u>Labour &amp; Co-operative</u></b></p> <p>Councillor Munsif Dad Councillor Melissa Fisher</p> <p><b><u>Green</u></b></p> <p>Councillor Paddy Short</p>

Planning Committee	13 <b>No Change</b>	6:6:1:0	<p><b><u>Conservative</u></b></p> <p>Councillor Judith Addison (Chair) Councillor Terry Hurn (Vice-Chair) Councillors Danny Cassidy, Peter Edwards, Susan Hayes and Kath Pratt</p> <p><b><u>Labour &amp; Co-operative</u></b></p> <p>Shadow Chair: Councillor Dave Parkins Councillors Scott Brerton, Steve Button, Paul Cox, Bernard Dawson and Abdul Khan</p> <p><b><u>Green</u></b></p> <p>Councillor Caroline Montague</p>
Planning (Trees) Sub-Committee	5 <b>No Change</b>	2:2:1:0	<p><b><u>Conservative</u></b></p> <p>Councillor Susan Hayes (Vice Chair) Councillors Judith Addison</p> <p><b><u>Labour &amp; Co-operative</u></b></p> <p>Councillors Bernard Dawson and Dave Parkins</p> <p><b><u>Green</u></b></p> <p>Councillor Caroline Montague (Chair)</p>
Resources Overview & Scrutiny Committee	7	2:3:1:1	<b><u>Conservative</u></b>

	<b>Decrease to Committee size from 9</b>		<p>Councillor Danny Cassidy (Vice-Chair) Councillors Josh Allen</p> <p><b><u>Labour &amp; Co-operative</u></b></p> <p>Councillors Mike Booth, Scott Brerton and Andrew Clegg</p> <p><b><u>Green</u></b></p> <p>Councillor Paddy Short (Chair)</p> <p><b><u>Independent</u></b></p> <p>Councillor Joyce Plummer</p>
Special Overview & Scrutiny Committee	6 <b>No Change</b>	3:3:0:0	<p><b><u>Conservative</u></b></p> <p>Councillor Josh Allen (Chair) Councillor Dominik Allen (Vice-Chair) Councillor Carole Haythornthwaite</p> <p><b><u>Labour and Co-operative</u></b></p> <p>Councillors Noordad Aziz, Mike Booth and Melissa Fisher</p>
Standards Committee	8	4:4:0:0	<b><u>Conservative</u></b>

	<b>Increase to Committee size from 7</b>		<p>Councillor Kath Pratt (Chair)  Councillor Steven Smithson (Vice-Chair)  Councillors Danny Cassidy, Zak Khan</p> <p><b><u>Labour &amp; Co-operative</u></b></p> <p>Councillors Noordad Aziz, Mike Booth, Steve Button and Paul Cox</p>
Standards Committee – Hearing Sub-Committee	5  <b>Increase to Committee size from 2</b>	<p>For matters relating to Hyndburn Borough Council: 5 members plus 1 non-voting independent person</p> <p>For matters relating to Altham Parish Council: 5 members, plus 1 independent person and 1 parish representative (3:2:0:0 where practicable)</p>	Selected from parent committee, as necessary, on a case by case basis

Panels, Boards and Working Groups	Total no. of seats	Membership, including Chairs
Leaders Policy Development Board	6 (3:2:1:0)	<p>Leader and Deputy Leader of the Council plus one other Cabinet member, together with the Leader and Deputy Leader of the Main Opposition Group and the Leader of any Minority Opposition Group, or their nominees</p> <p><b><u>Conservative</u></b></p> <p>Councillors Marlene Haworth and the Joint Deputy Leaders of the Conservative Group</p> <p><b><u>Labour &amp; Co-operative</u></b></p> <p>Councillors Munsif Dad and Melissa Fisher</p> <p><b><u>Green</u></b></p> <p>Councillor Paddy Short</p>
Learning & Development Panel	5 (2:2:0:1)	<p><b><u>Conservative</u></b></p> <p>Councillor Judith Addison (Chair) Councillor Terry Hurn</p> <p><b><u>Labour &amp; Co-operative</u></b></p> <p>Councillors Andrew Clegg and Kate Walsh</p> <p><b><u>Independent</u></b></p> <p>Councillor Joyce Plummer</p>

Local Joint Negotiating/ Consultative Committee	2 (1:1:0:0)	<p><b><u>Conservative</u></b></p> <p>Councillor Judith Addison (Chair)</p> <p><b><u>Labour &amp; Co-operative</u></b></p> <p>Councillor Noordad Aziz</p>
Local Pan Working Group	6 (3:3:0:0)	<p><b><u>Conservative</u></b></p> <p>Councillor Peter Britcliffe (Chair) Councillors Judith Addison and Carole Haythornthwaite</p> <p><b><u>Labour &amp; Co-operative</u></b></p> <p>Councillors Mike Booth, Bernard Dawson and Dave Parkins</p>
Standards (Recruitment of Independent Members Panel)	2 Councillors from Standards Committee	Selected from the Standards Committee, as necessary
Standards (Assessment Panel)	<p>For matters relating to Hyndburn Borough Council: 2 members plus 1 non-voting independent person</p> <p>For matters relating to Altham Parish Council: 2 members, plus 1 independent person and 1 parish representative</p>	Selected, as necessary, on a case by case basis

# Agenda Item 10.

<b>REPORT TO:</b>	Annual Council Meeting	
<b>DATE:</b>	18 May 2023	
<b>PORTFOLIO:</b>	Leader of the Council	
<b>REPORT AUTHOR:</b>	Julian Joinson, Member Services Manager	
<b>TITLE OF REPORT:</b>	Appointments to Outside Bodies and Organisations 2023/24	
<b>EXEMPT REPORT (Local Government Act 1972, Schedule 12A)</b>	<b>No</b>	Not applicable
<b>KEY DECISION:</b>	<b>No</b>	If yes, date of publication:

## 1. Purpose of Report

- 1.1 To make appointments to Outside Bodies and Organisations for the Municipal Year 2023/24. The proposed appointments will be circulated separately as Appendix A to this report.

## 2. Recommendations

- 2.1 That Council approves the appointments to Outside Bodies and Organisations for the Municipal Year 2023/24.

## 3. Reasons for Recommendations and Background

- 3.1 To comply with the Council's Procedure Rule A1.2(x).
- 3.2 In accordance with the Council's Procedure Rule A1.2(x), the Council is required to receive nominations and appoint to outside bodies and organisations, except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive.
- 3.3 An exercise was carried out by Member Services Officers during 2020 to ascertain the status of all outside bodies to which Members may be appointed and to obtain copies of their key governance documents, so that Members could better understand their responsibilities and prepare for their role. The outside bodies list was updated in

2021/22 to take account of feedback obtained during that exercise and other reported changes.

3.4 There is one change recommended to be applied to the list for 2023/24, which are as follows:

- the deletion of Hyndburn GP Commissioning Consortium, following the disestablishment of CCGs upon the creation of NHS Integrated Care Boards with effect from 1<sup>st</sup> July 2022.

#### **4. Alternative Options considered and Reasons for Rejection**

4.1 Not applicable.

#### **5. Consultations**

5.1 Consultations have taken place with the political groups.

#### **6. Implications**

<b>Financial implications (including any future financial commitments for the Council)</b>	None.
<b>Legal and human rights implications</b>	The recommendation complies with the requirements of the Council's constitution.
<b>Assessment of risk</b>	None.
<b>Equality and diversity implications</b> A <i>Customer First Analysis</i> should be completed in relation to policy decisions and should be attached as an appendix to the report.	The report or decision does not propose to introduce or change policy, procedures, working practice or service provision, therefore a Customer First Analysis is not necessary.

#### **7. Local Government (Access to Information) Act 1985: List of Background Papers**

7.1 Hyndburn Borough Council Constitution  
Political Groups' Lists of Appointments to Outside Bodies and Organisations  
Files: Appointments to Outside Bodies and Organisations

**8. Freedom of Information**

8.1 The report does not contain exempt information under the Local Government Act 1972, Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.

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## APPOINTMENTS OF COUNCIL REPRESENTATIVES TO OUTSIDE BODIES - APPENDIX A

### 2023/24 REPRESENTATIVES

#### **1. Accrington & District Helping Hands Fund (3)**

Councillors Danny Cassidy, Andrew Clegg and Mohammed Younis

#### **2. Adventure Hyndburn Ltd Board (Formerly Sure Start Hyndburn) (1)**

Councillor Kath Pratt

#### **3. Armed Forces Community Covenant Champion (1 + Asst)**

Councillor Danny Cassidy

Assistant Armed Forces Champion: Councillor Judith Addison

#### **4. Carers Link Lancashire Board of Trustees (1)**

Councillor Danny Cassidy

#### **5. Copperhouse Children's Centre Advisory Board (1)**

Mr Andrew Harris

#### **6. Foxhill Bank Management Committee (1 + 1 Sub)**

Councillor Steven Smithson

Substitute Representative: Councillor Peter Britcliffe

#### **7. Homeless in Hyndburn Group (5)**

Councillors Judith Addison, Loraine Cox, Susan Hayes, Zak Khan and Mrs Bernadette Parkinson

#### **8. Homewise Advisory Group (3)**

Councillor Peter Britcliffe, Joyce Plummer and Terry Hurn

#### **9. Hyndburn Area Citizens' Advice Bureau (3)**

Councillors Mike Booth, Danny Cassidy and Susan Hayes (Observers Only)

#### **10. Hyndburn Community Safety Partnership Steering Group (1 + 3)**

Councillor Joyce Plummer (Voting Representative)

Councillors Danny Cassidy, Marlene Howarth and Sajid Mahmood (Non-Voting Representatives)

#### **11. Hyndburn Cycle Forum (1)**

Councillor Paul Cox

12. **Hyndburn Disabled Persons' Forum and Disabled Persons' Champion (1)**  
Councillor Carole Haythornthwaite

13. **Hyndburn Enterprise Trust Board (2)**  
Councillors Peter Britcliffe and Marlene Haworth

14. **Hyndburn Green Agenda Champion (1)**  
Councillor Caroline Montague

15. **Hyndburn Over 50's Champion (1)**  
Councillor Judith Addison

16. **Hyndburn & Ribble Valley Council for Voluntary Service Board of Trustees (1 + 1 Sub)**  
Councillor Zak Khan  
Substitute Representative: Councillor Judith Addison

17. **Hyndburn & Ribble Valley Domestic Abuse Forum (3)**  
Councillors Peter Britcliffe, Loraine Cox and Mrs Bernadette Parkinson

18. **Hyndburn, Ribble Valley and Rossendale Children's Partnership Board (1)**  
Councillor Loraine Cox

19. **Hyndburn Voluntary & Community Resource Ltd. Board (1)**  
Councillor Dominik Allen

20. **Hyndburn Voluntary Sector Forum and Voluntary Sector Community Champion (1)**  
Councillor Zak Khan

21. **Hyndburn Youth Council (1)**  
Councillor Josh Allen

22. **Lancashire County Council Health Scrutiny Committee (1)**  
Councillor Terry Hurn

23. **Lancashire Leaders & Chief Executive's Group (1 + CE + 1 Sub)**  
Leader of the Council  
Chief Executive  
Substitute Representative: Councillor Peter Britcliffe

24. **Lancashire LEP Joint Scrutiny Committee (1)**  
Councillor Zak Khan

**25. Lancashire Police and Crime Panel (1)**

Councillor Peter Edwards

**26. Lancashire Waste Partnership (1 + 1 Sub))**

Councillor Steven Smithson

Substitute Representative: Councillor Kimberley Whitehead

**27. Leisure in Hyndburn Board (1)**

Mr Miles Parkinson (Voting Representative)

**28. Local Government Association General Assembly (1 + 1 Sub)**

Leader of the Council

Substitute Representative: Councillor Peter Britcliffe

**29. Mental Health Champion (new position) (1)**

Councillor Josh Allen

**30. North West Employers, Manchester (1 + 1 Sub)**

Councillor Joyce Plummer

Substitute Representative: Councillor Zak Khan

**31. PATROL – Adjudication Joint Committee (1)**

Councillor Peter Edwards

**32. PROSPECTS Foundation Management Committee (1)**

Councillor Caroline Montague

**33. Growth Lancashire Ltd (Previously Regenerate Pennine Lancashire Ltd) (1 + 1 Sub)**

Leader of the Council (Director)

Substitute Representative: Deputy Leader of the Council (Alternate Director)

**34. Rishton Charities (2)**

Councillors Peter Edwards and Carole Haythornthwaite

**35. West Pennine Moors Area Management Committee (2)**

Councillors Judith Addison and Caroline Montague

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# Agenda Item 11.

<b>REPORT TO:</b>	Council	
<b>DATE:</b>	18th May 2023	
<b>PORTFOLIO:</b>	Leader of the Council	
<b>REPORT AUTHOR:</b>	Executive Director (Legal & Democratic Services)	
<b>TITLE OF REPORT:</b>	The Scheme of Delegation To Officers 2023/24	
<b>EXEMPT REPORT:</b>	<b>No</b>	
<b>KEY DECISION:</b>	<b>No</b>	If yes, date of publication:

## 1. Purpose of Report

1.1 To seek approval for the scheme of delegation of non-executive functions to officers for the 2023/24 municipal year

## 2. Recommendations

2.1 That Council approves the scheme of delegation to officers attached at Schedule 1 to this report.

## 3. Reasons for Recommendations and Background

3.1 It is good practice to review the scheme of delegation regularly to keep it up to date. This helps to ensure that the Council's decision-making processes operate as effectively as possible and in accordance with legal requirements. The scheme is updated annually at the Council's AGM and also as required to take account to changes in legislation.

3.2 The proposed scheme of delegation for 2023/24 is set out in Schedule 1 to this report. The changes this year are minor and relate to:

- The removal of the deputy chief executive designation;
- To tidy up officer delegations relating to the Council's environmental health functions following the appointment of a Head of Environmental Health and to reflect changes to legislation.

## 4. Alternative Options considered and Reasons for Rejection

4.1 No alternative proposal is suggested.

## **5. Consultations**

5.1 All chief officers have been consulted about changes which may be required to reflect changes to legislation or changes to the Council's staffing structure.

## **6. Implications**

<b>Financial implications (including mainstreaming)</b>	None.
<b>Legal and human rights implications</b>	None, other than those set out in paragraph 3 of this report. The scheme of delegation forms part of the Council's written constitution and the updated scheme for 2023/24 will be published on the Council's website
<b>Assessment of risk</b>	None
<b>Equality and diversity implications</b> <i>A <a href="#">Customer First Analysis</a> should be completed in relation to policy decisions and should be attached as an appendix to the report.</i>	None

## **7. Local Government (Access to Information) Act 1985: List of Background Papers**

None

## **8. Freedom of Information**

8.1 The report does not contain exempt information under the Local Government Act 1972, Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.

## Appendix 4

This document is split into three parts:

**Part 1** - requirements applying to all delegations

**Part 2** – delegations of executive (i.e. Cabinet) functions

**Part 3** – delegations of non-executive (i.e. non Cabinet) functions

**Part 4** - appointment of statutory and proper officers

**NB: delegations of executive functions have been approved by the Leader of the Council and delegations of non-executive functions have been agreed by the full Council**

### Part 1

All delegations to officers are subject to the terms of the particular delegation and to the following general conditions:

- (i) When exercising their delegated powers officers must act in accordance with the law, the Council's constitution (with specific regard to the Financial and Contract Procedure Rules) and the Council's other policies and procedures and must act within the budget for the relevant service area.
- (ii) an officer to whom a function is delegated may authorise another officer to exercise that function, provided that the other officer reports to or is responsible to the officer in question. In the absence of the relevant officer, the Chief Executive shall have power to act in default.
- (iii) references to any enactment, regulation order or by-law shall include any amendment or re-enactment, whether or not with amendments
- (iv) If authority is delegated to two or more officers, then in the event of a failure to agree, the decision will be taken by the Chief Executive or relevant Chief Officer.
- (v) Where the exercise of powers is to be subject to prior consultation with another officer or Portfolio Holder, that officer or Portfolio Holder may give his or her views in general

terms in advance to apply to any particular circumstance, to remove the need for consultation for each proposal.

- (vi) Any heading or sub-heading used to categorise the type of power, duty or functions being delegated, is for description only, and shall not be taken to limit or qualify it in any way.
- (vii) Subject to any express instructions to the contrary any power to approve also includes the power to refuse and the power to impose appropriate conditions.
- (viii) All delegated functions shall be exercised on behalf of and in the name of the Council.

**(ix) Emergency Action / Emergency Powers**

Executive / Cabinet functions

In cases of emergency, each Chief Officer is authorised to take any necessary action in the interests of the Council or the residents or other persons having interests within the Borough provided that:

- The action is within the powers of the Leader and Cabinet;
- The emergency is certified as such by the Chief Executive (or his/her nominated deputy) and the Chief Officer concerned (or his / her nominated Deputy);
- The Leader, Deputy Leader and relevant Portfolio Holder are consulted and give approval in principle to the proposed action. In the absence of any of these, another member of the Cabinet shall be consulted
- The approval of the Executive Director (Resources) is obtained to any expenditure involved.

Non-executive / Non-Cabinet functions

In cases of emergency, each Chief Officer is authorised to take any necessary action in the interests of the Council or the residents or other person having interests within the Borough provided that:

- The action is within the powers of the Council;
- The emergency is certified as such by the Chief Executive (or his nominated Deputy) and the Chief Officer concerned (or his/her nominated Deputy);
- The Chair and Vice-Chair of relevant committees and the Leader of the main opposition group are consulted and give approval in principle to the proposed

action. In their absence, two substitutes shall be consulted from a panel comprising:-

- Chairs of any other Committee (excluding the Leader and Cabinet members)
- Deputy Leader of the opposition
- Opposition spokesperson on any committee

- The approval of the Executive Director (Resources) is obtained to any expenditure involved.

(x) **Limit on all delegations of executive functions**

The functions set out in column (1) below are not the responsibility of the Leader and Cabinet if any of the circumstances in column (2) apply. In such circumstances the officer concerned **does not** have any delegated authority and the matter **must** be referred to full Council for a decision.

(1) Function	(2) Circumstances
A decision which is delegated to an officer by the Leader and Cabinet; and which is concerned with the Council's budget, or its borrowing or capital expenditure.	The officer to whom the decision is delegated is minded to determine the matter contrary to, or not wholly in accordance with:- (i) the Council's budget; <b>or</b> (ii) the plan or strategy for the time being approved or adopted by the Council in relation to its borrowing or capital expenditure; <b>and</b> the decision is not authorised by the Council's constitution as being something that can be decided by the Leader and Cabinet.
A decision which is the responsibility of the Leader and Cabinet and in relation to which a plan or strategy (whether statutory or non-statutory) has been adopted or approved by the full Council	The officer to whom the decision is delegated is minded to determine the matter in terms contrary to the plan or, as the case may be, the strategy adopted or approved by the Council

## Part 2 - Delegation of Executive Functions to Officers

### DELEGATIONS TO ALL CHIEF OFFICERS

**Chief Officer for these purposes means the Chief Executive, the Executive Director (Resources), the Executive Director (Legal & Democratic), the Executive Director (Environment), the Deputy Head of Environmental Services, the Head of Regeneration and Housing, the Head of Environmental Health, the Head of Policy & Organisational Development and the Chief Planning & Transportation Officer**

Summary of Delegation	Comments
<p>To perform and / or carry out those functions of the Council within the Chief Officers service area</p> <p>. “Functions” are to be construed in a broad and inclusive fashion and include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the relevant functions</p> <p>In exercising their delegated powers Chief Officers may:</p> <ul style="list-style-type: none"><li>a. incur, vary and discontinue expenditure</li><li>b. manage the staffing, property, financial and other resources within the Chief Officers’ control</li><li>c) procure works, goods and services, including accepting tenders and signing contracts/agreements, subject to all necessary approvals being received</li><li>d) terminate contracts</li><li>e) exercise virement within the limits set out in the Finance Procedure Rules</li><li>f) serve, receive and act upon notices, give or refuse consents, issue determinations, apply for permissions and make orders in the exercise of the Council’s powers and duties</li><li>g) set, vary and waive fees and charges for the delivery of services and for the issue of any licence, permit, consent or approval subject to any statutory requirements and following consultation with the relevant portfolio holder</li><li>h) charge for services, where a service beyond that normally supplied free of charge is requested, subject to the prior agreement of the person to be charged</li></ul>	<p>In exercising their delegated powers Chief Officers must:</p> <ul style="list-style-type: none"><li>i) act within the law and in accordance with any statutory requirements and procedures</li><li>ii) comply with the Council’s constitution, paying particular regard to the Financial Procedure Rules and the Contracts Procedure Rules</li><li>iii) comply with the Council’s other policies and procedures</li><li>iv) act within the budget for the relevant service area</li><li>v) consult the relevant portfolio holder in respect of significant decisions and, where requested by the portfolio holder, refer the matter to Cabinet for decision</li><li>vi) consult appropriate colleagues if the proposed decision may have significant financial, legal, property or staffing implications</li><li>vii) keep a written record of the decision taken and the reasons for it</li></ul>

<p>i) provide services to other local authorities and organisations</p> <p>j) respond to consultation from Government or other public bodies</p> <p>k) prepare bids for lottery and other funding</p> <p>l) accept offers of grant funding made to the Council by the Government, Government agencies or charitable bodies and enter into grant agreements in respect of the same</p> <p>m) be responsible as client under the Construction (Design &amp; Management) Regulations 1994 for all relevant projects undertaken by the Council within their service areas</p> <p>n) enter into data sharing agreements with third parties pursuant to the Data Protection Act 2018 or the General Data Protection Regulations</p>	
<p>In so far as they are executive functions, to authorise in accordance with any legal requirements or restrictions, any officer or other suitably qualified and/ or experienced person to exercise any of the functions delegated to that Chief Officer.</p>	<p>The Chief Officer must maintain a proper record of such authorisation</p> <p>Such officers / authorised persons to be suitably qualified and/or experienced.</p> <p>The exercise of delegated powers by these individuals is subject to the same restrictions as apply to the relevant Chief Officer</p>
<p>To deal with the following employment issues within the Chief Officers service area :</p> <ul style="list-style-type: none"> <li>i) make changes to staffing structures within the relevant service budget</li> <li>ii) approve honoraria payments not exceeding £2000</li> <li>iii) make arrangements for maternity leave and staffing cover</li> <li>iv) approve applications for leave of absence in cases not covered by Council policy</li> </ul>	<p>In exercising their delegated powers Chief Officers must:</p> <ul style="list-style-type: none"> <li>i) act within the law and in accordance with any statutory requirements and procedures</li> <li>ii) comply with the Council's policies and procedures</li> <li>iii) act within the budget for the relevant service area</li> </ul>

## DELEGATIONS TO THE CHIEF EXECUTIVE

<b>Summary of Delegation</b>	<b>Comments</b>
To act as the head of paid service under section 4 of the Local Government and Housing Act 1989	
To guide and where appropriate, direct chief officers in the exercise of their delegated functions in order to achieve the overall corporate aims and objectives of the Council	
To carry out any function which is delegated to a particular chief officer subject to any limits or conditions attaching to that delegation	
To grant exemptions on the political restriction of officer posts under the Localism Act 2011	
To grant dispensations to Cabinet members prior to the taking of an executive decision in respect of which they have a conflict of interest pursuant to regulations 12 and 13 of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012	In consultation with the monitoring officer
Designation of reserve delegated officers in absence of the relevant Chief Officer	
To keep under review the terms and conditions of the Executive Director Resources, the Executive Director (Legal & Democratic Services) and the Executive Director (Environmental Services) and make such revisions as considered appropriate within the resources available	
Attestation of the Common Seal and authorisation of other officers for this purpose in connection with the exercise of executive functions	
Appointment of officers(s) to act as deputy in respect of delegated functions in this constitution or in accordance with Cabinet minutes	
Exceptions to Flying the Flag policy	Consult with Mayor, Leader of the Council and Group Leaders
Applications for marches under Public Order Act 1936	Consult with Leader, Deputy Leader and relevant Portfolio Holder.
To take action within the Council's powers in cases of emergency or in the absence or incapacity of the designated decision taker or in the failure of the Council in any year to agree executive arrangements by the statutory deadline for the holding of the Council's annual meeting	After consulting as widely as is practicable in the circumstances
Power to authorise directed surveillance and to authorise the conduct of covert intelligence sources pursuant to sections 28 and 29 Regulation of Investigatory Powers Act 2000 subject to the provisions and requirements of that Act	
To exercise powers under the Civil Contingencies Act 2004	
To receive and respond to expressions of interest under the Community Right to Challenge under Part 5 Chapter 2 Localism Act 2011	

To designate approved duties for the purpose of the Council's members allowances scheme	
To review decisions to include land and / or buildings on the list of assets of community value pursuant to section 92 Localism Act 2011 and to review decisions relating to compensation pursuant to section 99 Localism Act 2011 in respect of assets of community value	These functions may be delegated by the Chief Executive to the Executive Director (Resources) and the Executive Director (Legal & Democratic Services)
To authorise surveillance which is not governed by the Regulation of Investigatory Powers Act 2000	Subject to compliance with the Council's guidance for officers on the application and use of surveillance which is not governed by the Regulation of Investigatory Powers Act 2000
	Subject to approval by the Executive Director (Legal & Democratic Services), or the Legal Services Manager or a solicitor within the Council's Legal Services Section
(Subject to the delegation in Part 2 paragraph 4.20 of this scheme of delegation) to exercise the powers conferred on the Council by the Anti-Social Behaviour Crime and Policing Act 2014 and to appoint and authorise officers of the Council to exercise any of the powers and duties of the Council under that Act	
To ensure appropriate risk management arrangements are in place across the Council	

### DELEGATIONS TO HEAD OF REGENERATION AND HOUSING

Summary of Delegation	Comments
<p>To approve housing renewal assistance as defined in the Council's Housing Renewal Policy up to the following maximums</p> <ul style="list-style-type: none"> <li>• grant aid up to a maximum of £50,000</li> <li>• equity loan for refurbishment up to a maximum of £30,000</li> <li>• equity loan for relocation up to a maximum of £40,000</li> <li>• grant aid / equity loan for conversions of 2 or more dwellings to 1 to provide satisfactory accommodation up to a maximum of £50,000</li> <li>• energy efficiency grants / affordable warmth grants up to a maximum of £30,000</li> <li>• emergency works grants up to a maximum of £7,000</li> <li>• home security assistance grants up to a maximum of £3,000</li> </ul>	

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• hospital discharge grants up to a maximum of £3,000	
To make grants towards the cost of separate water connection	
Adaptations for the disabled – permit grant aid for extensions where internal amenities and structural change necessitate this to accommodate a stair lift or similar	
To determine whether or not to approve housing assistance where works commenced prior to approval where good reason shown	
To set fees for agency services for housing renewal activity as defined by the Council's Housing Renewal Policy	
To acquire houses for Regeneration / Housing Renewal purposes and where appropriate selecting such houses for improvement	
To carry out necessary works (following tendering procedures) to houses for improvement for sale	
To be responsible for administration and pre-contract works of block rehabilitation schemes	
To make statutory returns under the Home Energy Conservation Act	
To assess housing need and make nominations to RSL's under the terms of the Council's approved allocations scheme	
To assess, advise and where appropriate assist all households presenting themselves as homeless or threatened with homelessness in accordance with homelessness legislation and any relevant Code of Guidance	
Under the Council's regeneration programmes authorise the acquisition of properties by agreement in areas designated for redevelopment or authorise the payment for properties to be purchased under any proposed or confirmed CPO	
To negotiate a contract with a housing association without recourse to open tendering in circumstances where considered to be suitable and advantageous	In consultation with the Chief Executive and the Executive Director (Legal & Democratic Services)
In so far as they are executive functions, to implement and exercise the powers conferred by the following legislation and to authorise in accordance with any legal requirements or restrictions any officer or other suitably qualified and/ or experienced person pursuant to the following legislation ( and any re – enactment or modification thereof and any regulations made thereunder) for any appropriate provisions which fall within the remit of housing , buildings and blight:  Acquisition of Land Act 1981 Land Compensation Act 1972 Housing Grants Construction & Regeneration Act 1989 Regulatory Reform Order 2002 Homelessness Act 2002 Law of Property Act 1925 Law of Land Act 1925 Local Government Act 2000	

<p>The Redress Schemes for Lettings Agency Work and Property Management Work (Approval and Designation of Schemes)(England) Order 2013</p> <p>Licensing Act 2003</p> <p>Homelessness Reduction Act 2017</p> <p>Home Energy Conservation Act 1995</p> <p>Also any Regulations, Order, Byelaws or other subsidiary legislation made under the above and any enactments amending or replacing the same</p>	
Virement between HIP expenditure blocks and between yearly programmes	In consultation with the Executive Director (Resources)
To authorise the sale of properties purchased by the Council where the original purchase was made as part of the Council's empty property strategy or where the property is located within a regeneration area	In consultation with the Chief Executive and the relevant portfolio holder
To award assistance, including grants, up to a maximum of £20,000 to help bring empty properties back into use	Subject to the availability of resources
To create, review and maintain an advisory list of building contractors for renovation grants	
To determine whether or not to accept assignment of grant monies to contractors not on the Council's advisory list	
To make grants to voluntary sector bodies in connection with the Council's obligations to prevent homelessness up to a maximum of £30,000 per grant	Subject to consultation with the Portfolio Holder
To authorise directed surveillance and the conduct of covert intelligence sources pursuant to section 28 and 29 Regulation of Investigatory Powers Act 2000 subject to the provisions and requirements of that Act	
To authorise disposal of items from the Howarth Art Gallery collection up to a value of £25,000 per disposal provided: <ul style="list-style-type: none"> <li>- the disposal is in accordance with the Museum Association's Code of Ethics; and</li> <li>- the Head of Regeneration &amp; Housing is satisfied that the Council has capacity to dispose of the item following a proper due diligence exercise being carried out</li> </ul>	Subject to consultation with the Leader of the Council and the Portfolio Holder
To authorise surveillance which is not governed by the Regulation of Investigatory Powers Act 2000	<p>Subject to compliance with the Council's guidance for officers on the application and use of surveillance which is not governed by the Regulation of Investigatory Powers Act 2000</p> <p>Subject to confirmation of the</p>

	approval by the Executive Director (Legal & Democratic Services), the Legal Services Manager or a solicitor within the Council's Legal Services Section
<b>PROPERTY SERVICES</b>	
To make appropriate planning applications on behalf of the Council for any Council owned land and property assets where it is considered that a planning permission for an alternative use would be beneficial to the future management or disposal of the asset provided that the costs of making such an application do not exceed £10,000 (ten thousand pounds) per individual asset.	In consultation with the Leader, Deputy Leader and appropriate portfolio holder
To negotiate, agree compensation and acquire properties identified by the Council and approved by Cabinet as appropriate for compulsory purchase under all appropriate Acts of Parliament.	
(i) To agree terms for the granting, acquisition, variation or extinguishment of easements and wayleaves and where necessary to enter into Licences to enter third party land for the purposes of carrying out works; and (ii) To negotiate and agree terms for the granting of leases, licences and tenancy agreements to statutory undertakers for the implementation of infrastructure in accordance with their statutory obligations.	
In connection with general vesting declarations, to agree further occupation periods of up to six months for occupiers of business premises.	
(i) To manage, agree terms and instruct the Council's Legal Services department to effect all new and renewal leases, licences, tenancy agreements, lease surrenders and all ancillary or supplementary documentation notices and consents relating thereto in respect of all property owned by the Council and not occupied by the Council for the performance of its functions (including its investment land and other non-operational properties and property interests) provided that the delegated authority to agree terms shall not apply if any of the following applies to the new or ancillary transaction: - the term exceeds twenty-five years - the annual rent or fee until the first rent or fee review (if applicable) exceeds £20,000 (twenty thousand pounds) per annum; or - the letting is at less than best consideration  (ii) To negotiate, agree terms and document all rent and licence fee reviews for all leases and licences granted by the Council  (iii) To take all appropriate action to recover possession of all land and	

<p>buildings let by the Council in circumstances where the lessee, tenant or licensee has become bankrupt, insolvent or where such other grounds for forfeiture arise.</p> <p>(iv) To agree terms for and instruct the Council's Legal Services department to effect the acquisition of new and renewal leases where the Council is the tenant provided that the lease term does not exceed five years and / or the annual rental during the term up until the first rent or licence review (if applicable) does not exceed £10,000 (ten thousand pounds) per annum.</p> <p>(v) To negotiate, agree terms and document all rent reviews for all leases held by the Council as the tenant.</p> <p>(vi) To negotiate and agree any dilapidation claim arising from a lease or licence either granted by or held by the Council provided the value of the claim does not exceed £100,000 (one hundred thousand pounds) (exclusive of fees).</p> <p>(vii) to accept the surrender of leases provided            - the unexpired residue of the term does not exceed ten years; and            - the annual rent payable at the time of surrender does not exceed £20,000 (twenty thousand pounds) per annum;</p>	<p>(iv) In consultation with the Leader, Deputy Leader and appropriate portfolio holder</p> <p>(v) In consultation with the Leader, Deputy Leader and appropriate portfolio holder</p> <p>(vi) In consultation with the Executive Director (Legal &amp; Democratic) Services</p> <p>(vii) In consultation with the Leader, Deputy Leader and appropriate portfolio holder</p>
<p>To exercise statutory responsibility in relation to property management including such matters as the disposal of the Council's freehold interest in the site of properties which fall under the provisions of the Leasehold Reform Act 1967, and the Leasehold Reform, Housing &amp; Urban Development Act 1993 enabling the occupants to acquire (enfranchise) their landlord's freehold interest.</p>	
<p>(i) To agree terms and instruct the Council's Legal Services</p>	<p>(i) In consultation with the Leader,</p>

<p>department in respect of all property and land asset disposals, lease surrenders, transfers and agreements of any interest where the capital value does not exceed £75,000 (seventy five thousand pounds) per transaction (exclusive of fees) and where the disposal sale or transfer is not at less than best consideration ;and</p> <p>(ii) To agree terms for the purchase of ground rents that it is considered beneficial for the Council to purchase provided that the total expenditure on such transactions does not exceed £10,000 (ten thousand pounds) (exclusive of fees) in any one financial year.</p>	<p>Deputy Leader and appropriate portfolio holder</p> <p>(ii) In consultation with the Leader, Deputy Leader and appropriate portfolio holder</p>
<p>To grant permission for community organisations to enter onto Council land under licence to undertake minor environmental improvement schemes. “Minor” schemes will include all schemes where any increase in maintenance obligation or liability for the Council could be funded from existing approved budgets without detriment to other services and projects</p>	<p>In consultation with the Leader, Deputy Leader and appropriate portfolio holder</p>
<p>In respect of assets of community value and pursuant to Sections 87, 90, 91, 92 (4), 93, 94, 97, 98, 99 and 102 Localism Act 2011 to (i) maintain a list of Assets of Community Value, (ii) to give notification of inclusion or removal of assets from the list, (iii) to remove entries from the list following a review, (iv) to maintain a list of unsuccessful nominations, (v) to publish and make available lists, (vi) to give notice of and publicise receipt of notice of intended disposal, (vii) to inform owners of requests to be treated as a bidder, (viii) to co-operate with other local authorities (ix) to determine nominations for the list of assets of community value (x) to administer a compensation scheme</p>	
<p>To grant licences for the purpose of providing Covid 19 testing or vaccination centres</p>	
<p>To agree to disposals of public open space provided:</p> <ul style="list-style-type: none"> <li>- notice of the proposed disposal has been given under section 123 Local Government Act 1972; and</li> <li>- all responses to the notice referred to above have been considered; and</li> <li>- the disposal is at market value or better; and</li> <li>- the consideration for the disposal does not exceed £75,000 (excluding fees)</li> </ul>	

#### DELEGATIONS TO EXECUTIVE DIRECTOR (LEGAL & DEMOCRATIC SERVICES)

Summary of Delegation	Comments
<p>In relation to executive functions to commence, defend, conduct, settle, and appear in any legal proceedings to protect the Council's assets or interests or relating to the Council's functions or, if appropriate, for the benefit of the inhabitants of the Borough and to</p>	

prosecute any person or persons in accordance with the Council's executive functions.	
To authorise appropriate staff within the legal section to appear in court, including appearance in the magistrates court pursuant to section 223 Local Government Act 1972	
To instruct external solicitors and/or counsel to represent the Council	
To authenticate documents in connection with the exercise of executive functions	
To settle legal documents relating to or affecting the functions of the Council and to sign documents on behalf of the Council, including any notice, demand or other document on behalf of the Council in connection with any actual or contemplated legal or enforcement proceedings	
To obtain particulars of land ownership in connection with any executive function	
To take all action required by law to acquire or dispose of interests in land and property including leases, tenancy agreements and easements	
To take all steps prescribed by law to implement compulsory purchase powers	Subject to a decision by the Leader and Cabinet to exercise compulsory purchase powers
To settle maladministration claims against the Council and to agree compensation to persons adversely affected by maladministration up to a maximum of £500 per claim, pursuant to section 92 Local Government Act 2000	
To authorise directed surveillance and the conduct of covert intelligence sources pursuant to sections 28 and 29 Regulation of Investigatory Powers Act 2000 subject to the provisions and requirements of that Act	
To act as the Senior Responsible Officer for the purpose of Part II Regulation of Investigatory Powers Act 2000	
To make changes to the workplace smoking policy to take account of legislative requirements	
To take action to enforce a sale of property in the following circumstances:-  1) To implement the Council's Enforced Sales Procedure in accordance with the Council's Empty Dwellings Strategy and/or in support of regeneration and housing renewal activity; or  2) To recover an outstanding debt due to the Council with a minimum value of £1,500 (this includes both residential and commercial property) if satisfied that the power of sale is available to the Council in respect of a particular property.	1) In consultation with the Head of Regeneration and Housing and the relevant Portfolio Holder 2) In consultation with the Head of Department which raised the debt and the relevant Portfolio Holder
This includes serving the necessary notices pursuant to the Law of	

Property Act 1925, drawing up and sealing deeds, registering charges, taking possession and marketing the property in an appropriate manner and completing the sale of the property.	
To make changes to the Council's policy on Councillors' use of ICT services and equipment.	In consultation with the Leader's Policy Development Board
To act as returning officer for Council elections (and deputy returning officer for other elections) in accordance with section 35 Representation of the People Act 1983	
To act as electoral registration officer for the Council in accordance with section 8 Representation of the People Act 1983	
To administer the Council's payroll function	
To authorise surveillance which is not governed by the Regulation of Investigatory Powers Act 2000	Subject to compliance with the Council's guidance for officers on the application and use of surveillance which is not governed by the Regulation of Investigatory Powers Act 2000  Subject to confirmation of the approval by the Legal Services Manager or a solicitor within the Council's Legal Services Section
To make public spaces protection orders pursuant to the Anti-Social Behaviour Crime and Policing Act 2014 for the purpose of restricting access to highways and providing alley gates	In consultation with the portfolio holder and relevant ward councillors
To authorise officers of the Council to issue fixed penalty notices in respect of contravention of public spaces protection orders made pursuant to the Anti-Social Behaviour Crime and Policing Act 2014	
Without prejudice to 4.19 and 4.20 above, to exercise the powers conferred on the Council by the Anti-Social Behaviour Crime and Policing Act 2014 and to appoint and authorise officers of the Council to exercise any of the powers and duties of the Council under that Act	
To agree amendments to the allotment guidelines and to publish the same	In consultation with the portfolio holder and the Chief Planning & Transportation Officer
To act as the Council's data protection officer and to exercise the powers of the data protection officer in accordance with the General Data Protection Regulations and the Data Protection Act 2018	
To act as a single point of contact in connection with applications to access communications data pursuant to the Regulation of Investigatory Powers Act 2000, subject to the provisions and requirements of that Act	

## DELEGATIONS TO CHIEF PLANNING & TRANSPORTATION OFFICER

<b>Summary of Delegation</b>	<b>Comments</b>
Directions under the provisions of Article 4 of the Town and Country Planning General Development Procedure Order 1995	
Following consultation with the relevant portfolio holder, power to respond on behalf of the Council to consultation by other local authorities on proposed or amended development plans, policies, strategies and supplementary planning guidance	
Following consultation with the relevant portfolio holder, power to respond on behalf of the local planning authority to consultation by external agencies and government departments	
To obtain additional information in connection with planning purposes whether under S330 of Town and Country Planning Act 1990 or by Planning Contravention Notice (S171C(2) and (3) of the Town and Country Planning Act 1990 and S.16 Local Government (Miscellaneous Provisions) Act 1976	
Power to authorise directed surveillance and the conduct of covert intelligence sources pursuant to section 28 and 29 Regulation of Investigatory Powers Act 2000 subject to the provisions and requirements of that Act	
To exercise the Council's residual highway functions	In consultation with the relevant portfolio holder
To authorise any officer or suitably qualified and/ or experienced persons to enter land in accordance with section 324 Town & Country Planning Act 1990 and section 88 Planning (Listed Buildings and Conservation Areas) Act 1990	
To carry out the functions of the Council in respect of: (a) the numbering of properties and (b) the renumbering / renaming of existing properties under Section 17 and 18 of the Public Health Act 1925	
To provide seats on highway land, where appropriate	
To operate the Hedgerow Regulations 1997 on land in the Borough including issuing a Hedgerow Retention Notice	
The making of Temporary Highway Closure Orders under Section 21 of the Town Police Clauses Act 1847	
To agree the terms of garage tenancy agreements, to agree variations of the same and to take any steps prescribed by law to determine or enforce garage tenancy agreements	
To negotiate and agree terms for garage plot leases and to review and increase the rent payable under such leases	
<b>ENGINEERING</b>	

To receive notice of intention to demolish buildings or parts of buildings (unless exempt) within the Borough. To issue notices concerning the manner of any demolition to be carried out	
To take steps to protect unoccupied buildings from unauthorised entry or causing danger to public health	
To make additions to or deletions from list of contractors approved for demolition	
To exercise the Council's functions as risk management authority under section 6 Flood and Water Management Act 2010	
To exercise the Council's functions as designating and responsible authority under Schedule 1 of the Flood and Water Management Act 2010	

### **DELEGATIONS TO THE EXECUTIVE DIRECTOR (RESOURCES)**

<b>Summary of Delegation</b>	<b>Comments</b>
To undertake the proper administration of the Council's financial affairs and the operation of the Council's accounting systems	
To arrange all borrowing, financing and investment in line with the Council's Treasury Management Policy	
To exercise the budgetary control functions referred to the Executive Director (Resources) in the Council's Financial Procedure Rules	
To administer the calculation and payment of housing benefit and council tax support	
To make amendments to the Council's council tax support scheme as required, to comply with national guidelines and to ensure the scheme remains fiscally neutral.	
to take all necessary steps to undertake the calculation, collection, administration and recovery of Council Tax and Non-domestic Rates in accordance with the Local Government Finance Act 2012, the Local Government Finance Act 1992 and the Local Government Finance Act 1988, (all as amended from time to time) and further government regulations and guidance, that may be issued.	
To determine the size of the Council Tax Support Exceptional Hardship Fund each year;	
To make appropriate banking arrangements on behalf of the Council	
To insure against risks where he considers this appropriate	
To sign attachment of earnings orders	
To determine National Non Domestic Rates hardship cases and assess relief	

To authorise suitable officers to attend court and valuation panels/tribunals on behalf of the Council for the administration and collection of council tax and non-domestic rates in accordance with legislation and Council policy	
To make payments for properties to be purchased by agreement in an area proposed for redevelopment or for properties to be purchased under any confirmed compulsory purchase order	
To award, cancel and recover discretionary housing payments under the Discretionary Financial Assistance Regulations 2001	
Power to write off debts up to a value of £5,000 each	
Power to write off debts of any value if: <ul style="list-style-type: none"> <li>• The debtor is bankrupt or in liquidation and there is no likelihood of the debt being paid; or</li> <li>• The debtor has absconded and all reasonable enquiries have failed to locate them; or</li> <li>• The debtor is in prison and has no means to pay; or</li> <li>• The debtor has died and there is no estate</li> </ul>	
Power to write off debts of council tax and non-domestic rates of any value if: <ul style="list-style-type: none"> <li>• The debt has been remitted by the magistrates court; or</li> <li>• The debtor has been imprisoned in respect of the debt</li> </ul>	
Responsibility for maintaining an adequate and effective system of internal audit	
Responsible for the Council's compliance with taxation regulations for the purposes of the CIPFA Code of Tax Management	
To operate the Council's car loan and car leasing schemes	
To authorise the investigation and prosecution of offences pursuant to the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013	
<b>LEISURE</b>	
Granting of use of sports and leisure facilities for annual galas, tuition of school children and other similar events including free/discount use policy at Council leisure facilities	
To allocate athletics track at Wilson Playing Fields free of charge up to 4 times each year to Hyndburn Athletics Club	
Relaxation of by-laws for cycle races	In consultation with the relevant portfolio holder
To determine Christmas closure arrangements in respect of leisure facilities	In consultation with the relevant portfolio holder
To determine the terms and conditions with artists/organisers for the arts and entertainments programme	

Power to authorise directed surveillance and the conduct of covert intelligence sources pursuant to section 28 and 29 Regulation of Investigatory Powers Act 2000 subject to the provisions and requirements of that Act	
Power to surveillance which is not governed by the Regulation of Investigatory Powers Act 2000	Subject to compliance with the Council's guidance for officers on the application and use of surveillance which is not governed by the Regulation of Investigatory Powers Act 2000  Subject to confirmation of the approval by the Executive Director (Legal & Democratic Services), the Legal Services Manager or a solicitor within the Council's Legal Services Section
(Subject to the delegation in Part 2 paragraph 4.20 of this scheme of delegation) to exercise the powers conferred on the Council by the Anti-Social Behaviour Crime and Policing Act 2014 and to appoint and authorise officers of the Council to exercise any of the powers and duties of the Council under that Act	

### DELEGATIONS TO THE HEAD OF AUDIT & INVESTIGATIONS

Summary of Delegation	Comments
Power to authorise directed surveillance and the conduct of covert intelligence sources pursuant to section 28 and 29 Regulation of Investigatory Powers Act 2000 subject to the provisions and requirements of that Act	
Power to authorise surveillance which is not governed by the Regulation of Investigatory Powers Act 2000	Subject to compliance with the Council's guidance for officers on the application and use of surveillance which is not governed by the Regulation of Investigatory Powers Act 2000

	Subject to confirmation of the approval by the Executive Director (Legal & Democratic Services), the Legal Services Manager or a solicitor within the Council's Legal Services Section
To act as the Council's data protection officer in the absence or incapacity of the Executive Director (Legal & Democratic Services) and in such circumstances to exercise the powers of the data protection officer in accordance with the General Data Protection Regulations and the Data Protection Act 2018	
To act as a single point of contact in connection with applications to access communications data pursuant to the Regulation of Investigatory Powers Act 2000, subject to the provisions and requirements of that Act	

#### **DELEGATIONS TO HEAD OF BENEFITS, REVENUES AND CUSTOMER SERVICES**

<b>Summary of Delegation</b>	<b>Comments</b>
Power to write off debts relating to housing benefit overpayments, non-domestic rates and council tax up to a value of £2,000 each.	

#### **DELEGATIONS TO HEAD OF POLICY & ORGANISATIONAL DEVELOPMENT**

<b>Summary of Delegation</b>	<b>Comments</b>
To authorise internal candidate only recruitment exercises in accordance with the Council's Recruitment and Selection policy	
To implement the Council's job evaluation scheme	
To develop and implement the Council's training and development programme for members and employees	

## DELEGATIONS TO THE EXECUTIVE DIRECTOR (ENVIRONMENT)

<b>Summary of Delegation</b>	<b>Comments</b>
Power to authorise directed surveillance and the conduct of covert intelligence sources pursuant to section 28 and 29 Regulation of Investigatory Powers Act 2000 subject to the provisions and requirements of that Act	
To deal with applications for rubbish amnesty, Clean Streets initiatives or similar	In consultation with the relevant Portfolio Holder
To act as delegated officer in respect of the Council's vehicle operator licence and MOT testing facility	
To amend and update the Council's strategy and service standards for Environmental Services and to exercise the powers and duties of the Council pursuant to the Waste (England and Wales) Regulations 2011	In consultation with the relevant portfolio holder
Power to authorise surveillance which is not governed by the Regulation of Investigatory Powers Act 2000	Subject to compliance with the Council's guidance for officers on the application and use of surveillance which is not governed by the Regulation of Investigatory Powers Act 2000  Subject also to confirmation of the approval of the Executive Director (Legal & Democratic Services) the Legal Services Manager or a solicitor within the Council's Legal Services Section
To exercise the provisions of and issue notices under Sections 43 and 48 of the Anti-Social Behaviour Act 2003	
To authorise holding of car boot sales/markets where organiser intends profits generated to be solely for charitable, sporting, social or political purposes Provided no vans individual or organisation in same location more than once in 3 months	
Take appropriate action in behalf of the Council's market franchise rights	In consultation with the Executive Director (Legal & Democratic Services)
To manage the Council's markets	
To determine the number and location of Christmas light "switch on" events to be supported by Council staff each year	In consultation with the Portfolio Holder

## **DELEGATIONS TO THE DEPUTY HEAD OF ENVIRONMENTAL SERVICES**

<b>Summary of Delegation</b>	<b>Comments</b>
The provision and management of the Cemeteries and Crematoria	
The appointment of the Medical Referee and Deputy Medical Referee by virtue of Cremation Regulations 1930	
To grant permission for community organisations to enter onto parks and cemetery land under licence to undertake minor environmental improvement schemes. "Minor" schemes will include all schemes where any increase in maintenance obligation or liability for the Council could be funded from existing approved budgets without detriment to other services and projects	In consultation with the Leader, Deputy Leader and appropriate Portfolio Holder

## **DELEGATIONS TO HEAD OF ENVIRONMENTAL HEALTH**

<b>Summary of Delegation</b>	<b>Comments</b>
To take action under section 215 of the Town and Country Planning Act 1990 (including the service of notices) and to take action to enforce any notice served under section 215	
To authorise appropriate staff within Environmental Services to appear in court	
To exercise the powers conferred by section 68 Local Government (Miscellaneous Provisions) Act 1976 and to appoint and authorise officers within Environmental Services to exercise such powers	
To implement and exercise the powers conferred by the following legislation and to authorise in accordance with any legal requirements or restrictions any officer or other suitably qualified and / or experienced person pursuant to the following legislation ( and any re-enactment or modification thereof and any regulations made thereunder) for any appropriate provisions which fall within the remit of the Council's environmental health and environmental protection functions  :Applicable to:- Agriculture (Miscellaneous Provisions) Act 1968 Agriculture Act 1970 Animal Boarding Establishments Act 1963 Animal By-Products (England) Regulations 2005 Animal Feed (Composition, Marketing and Use) (England) Regulations 2015 Animal Feed (Hygiene, Sampling, etc. and Enforcement) (England) Regulations 2015 Animal Health Act 1981 Animal Welfare Act 2006	

<b>Summary of Delegation</b>	<b>Comments</b>
<p>Anti Social Behaviour Act 2003</p> <p>Anti Social Behaviour, Crime and Policing Act 2014</p> <p>Any Orders or Regulations having effect by virtue of the European Communities Act 1972</p> <p>Breeding of Dogs Act 1973 and 1991</p> <p>Breeding and Sale of Dogs (welfare) Act 1999</p> <p>Building Act 1984</p> <p>Caravan Sites Act 1968</p> <p>Caravan sites (Control of Development) Act 1960</p> <p>Clean Air Act 1993</p> <p>Clean Neighbourhoods and Environment Act 2005</p> <p>Control of Pollution Act 1974</p> <p>Criminal Justice and Public Order Act 1994</p> <p>Dangerous Wild Animals Act 1976</p> <p>Energy Act 2013 / The Smoke and Carbon Monoxide Alarm (England) Regulations 2015</p> <p>Environment Act 1995</p> <p>Environment Act 2021</p> <p>Environmental Damage (Prevention &amp; Mediation) Regulations 2009</p> <p>Environmental Permitting (England &amp; Wales) Regulations 2010</p> <p>Environmental Protection Act 1990</p> <p>Food Act 1984</p> <p>Food Safety Act 1990 ( in so far as it is an executive function)</p> <p>Food Safety and Hygiene (England) Regulations 2013</p> <p>Food Information Regulations 2014</p> <p>Guard Dogs Act 1975</p> <p>Health Act 2006</p> <p>Housing Act 1985</p> <p>Housing Act 1996</p> <p>Housing Act 2004</p> <p>Housing and Planning Act 2016</p> <p>Land Drainage Act 1991</p> <p>Local Government (Miscellaneous Provisions) Acts 1976 and 1982</p> <p>Microbiological Criteria for Foodstuffs Regulations 2005</p> <p>Mobile Homes Act 2013</p> <p>Noise Act 1996</p> <p>Noise and Statutory Nuisance Act 1993</p> <p>Official Feed and Food Controls (England) Regulations 2009</p>	

Summary of Delegation	Comments
<p>Performing Animals Regulations Act 1925</p> <p>Pet Animals Act 1951</p> <p>Pollution Prevention and Control Act 1999</p> <p>Prevention of Damage by Pests Act 1949</p> <p>Private Water Supply Regulations 2009</p> <p>Processed Animal Protein (England) Regulations 2001</p> <p>Products of Animal Origin (Third Country Imports) Regulations 2006 and 2007 (Amendment Regulations)</p> <p>Protection from Eviction Act 1977 (as amended by the Housing Act 1988)</p> <p>Public Health (Control of Disease) Act 1984</p> <p>Public Health Acts 1936 and 1961</p> <p>Refuse Disposal (Amenity) Act 1978</p> <p>Regulation (EC) No. 178/2002, Regulation (EC) No. 852/2004, Regulation (EC) No. 853/2004, Regulation (EC) No. 854/2004 and Regulation (EC) No. 882/2004</p> <p>Riding Establishments Act 1964</p> <p>Safety at Sports Ground Act 1975</p> <p>Scrap metal Dealers Act 2013</p> <p>Slaughter of Poultry Act 1967</p> <p>Sunbed (Regulations) Act 2010</p> <p>Sunday Trading Act 1994</p> <p>The Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018</p> <p>The Food (Jelly Mini Cups) (Emergency Control) (England) Regulations 2009</p> <p>The Redress Schemes for Lettings Agency Work and Property Management Work (Approval and Designation of Schemes)(England) Order 2013</p> <p>The Specified Products from China (Restriction on First Placing on the Market) (England) (Amendment) Regulations 2012</p> <p>The Trade In Animals and Related Products Regulations 2011</p> <p>Town and Country Planning Act 1990</p> <p>Transmissible Spongiform Encephalopathies (England) Regulations 2010</p> <p>Water Act 2014</p> <p>Water Industry Act 1991</p> <p>Water Industry Act 1991 as amended</p> <p>Water Supplies (Water Fittings) Regulations 1999</p> <p>Water Supplies (Water Quality) Regulations 2010</p> <p>Zoo Licensing Act 1981</p> <p>Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015.</p> <p>The Management of Houses in Multiple Occupation (England) Regulations 2006</p>	

Summary of Delegation	Comments
<p>The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.</p> <p>Mortgage Repossessions Act 2010</p> <p>Deregulation Act 2015</p> <p>Homes (Fitness for Human Habitation Act) 2018</p> <p>Tenant Fees Act 2019</p> <p>Private Water Supplies Regulations 2016</p> <p>The Private Water Supplies (England) (Amendment) Regulations 2018</p> <p>The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007</p> <p>The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006</p> <p>The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018</p> <p>The Licensing of Houses in Multiple Occupation (prescribed Descriptions) (England) Order 2018</p> <p>Health and Safety at Work Etc. Act 1974 (and associated Regulations made under the Act)</p> <ul style="list-style-type: none"> <li>- S. 20 and S 25 (Powers of entry, order areas to be left undisturbed, take samples, photos, measurements, require any person to answer questions, take harmless)</li> <li>- S. 21 improvement notices</li> <li>- S. 22 prohibition notices</li> <li>- S. 38 institute legal proceedings</li> </ul>	
Also any Regulations, Orders, Byelaws or other subsidiary legislation made under the above and any enactments amending or replacing the same	
To authorise rights of entry on land under section 196 Town and Country Planning Act 1990 for appropriate staff within the Section	
To appoint proper officers and alternative proper officers for the purposes of the Public Health (Control of Disease) Act 1984 or any statutory enactment or amendment to that Act	
To review and update the Council's annual food service plan	
To exercise the powers conferred by section 68 Local Government (Miscellaneous Provisions) Act 1976 and to appoint and authorise officers within Environmental Services to exercise such powers	
To authorise the sale of properties purchased by the Council where the original purchase was made as part of the Council's empty property strategy or where the property is located within a regeneration area	In consultation with the Chief Executive and the relevant portfolio holder
To award assistance, including grants, up to a maximum of £20,000 to help bring	Subject to the

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Municipal Year 2023/24

Approved at the Annual General Meeting May 2023

<b>Summary of Delegation</b>	<b>Comments</b>
empty properties back into use	availability of resources
To enter into agreements with registered social landlords in respect of the Council's duties under Part 4 Housing Act 2004 relating to management orders	In consultation with the Executive Director (Legal & Democratic Services)
(a) To exercise the powers conferred on the Council by the Scrap Metal Dealers Act 2013 (and any Regulations, Orders, Byelaws or other subsidiary legislation made under that Act and any enactments amending or replacing the same) and to appoint and authorise officers of the Council to exercise any of the powers and duties which are the responsibility of the Council under that Act; and (b) to determine scrap metal licences fees in accordance with Schedule 1 paragraph 6 Scrap Metal Dealers Act 2013	In consultation with the portfolio holder
To exercise the powers of the Council under The Animal Welfare Act 2006 and The Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018 in respect of: i) risk rating appeals ii) the suspension or variation of licences iii) the annual review and adjustment of fees and charges	
To authorise directed surveillance and the conduct of covert intelligence sources pursuant to section 28 and 29 Regulation of Investigatory Powers Act 2000 subject to the provisions and requirements of that Act	
To authorise surveillance which is not governed by the Regulation of Investigatory Powers Act 2000	Subject to compliance with the Council's guidance for officers on the application and use of surveillance which is not governed by the Regulation of Investigatory Powers Act 2000  Subject to confirmation of the approval by the Executive Director (Legal & Democratic Services), the Legal Services Manager or

Summary of Delegation	Comments
	a solicitor within the Council's Legal Services Section

### Part 3 - Delegation of Non-Executive Functions to Officers

**Chief Officer** for the purposes of this Part means the Chief Executive, the Executive Director (Resources), the Executive Director (Legal & Democratic), the Executive Director (Environment), the Deputy Head of Environmental Services, the Head of Regeneration and Housing, the Head of Environmental Health, Head of Policy and Organisational Development and the Chief Planning & Transportation Officer

#### DELEGATIONS TO ALL CHIEF OFFICERS

Summary of Delegation	Comments
<b>POWERS RELATING TO COVID 19</b>	
<p>To implement and exercise the powers conferred on the Council by:</p> <ul style="list-style-type: none"> <li>- the Coronavirus Act 2020</li> <li>- the Public Health (Control of Disease) Act 1984</li> <li>- any other legislation conferring specific powers on the Council in respect of the Covid 19 pandemic</li> <li>- any re-enactment or modification of the legislation referred to above and any regulations, order or other subsidiary legislation made thereunder</li> </ul> <p>and to authorise any officer or suitably qualified and experienced person to take action pursuant to the legislation, regulations and other subsidiary legislation referred to above.</p>	

#### DELEGATIONS TO CHIEF PLANNING & TRANSPORTATION OFFICER

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Municipal Year 2023/24

Approved at the Annual General Meeting May 2023

Summary of Delegation	Comments
<b>DEVELOPMENT CONTROL FUNCTIONS</b>	
<b>DETERMINATION OF PLANNING APPLICATIONS</b>	
<p>All applications for permission, consent, certificates determinations and prior notifications made under Town and Country Planning legislation unless:</p> <ol style="list-style-type: none"> <li>1. the Chief Planning and Transportation Officer considers that the application should be considered by the Planning Committee</li> <li>2. the application would constitute a significant departure from the policies of the statutory development plan and it is intended to approve the application</li> <li>3. the application is for a significant proposal by the Council or the County Council and is not of a minor nature</li> <li>4. the applicant is a member of the Council</li> <li>5. the applicant is an employee of the Planning &amp; Transportation Section or is a senior manager of the Council</li> <li>6. the application is recommended for approval subject to a planning agreement under s106 Town and Country Planning Act 1990 (although planning applications for renewals/time extensions do not need to be referred to Planning Committee if there is a Section 106 agreement).</li> <li>7. a local Councillor has requested in writing that the application be referred to Planning Committee within 14 days of such a planning application first being included on the weekly list of planning applications and subject to the local Councillor giving planning reasons for the referral to Planning Committee.</li> <li>8. the application is a major planning application and, following consultation, either the Chair of Planning, Vice Chair of Planning or the Shadow Chair of Planning has requested in writing that the application be referred to Planning Committee</li> </ol> <p>This includes legislation relating to listed buildings, conservation areas and hazardous substances.</p>	
<b>DEVELOPMENT CONTROL</b>	
Serve Building Preservation Notices	
Service of Discontinuance Notices under the Advertisement Regulations for advertisements which seriously conflict with adopted policies, taking into account possible compensation liability	Consult the Executive Director (Legal & Democratic Services)
Secure removal of an advertisement displayed in contravention of Regulations or use of any site	Consult Executive Director (Legal & Democratic Services)
Removal or obliteration of placards and posters	

Summary of Delegation	Comments
Issue of enforcement notices for breach of planning control under the Town & Country Planning legislation	To be reported to Planning Committee every six months.
In relation to listed buildings: Issue of listed building enforcement notices Issue of repairs notices Execution of urgent works	Consultation required with the Executive Director (Legal and Democratic Services)
Issue of stop notices and temporary stop notices Issue of breach of conditions notices or planning contravention notices <u>Issue of completion notices</u>	Consultation required with the Executive Director (Legal and Democratic Services)
Take steps to secure compliance with an enforcement notice either through prosecution or by taking direct action under the Town & Country Planning Acts	Consultation with the Executive Director (Legal & Democratic Services)
For purposes of the Town & Country Planning (Enforcement Notices & Appeals) Procedure, to make a statement as to whether or not the Council would grant planning permission for the development alleged and, if so, on what conditions	
To make representations (for or against) on planning applications for developments in neighbouring districts	
Assess interim development order submissions relating to mineral extraction and give observations to Lancashire County Council	
Take action on dangerous trees	
1.2.17 To do any of the following unless a ward councillor has requested in writing that the decision be referred to the Planning (Trees) Sub-Committee within seven days of the relevant ward councillors being given notice of the matter in question: <ul style="list-style-type: none"> <li data-bbox="137 1269 1165 1491">(a) Make and confirm Tree Preservations Orders where satisfied that trees are in danger of felling or lopping or to preserve the amenity of an area (following consultation with the relevant portfolio holder and ward councillors, save where the possibility of felling or lopping is so imminent that time does not permit consultation to take place in which case paragraph 1.2.19 below shall apply);</li> <li data-bbox="137 1522 1165 1586">(b) Serve notices and take appropriate action for replacement tree planting under the Town and Country Planning Acts;</li> <li data-bbox="137 1617 1165 1679">(c) Operate the Town and Country Planning (Tree Preservation) (England) Regulations 2012 in all cases involving works to trees protected by Tree</li> </ul>	

<b>Summary of Delegation</b>	<b>Comments</b>
<p>Preservation Orders and situated on land owned or controlled by the Council except where the trees in question are managed by the Chief Planning and Transportation Officer;</p> <p>(d) Determine applications to carry out work on trees protected by Tree Preservation Orders except in the case of proposed felling;</p> <p>(e) Determine applications to fell trees protected by Tree Preservation Orders and situated on land which is not owned or controlled by the Council if:</p> <ul style="list-style-type: none"> <li>i. The trees are causing structural damage to property, retaining walls, services or similar; or</li> <li>ii. The trees contain decay which is not advanced enough to make them immediately dangerous, but which will make them potentially dangerous within the next 5 years; or</li> <li>iii. The trees are not immediately dangerous, but are growing in a particular way (such as with a pronounced lean) that makes them potentially dangerous within the next 5 years</li> <li>iv. The trees are growing close to other trees and are stunted in their growth by the competition with neighbouring trees and the trees need to be felled as a thinning operation to allow adjacent trees to develop properly</li> </ul> <p>(f) Following consultation with the Chair and Vice-Chair of Planning (Trees) Sub-Committee, determine applications to fell trees protected by Tree Preservation Orders and situated on land which is not owned or controlled by the Council in circumstances not covered by (e) above;</p> <p>(g) Determine repeat applications to fell trees protected by Tree Preservation Order and situated on land which is not owned or controlled by the Council if made within 2 years of an original application which was refused and if the officer recommendation remains unchanged from the original application;</p> <p>(h) Operate the Hedgerow Regulations 1997 on land in ownership other than Hyndburn Borough Council including the issue of hedgerow retention notices;</p> <p>(i) Obtain an ecological or archaeological survey on a hedgerow once a hedgerow removal notice has been received;</p> <p>(j) Determine, in consultation with the Executive Director (Legal &amp; Democratic</p>	

Summary of Delegation	Comments
Services), whether to prosecute after contravention of Tree Preservation Order or hedgerow regulations and to undertake appropriate action.	
Apply for an injunction pursuant to section 214A of the Town and Country Planning Act 1990 (as amended) in cases which he determines to be urgent; and	
Authorise an officer or any other suitably qualified and / or experienced person to exercise a right of entry pursuant to section 214B of the Town and Country Planning Act 1990 (as amended);	
Make and confirm Tree Preservation Orders where satisfied that trees are in danger of felling or lopping or to preserve the amenity of an area where the possibility of felling or lopping is so imminent that time does not permit consultation with the relevant ward councillors or consideration of the matter by the Planning (Trees) Sub-Committee to take place (and the Portfolio Holder and relevant ward councillors shall be notified of the making of the Tree Preservation Order within 1 working day);	
Make structural appraisal of building regulation applications. This includes making arrangements for outside specialist appraisal, if necessary	
Determine all applications for building regulation approval/rejection	
Process all applications for determination of building regulations	
Securing deposited plans providing access and other safety for the fire brigade	
Approve repair grants involving replacement of lead water service pipes where not in a designated improvement area and unlikely to receive a renovation grant within 5 years or to support a common water supply replacement scheme	
Allow withdrawal of a notice served under Section 65 of Public Health Act 1936 if this proves necessary after receipt of an independent report from a suitably qualified person	
Use of powers re ruinous, dilapidated and neglected sites	
Use of powers re dangerous buildings and structures	
To authorise any officer or other suitably qualified and / or experienced person to exercise the rights of entry on land conferred by S196A of Town & Country Planning Act 1990	
To deal with all matters relating to the listing of buildings	
To take action pursuant to the Anti-social Behaviour Act 2003 in connection with high hedges, including the service of remedial notices and action in default of remedial notices	In consultation with the Executive Director (Legal & Democratic Services)
To decide the level of fee payable for processing complaints made about high hedges under the Anti-social Behaviour Act 2003	In consultation with the relevant portfolio holder and the Executive Director (Resources)

<b>Summary of Delegation</b>	<b>Comments</b>
To waive or refund application fees payable for processing complaints about high hedges under the Anti-social Behaviour Act 2003 where the complainant is in receipt of income support, income based job seekers allowance or guaranteed pension credit	In consultation with the relevant portfolio holder
To order works in default of a remedial notice served in respect of high hedges in anticipation of full cost recovery	
To make agreements under s25 Highways Act 1980	
To make orders under s26 Highways Act 1980	
To require the discontinuance of a use of land	
To apply for injunctions restraining a breach of planning control or in relation to a listed building	In conjunction with the Executive Director (Legal Services)
To take action under section 215 Town and Country Planning Act 1090 (including the service of notices) and to take action to enforce any notice served under section 215	In consultation with the Chair and Vice Chair of Planning Committee and the Executive Director (Legal & Democratic Services)

## **DELEGATIONS TO CHIEF EXECUTIVE**

<b>Summary of delegation</b>	<b>Comments</b>
Power to designate attendance at meetings and other events as approved duties for the purpose of eligibility for travel and subsistence allowance where such attendance is in connection with the discharge of the Council's functions, including its executive function	
Power to approve applications for early retirement / voluntary redundancy including under the Local Government Pension Scheme 85 year rule (while in force) and to approve retirement of employees on the grounds of efficiency of the service	Having regard to the relevant Council policy
Appointment of, dismissal of and taking of disciplinary action as defined in the Local Authorities (Standing Orders) (England) Regulations 2001 ("the 2001Regs") against chief officers within the meaning of sections 2(6) and 2(7) Local Government and Housing Act 1989 ("the 1989 Act"), Deputy Chief Officers within the meaning of Section 2(8) of the 1989 Act and political assistants within the meaning of section 9 of the 1989 Act.	This delegation must be exercised in accordance with the Officer Employment Procedure Rules
This delegation does not authorise the Chief Executive to take disciplinary action as defined in the 2001 Regs or to dismiss the officers designated as	The Chief Executive must report on any action taken under this

<p>monitoring officer (within the meaning of section 5 1989 Act) or chief finance officer (within the meaning of section 151 if the Local Government Act 1972) and other officers who have the benefit of the JNC Chief Officers terms and Conditions of Employment</p>	<p>delegation to the next available meeting of the Council and include in such report confirmation that the said Procedure Rules have been followed</p> <p>The Chief Executive is not authorised to delegate the appointment or dismissal or the taking of disciplinary action against a chief officer to another officer</p>
<p>Approval of changes to any document forming part of the Council's policy framework provided the proposed change:</p> <ul style="list-style-type: none"> <li>a) is prescribed by legislation or statutory instrument; or</li> <li>b) merely corrects a typographical error or errors; or</li> <li>c) is of a minor nature (i.e. the proposed change does not affect the substance of the document or change Council policy)</li> </ul>	

## DELEGATIONS TO ALL CHIEF OFFICERS

Summary of delegation	Comments
<p>Power to refuse applications for early retirement / voluntary redundancy including under the Local Government Pension Scheme 85 year rule having regard to the relevant Council policy</p>	<p>Final approval of such applications is delegated to the Chief Executive</p> <p>A Chief Officer wishing to recommend approval of such an application must make a report to the Chief Executive</p>
<p>Determination of appeals against cautions under the Council's capability procedures</p>	<p>An officer determining an appeal must have had no previous involvement with the</p>

	relevant capability process
<p>Determination of appeals against dismissal under the Council's capability procedures</p>	<p>In consultation with the Leader of the Council or his / her nominee and the Leader of the main opposition party or his / her nominee and the Head of Human Resources or his / her nominee and in accordance with the Council's capability policy</p> <p>A Chief Officer must have had no previous involvement with the relevant capability procedure or decision making process</p> <p>Determination of appeals against dismissal may not be delegated by a chief officer</p>
<p>To deal with the following employment issues within the Chief Officers service area :</p> <ul style="list-style-type: none"> <li>i) engage, suspend, dismiss and deploy staff</li> <li>ii) take disciplinary action against staff</li> <li>iii) apply conditions of service</li> <li>iv) regrade posts in accordance with the Council's job evaluation scheme</li> <li>v) approve honoraria payments not exceeding £2000</li> <li>vi) award car / telephone allowances</li> <li>vii) amend job descriptions of staff within his/her department</li> </ul>	<p>In exercising their delegated powers Chief Officers must:</p> <ul style="list-style-type: none"> <li>i) act within the law and in accordance with any statutory requirements and procedures</li> <li>iii) comply with the Council's policies and procedures</li> <li>iv) act within the budget for the relevant service area</li> </ul>

## DELEGATIONS TO EXECUTIVE DIRECTOR (LEGAL & DEMOCRATIC SERVICES)

Summary of delegation	Comments
<p>To exercise the statutory powers and obligations of the returning officer and electoral registration officer pursuant to:</p> <ul style="list-style-type: none"> <li>- Elections Act 2022;</li> <li>- All legislation amended by the Elections Act 2022 (including without limitation the Local Government Act 1972, the Representation of the People Act 1982 and the Representation of the People Act 1983;</li> <li>- All regulations and rules issued pursuant to or amended by the Elections Act 2022)</li> </ul>	
<p>To approve changes to the Council's written constitution provided the proposed change:</p> <ul style="list-style-type: none"> <li>a) is prescribed by legislation or statutory instrument; or</li> <li>b) merely corrects a typographical error or errors</li> </ul>	
To appoint Independent Members to the Standards Committee	In consultation with the Chair of the Standards Committee
To appoint Members of the Independent Remuneration Panel	
To agree and enter into agreement pursuant to section 106 Town and Country Planning Act 1990	In consultation with the Chief Planning and Transportation Officer
<p>In respect of Part 1 Chapter 1 Local Government and Public Involvement in Health Act 2007:</p> <p>To undertake consultations in respect of proposed changes to the Council's scheme for elections; and</p> <p>To comply with the statutory requirements for publicity and notification of the Electoral Commission in respect of changes to the Council's scheme for elections</p>	
<p>In respect of community governance reviews under Chapter 3 Part 4 Local Government and Public Involvement in Health Act 2007;</p> <p>To comply with the notification and publicity requirements in sections 80, 96 and 98; and</p> <p>To make agreements about incidental matters under section 99</p>	
<p>In relation to non-executive functions, to commence, defend, settle or appear in legal proceedings to protect the Council's assets or interests or if appropriate for the benefit of the inhabitants of the Borough and to prosecute any person or persons in accordance with the Council's non-executive powers</p>	
Power to advertise and seek applications for the position of independent member of the audit panel pursuant to the Local Audit & Accountability Act	

2014	
<b>Licensing Functions</b>	
<p>To exercise the powers conferred by the following legislation (including, without limitation, the determination of fees) and to appoint and authorise officers and any other suitably qualified and / or experienced person under any of the Statutes for any of the appropriate provisions which fall within the remit of the Licensing Section and any re-enactment of similar provisions or regulations made under any of the Acts.</p> <p>Applicable to:-</p> <p>Scrap Metal Dealers Act 2013</p> <p>Public Health Act 1936</p> <p>Health &amp; Safety at Work etc. Act 1974</p> <p>Cinemas Act 1985</p> <p>Theatres Act 1968</p> <p>Sunday Entertainments Act 1932</p> <p>Sunday Theatre Act 1972</p> <p>Hypnotism Act 1952</p> <p>Local Government (Miscellaneous Provisions) Act 1976</p> <p>Local Government (Miscellaneous Provisions) Act 1982</p> <p>Transport Act 1985</p> <p>Town Police Clauses Act 1847</p> <p>Lotteries and Amusements Act 1976</p> <p>Criminal Justice and Public Order Act 1994 (including taking legal proceedings)</p> <p>County of Lancashire Act 1984</p> <p>Game Act 1831</p> <p>Game Licences Act 1860</p> <p>Gambling Act 2005</p> <p>Gaming Act 1968</p> <p>Vehicle (Crime) Act 2001</p> <p>Also any Regulations, Orders, Byelaws or other subsidiary legislation made under the above and any enactments amending or replacing the same</p>	
To exercise functions under the Licensing Act 2003	In accordance with the Statement of Licensing Policy
To authorise officers pursuant to section 304 Gambling Act 2005	In accordance with the Statement of Gambling Licensing Policy and Principles
To determine applications for premises licenses under the Gambling Act 2005 where no representations received or representations have been withdrawn	

To determine applications for variation of premises licenses under the Gambling Act 2005 where no representations received or representations withdrawn	
To determine applications for transfer of premises licenses under the Gambling Act 2005 where no representations received from the Gambling Commission	
To determine applications for a provisional statement under the Gambling Act 2005 where no representations have been received or representations have been withdrawn	
To determine applications for club gaming or club machine permits under the Gambling Act 2005 where no objections have been received or representations have been withdrawn	
To set fees under the Gambling Act 2005	
In respect of the Gambling Act 2005 and subordinate legislation:- Power to exchange information; Power to provide information to the Gambling Commission Power to exercise functions relating to the registration and regulation of small lotteries	
To undertake the following functions in respect of the licensing of sex establishments under the provisions of Part II and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and (where applicable) in accordance with the Council's Sexual Entertainment Venue Policy: <ul style="list-style-type: none"> <li>• determining applications for grant, renewal, transfer or variation of a licence where no relevant objections have been received;</li> <li>• cancellation of licence</li> <li>• determining license fees</li> <li>• enforcement of the provisions of Part II and Schedule 3 of the said 1982 Act</li> </ul>	

## DELEGATIONS TO DEPUTY HEAD OF ENVIRONMENTAL SERVICES

Summary of Delegation	Comments
To exercise the powers conferred by the following legislation and to appoint and authorise officers or any other suitably qualified and or experienced person under any of the Statutes for any of the appropriate provisions which fall within the remit of the Environmental Services Division and any re-enactment of similar provisions or regulations made under any of the Acts. Applicable to:- Health & Safety at Work etc. Act 1974	

Summary of Delegation	Comments
Environmental Protection Act 1990 (in so far at it is a non-executive function) Local Government (Miscellaneous Provisions) Act 1976 Clean Neighbourhoods & Environment Act 2005 Local Authorities Cemeteries Order 1977	
Also any Regulations, Orders, Byelaws or other subsidiary legislation made under the above and any enactments amending or replacing the same	
To liaise with Lancashire County Council on residual highway arrangements and in particular standards and funding for the maintenance of highway verges, trees and weed control.	
To authorise appropriate staff within the Parks and Cemeteries Section to appear in court	
Take action on dangerous trees	

## DELEGATIONS TO THE EXECUTIVE DIRECTOR ENVIRONMENT

Summary of Delegation	Comments
To implement and exercise the powers conferred by the following legislation and to authorise in accordance with any legal requirements or restrictions any officer or other suitably qualified and / or experienced person pursuant to the following legislation ( and any re –enactment or modification thereof and any regulations made thereunder) for any appropriate provisions which fall within the remit of Environmental Services.	
Applicable to:-	
Refuse Disposal (Amenity) Act 1978	
Health & Safety at Work etc. Act 1974	
Environmental Protection Act 1990 (in so far at it is a non-executive function)	
Clean Neighbourhoods & Environment Act 2005	
Also any Regulations, Orders, Byelaws or other subsidiary legislation made under the above and any enactments amending or replacing the same	
To represent the Council at the Lancashire Waste Partnership	
To exercise the powers conferred by section 68 Local Government (Miscellaneous Provisions) Act 1976 and to appoint and authorise officers within Environmental Services to exercise such powers	
To take action under section 215 of the Town and Country Planning Act 1990 (including the service of notices) and to take action to enforce any notice served under section 215	
To authorise rights of entry on land under section 196 Town and Country Planning Act 1990 for appropriate staff within the Section	

## DELEGATIONS TO HEAD OF POLICY & ORGANISATIONAL DEVELOPMENT

Summary of Delegation	Comments
To make changes to the terms and conditions of the Chief Executive, Executive Director (Resources) and Executive Director (Legal & Democratic Services) and the Executive Director (Environment) provided there is no additional cost to the Council	Subject to the Leader of the Council and the relevant postholder(s) indicating their agreement to the proposed change

## DELEGATIONS TO HEAD OF ENVIRONMENTAL HEALTH

Summary of Delegation	Comments
To take action under section 215 of the Town and Country Planning Act 1990 (including the service of notices) and to take action to enforce any notice served under section 215	
To authorise appropriate staff within Environmental Services to appear in court	
To exercise the powers conferred by section 68 Local Government (Miscellaneous Provisions) Act 1976 and to appoint and authorise officers within Environmental Services to exercise such powers	
To implement and exercise the powers conferred by the following legislation and to authorise in accordance with any legal requirements or restrictions any officer or other suitably qualified and / or experienced person pursuant to the following legislation ( and any re-enactment or modification thereof and any regulations made thereunder) for any appropriate provisions which fall within the remit of the Council's environmental health and environmental protection functions  :Applicable to:- Animal Boarding Establishments Act 1963 Caravan Sites and Control of Development Act 1960 Breeding of Dogs Act 1973 / 1991 Breeding and Sale of Dogs (Welfare) Act 1999 Clean Neighbourhoods & Environment Act 2005 Licensing Act 2003 Riding Establishments Act 1964 / 1970	

<b>Summary of Delegation</b>	<b>Comments</b>
<p>Pet Animals Act 1951      Public Health Act 1936 / 1961      Refuse Disposal (Amenity) Act 1978      Dangerous Wild Animals Act 1976      Health &amp; Safety at Work etc. Act 1974      Food Safety Act 1990      Environmental Protection Act 1990 (in so far as it is a non-executive function)      Environmental Damage (Prevention &amp; Mediation) Regulations 2009      Slaughter of Poultry Act 1967      The Specified Products from China (Restriction on First Placing on the Market) (England) (Amendment) Regulations 2012      Sunbed (Regulations) Act 2010      Sunday Trading Act 1994      The Trade In Animals and Related Products Regulations 2011      Transmissible Spongiform Encephalopathies (England) Regulations 2010      Water Act 2014      Water Supplies (Water Fittings) Regulations 1999      Water Supplies (Water Quality) Regulations 2010      Food Safety and Hygiene (England) Regulations 2013      Food Hygiene (England) Regulations 2005      Food Act 1984      Microbiological Criteria for Foodstuffs Regulations 2005      Mobile Homes Act 2013      Official Feed and Food Controls (England) Regulations 2009      Prevention of Damage by Pests Act 1949      Private Water Supply Regulations 2009      Processed Animal Protein (England) Regulations 2001      Products of Animal Origin (Third Country Imports) Regulations 2006 and 2007 (Amendment Regulations)      Riding Establishments Act 1964 and 1970      Cinemas Act 1985      Theatres Act 1968      Local Government (Miscellaneous Provisions) Act 1976 / 1982      Food Safety and Hygiene Regulations 2013      Fire Safety and Safety of Places of Sport Act 1987      Performing Animals (Regulation) Act 1925      Safety at Sports Grounds Act 1975      Slaughterhouses Act 1974      Zoo Licensing Act 1981      Scrap metal Dealers Act 2013      Animal Welfare Act 2006</p>	

<b>Summary of Delegation</b>	<b>Comments</b>
<p>The Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018</p> <p>Control of Pollution Act 1974</p> <p>Environment Act 1995</p> <p>Noise Act 1996</p> <p>Clean Neighbourhoods and Environment Act 2005</p> <p>Water Industry Act 1991</p> <p>Clean Air Act 1993</p> <p>Building Act 1984</p> <p>Dangerous Dogs Act 1991</p> <p>Clean Air Act 1993 (in so far as it is a non-executive function)</p> <p>Noise and Statutory Nuisance Act 1993 (in so far as it is a non-executive function)</p> <p>Criminal Justice and Public Order Act 1994 (including taking legal proceedings)</p> <p>Health Act 2006</p> <p>Public Health (Control of Disease) Act 1984</p> <p>Coronavirus Act 2019</p> <p>Environmental Permitting (England &amp; Wales) Regulations 2010</p> <p>Private Water Supply Regulations 2009</p> <p>Pollution Prevention and Control Act 1999</p> <p>Noise and Statutory Nuisance Act 1993</p> <p>Riding Establishments Act 1964</p> <p>Animal Boarding Establishments Act 1963</p> <p>Breeding of Dogs Act 1973 and 1991</p> <p>Pet Animals Act 1951</p> <p>Dangerous Wild Animals Act 1976</p> <p>Agriculture Act 1970</p> <p>Agriculture (Miscellaneous Provisions) Act 1968</p> <p>Agriculture (Miscellaneous Provisions) Act 1968</p> <p>Animal By-Products (England) Regulations 2005</p> <p>Animal Feed (Composition, Marketing and Use) (England) Regulations 2015</p> <p>Animal Feed (Hygiene, Sampling, etc. and Enforcement) (England) Regulations 2015</p> <p>Also any Regulations, Orders, Byelaws or other subsidiary legislation made under the above and any enactments amending or replacing the same</p>	
To authorise rights of entry on land under section 196 Town and Country Planning Act 1990 for appropriate staff within the Section	
To appoint proper officers and alternative proper officers for the purposes of the Public Health (Control of Disease) Act 1984 or any statutory enactment or amendment to that Act	

<b>Summary of Delegation</b>	<b>Comments</b>
To review and update the Council's annual food service plan	
To exercise the powers conferred by section 68 Local Government (Miscellaneous Provisions) Act 1976 and to appoint and authorise officers within Environmental Services to exercise such powers	

## Part 4 - Appointment of Statutory and Proper Officers

1. The posts set out below shall be the designated statutory or proper officers of the Council and shall be responsible for the statutory responsibilities attached to the role of the relevant statutory or proper officer.
2. In the event of any officers mentioned below being for any reason unable to act or of any of their posts being vacant, the Chief Executive, or in his absence, the Executive Director (Legal & Democratic Services), and in the absence of both, the Executive Director (Resources), shall nominate an officer to act in their stead.
3. Until the Council decides otherwise the Chief Executive is appointed the proper officer for the purpose of all statutory provisions, whether existing or future, in respect of which no express proper officer appointment has, for the time being, been made.

### Statutory Officers

Legislation	Section	Statutory Officer	Allocated To
Local Government Act 1972	S151	Chief Finance Officer	Executive Director (Resources)
Local Government Finance Act 1988			
Local Government and Housing Act 1989	S4	Head of Paid Service	Chief Executive
Local Government and Housing Act 1989	S5	Monitoring Officer	Executive Director (Legal & Democratic Services)

### Proper Officers

Legislation	Section	Provision	Proper Officer
Any reference to any enactment passed before or during the 1971-72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26 <sup>th</sup>			Chief Executive

October 1972 to the Town Clerk of a Borough which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council.			
Any reference in any local statutory provision to the Clerk of the Council or similar which, by virtue of an order made under the Local Government Act 1972 or the Local Government Act 1992, is to be construed as a reference to the Proper Officer of the Council		Chief Executive	
	S83	Accepting declarations of acceptance of office	Executive Director (Legal & Democratic Services)
	S84	Receiving resignations from office	Executive Director (Legal & Democratic Services)
	S88	Convening Council meeting for election of chairman	Chief Executive
	S89	Receiving notice of casual vacancy in office of councillor	Executive Director (Legal & Democratic Services)
	S96	Receiving and recording member interests	Executive Director (Legal & Democratic Services)
Local Government Act 1972	S100(B)(2)	Circulation of reports and agendas	Chief Executive
	S100(B)(7)	Supply of papers to press	Chief Executive
	S100(C)(2)	Summary of minutes	Chief Executive
	S100(D)(1)(a)	Compilation of background papers	Chief Executive
	S100(D)(5)(a)	Identification of background papers	Chief Executive
	S100(F)	Identification of confidential documents not open to Members	Chief Executive
	S115(2)	Receipt of money due from Officers	Executive Director (Resources)
	S146(1)(a)&(b)	Declarations and certificates with regard to securities	Executive Director (Resources)

	S191	Ordnance Survey requests for assistance	Chief Executive
	S204(3)	Receipt of application for licence under Licensing Act 1964	Executive Director (Legal & Democratic Services)
	S210(6) & (7)	Charity functions of holders of offices with existing authorities transferred to holders of equivalent office with new authorities, or if there is no such office, to the Proper Officer	Executive Director (Resources)
	S225(1)	Deposit of documents	Chief Executive
	S228(3)	Accounts – to be open for inspection	Executive Director (Resources)
	S229(5)	Deposit of documents - certification	Executive Director (Resources)
	S234	Authentication of documents	Executive Director (Resources)
	S234(2)	Statutory Notices under various Public Health and Associated Legislation	Chief Executive
	S236(9)&10	Service of Byelaws on other Authorities	Executive Director (Legal & Democratic Services)
	S238	Certification of Byelaws	Executive Director (Legal & Democratic Services)
	Schedule 14 Para 25(7)	Certification of resolutions – Para 25	Executive Director (Legal & Democratic Services)
	S248 (2)	Keeping roll of Freeman	Chief Executive
	Schedule 12	Signature of	Chief Executive

	Para 4(2)(b)	summons to Council	
Schedule 12 Para 4 (3)	Receipt of notices regarding addresses which Summons to meeting are to be sent	Chief Executive	
Schedule 16 Para 28	Receipt of deposit lists of protected buildings	Executive Director (Legal & Democratic Services)	
N/A	Any reference in any local statutory provision to the Treasurer of a specified Council or the Treasurer of a specified Borough which, by virtue of order made under Section 254 of the Local Government Act 1972, or the Local Government Act 1992, is to be construed as a reference to the Proper Officer of the Council	Executive Director (Resources)	
N/A	Any reference in any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26 <sup>th</sup> October 1972 to the Treasurer or a Treasurer of a Borough which virtue of any provision of	Executive Director (Resources)	

		the said Act is to be construed as a reference to the Proper Officer of the Council	
Local Government Act 1974	S30(5)	Notice of Local Government Ombudsman report	Chief Executive
Local Government (Miscellaneous Provisions) Act 1976	S41	Certification of copies of resolutions, Minutes, other documents	Chief Executive
Rent (Agriculture) Act 1976	All	Provision of alternative accommodation Regeneration and Architecture	Executive Director (Resources)
Local Authorities Cemeteries Order 1977	All	Officer of the burial authority	Executive Director (Environment)
	All	Registrar for various matters relating to cremation Health and to nominate a Medical Referee and Deputy Referees under the regulations	Executive Director (Environment)
Cremation Regulations	All	Registrar for various matters relating to cremation Health and to nominate a Medical Referee and Deputy Referees under the regulations	Executive Director (Environment)
Rent Act 1977	S15	Certificates of provision of suitable alternative Regeneration and Architecture  Part 1V accommodation	Chief Executive

Rates Act 1984	S7	Certification of rate	Executive Director (Resources)
Building Act 1984	S61(2)	Repair etc., of drain	Executive Director (Legal & Democratic Services)
	S78	To act as "the Surveyor" empowered to take and authorise emergency action in respect of damage to dangerous buildings, walls etc.  To order the demolition of buildings rendered dangerous by damage, without prior authorisation of the Council	Executive Director (Legal & Democratic Services)
Weights and Measures Act 1985	S72	Chief Inspector (Weights and Measures)	Chief Executive
Local Elections (Principal Areas) Rule 1986	Rule 50	Receipt from Returning Officer of names of persons elected to Council	Executive Director (Legal & Democratic Services)
	Rule 52	Receipt from Returning Officer of election documents	Executive Director (Legal & Democratic Services)
	Rule 51 - 54	Retention of election documents and making them available for public inspection	Executive Director (Legal & Democratic Services)
Elections	Representation of the People Act 1982	Registration Officer for any constituency or part of a constituency coterminous with or	Executive Director (Legal & Democratic Services)

		contained in the Council	
	Local Government Act 1972	Returning Officer for the election of Councillors for the Borough	Executive Director (Legal & Democratic Services)
	Representation of the People Act 1982	Officer who may do acts in respect of Registration in the event of the Executive Director (Legal & Democratic Services) incapacity	Chief Executive
		Custody of declarations of acceptance of office	Executive Director (Legal & Democratic Services)
Representation of the People Act 1983	S82	Witnessing signatures on declarations as to local election expenses	Executive Director (Legal & Democratic Services)
	S52	Deputy to the registration officer	Chief Executive
Local Government Finance Act 1988	S114	Preparing reports in the case of unlawful expenditure	Executive Director (Resources)
	S116	Notifying auditor of meetings to consider reports under s114	Executive Director (Resources)
Local Government and Housing Act 1989	S2	Receipt of list of Politically Restricted Posts	Executive Director (Legal & Democratic Services)
	S15-17	Notice of formation of political group, changes in membership or name or leader or deputy leader of a political group and group nominations to committee's	Executive Director (Legal & Democratic Services)

	S19	Members interests – notification	Executive Director (Legal & Democratic Services)
	S3 /3A	Certifying that a post is or is not politically restricted	Executive Director (Legal & Democratic Services)
Environmental Protection Act 1990	S149	Stray dogs	Executive Director (Environment)
Local Authority (Members Allowances) Regulations 1991	R14	Receipt of notice from members electing to forego entitlement to allowances	Executive Director (Legal & Democratic Services)
Council Tax (Administration and Enforcement) Regulations 1992	Reg 7	Service of Attachment of Earnings Orders	Executive Director (Legal & Democratic Services)
The Local Authorities (Executive Arrangements) (Access to Information (England) Regulations 2000	Regs 3 and 4	Recording of collective Executive Decisions Verification etc. of Mayoral Petitions	Chief Executive
The Local Authorities (Standing Orders) (England) Regulations 2000	Regs 3 and 4 and Schedule 1	Provision relating to the appointment and dismissal of staff	Chief Executive
Regulation of Investigatory Powers Act 2000	Part II of the Act	Appointment to act as the Senior Responsible Officer	Executive Director (Legal & Democratic Services)
Local Government Act 2000	S81	Maintaining a register of members financial and other interests	Executive Director (Legal & Democratic Services)

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# Agenda Item 12.

<b>[REPORT TO:</b>		Annual Council Meeting
<b>DATE:</b>		18 <sup>th</sup> May 2023
<b>PORTFOLIO:</b>		Cllr Marlene Haworth – Acting Leader of the Council
<b>REPORT AUTHOR:</b>		Executive Director (Legal & Democratic Services)
<b>TITLE OF REPORT:</b>		Constitution Update
<b>EXEMPT REPORT:</b>	<b>No</b>	
<b>KEY DECISION:</b>	<b>No</b>	If yes, date of publication:

## 1. Purpose of Report

- 1.1 To propose a number of updates to the Council's written constitution following the annual review of the same.

## 2. Recommendations

### 2.1 That Council:

- i. Agrees to adopt the Finance Procedure Rules appended to this report at Appendix 1 ; and
- ii. Agrees to adopt the Standards Committee Procedures For Dealing With Complaints attached at Appendix 2 to this report;
- iii. Agrees to adopt the Civic Protocol attached at Appendix 3 to this report and also agrees to establish an annual payment to the Deputy Mayor of £5000 in respect of the costs and expenses associated with that office (such payment to be in addition to the payment already made to the Mayor to cover the costs and expenses of his / her office) ;
- iv. Agrees to adopt the Overview & Scrutiny Procedure Rules attached at Appendix 4 to this report

## 3. Reasons for Recommendations and Background

3.1 The Council is required by law to have a written constitution. The Council's written constitution is reviewed regularly and a copy of the constitution is available on the Council's website. A review of the constitution is undertaken annually to:

- (i) ensure the constitution accurately reflects the Council's political management arrangements; and
- (ii) ensure the constitution reflects changes to the law, staffing structures and best practice guidance;

3.2 **Finance Procedure Rules**

These Rules have not been updated for a number of years. The existing Rules have recently been reviewed by the Head of Accountancy Services and confirmed to still be substantially up to date, accurate and for for purpose, with only minor clerical amendments being made (largely to reflect changes to job title and typographical errors or the make the document easier to read.) These amendments have been made and the revised version is attached for approval at Appendix 1 to this report.

3.3 **Standards Committee – Procedures For Dealing With Standards Complaints**

Until late last year the Council had not had a complaint about a councillor progress to an internal hearing for over 10 years. The number of complaints about councillors has also risen considerably over the last two municipal years. This recent experience has highlighted the need to clarify our procedures so they are both more comprehensive and easier to understand, both for the councillors concerned and for complainants. In addition, our procedures for dealing with complaints after completion of a formal investigation to the internal hearing stage were shown to be overly complicated and this element of the complaint process has been significantly simplified in the attached draft procedure. Also, the procedures to be followed at the Council's Standards Hearing Sub-Committee have been rewritten to make them clearer and easier to follow.

A revised procedure is therefore attached for approval at Appendix 2 to this report. Our basic approach to handling member complaints remains largely the same and reflects the approach of most other local authorities, with more minor complaints dealt with informally by the monitoring officer and more serious complaints referred for investigation. The process has hopefully been explained more fully and in plainer English and, if approved, full details of the revised procedures will be made available on the Council's website.

3.4 **Civic Protocol**

This has not been reviewed or updated for a number of years and has become out of date as our practices, procedures and staffing arrangements have changed. The

revised protocol attached at Appendix 3 to this report has been amended in particular to:

- Reflect the changed arrangements for organisation of the Mayor's Ball
- Reflect practice in recent years for the offer of free places to the Mayor Making and Mayor's Ball (with the number of free places at the Mayor Making having been reduced to enable the event to remain within budget)
- Provide a payment to the Deputy Mayor of £5,000.00 to reflect the costs and expenses associated with that office. A payment is already made to the Mayor.

### **3.5 Overview & Scrutiny Procedure Rules**

Revised Overview & Procedure Rules are attached at Appendix 4 to this report for approval. These contain the following minor amendments to the version currently in force:

- The proposed new rules have a common procedure for the selection of scrutiny co-optees, with all nominations being considered by the relevant Overview & Scrutiny Committee before they are presented to Council for approval, whether the nomination comes from a councillor or a member of the public; and
- The inclusion of a new provision confirming that, if there is a dispute about which Overview & Scrutiny Committee should deal with a call-in item, the dispute will be resolved by the Executive Director (Legal & Democratic Services), who would make her decision having regard to the terms of reference of the Committees to determine which has the better claim to jurisdiction; and
- The inclusion of a requirement for an annual report to Council giving details of all call-ins over the preceding 12 months and the outcome of the same (rather than these being reported individually to the next Council meeting after the call-in, as happens now).

### **4. Alternative Options considered and Reasons for Rejection**

4.1 None, although members could choose to reject any of the proposed amendments and retain the current version of these documents whilst the proposed amendments are reconsidered.

### **5. Consultations**

5.1 Prior to the recent elections the draft civic protocol and procedures for dealing with standards complaints were circulated to all councillors.

**6. Implications**

<b>Financial implications (including mainstreaming)</b>	An additional cost will be incurred in respect of the proposed payment to the Deputy Mayor.
<b>Legal and human rights implications</b>	None. However, it is part of good governance to keep the constitution under regular review and up to date.
<b>Assessment of risk</b>	None
<b>Equality and diversity implications</b> <i>A <a href="#">Customer First Analysis</a> should be completed in relation to policy decisions and should be attached as an appendix to the report.</i>	None identified.

**7. Local Government (Access to Information) Act 1985:  
List of Background Papers**

None

**8. Freedom of Information**

8.1 The report does not contain exempt information under the Local Government Act 1972, Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.



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## F. FINANCIAL PROCEDURE RULES

### Part F1: Financial Management

1. Financial Procedure Rules provide the framework for managing the Council's financial affairs, and govern the way financial decisions, budget setting and monitoring, financial administration and financial controls are exercised.
2. The Rules apply to all members and officers of the Council and anyone acting on its behalf. References to directors also apply to chief officers and other senior staff and shall in every case be considered as referring to authorised persons.
3. These Rules apply until they are rescinded, amended or suspended by the Council.

#### **The Responsible Finance Officer**

4. The Deputy Chief Executive is the Council's Responsible Finance Officer and has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden and derives from:
  - Section 151 of the Local Government Act 1972
  - The Local Government Finance Act 1988
  - The Local Government and Housing Act 1989
  - The Local Government Act 2000
  - The Local Government Act 2003
  - The Accounts and Audit Regulations 2011
  - The Localism Act 2011
  - The Local Government Finance Act 2012
5. The Responsible Finance Officer is responsible for:
  - The proper administration of the Council's affairs
  - Setting financial management standards and monitoring financial compliance with them
  - Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
  - Providing financial information
  - Preparing the revenue budget and the capital programme
  - Treasury management
  - The production and publication of the Council's final accounts in compliance with relevant statutory requirements
6. Section 114 of the Local Government Finance Act 1988 requires the Responsible Finance Officer to report to the full Council, Cabinet and External Auditor if the Council or one of its officers:

- Has made, or is about to make, a decision which involves incurring unlawful expenditure
- Has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council
- Has made or is about to make an unlawful or unauthorised entry in the Council's accounts

Section 114 of the 1988 Act also requires:

- The Responsible Finance Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally
- The Council to provide the Responsible Finance Officer with sufficient staff, accommodation and other resources, including legal advice when necessary, to carry out the duties under section 114

### **Chief Officers**

Chief Officers are responsible for:

- Ensuring that Cabinet members are advised of the financial implications of all proposals and that the financial implications have been agreed in advance by the Responsible Finance Officer
- Signing contracts on behalf of the Council in accordance with the Council's contract Procedure Rules
- Ensuring that the approval of the Responsible Finance Officer is sought on any matter liable to affect the Council's finances materially, before any commitments are made

7. The Corporate Management Team will report to the Cabinet about the level of resources proposed to be utilised in each financial year. It will also keep the Cabinet informed about the Council's finances and financial performance throughout the year.

8. The Corporate Management Team and Chief Officers are responsible for observing the Council's Financial Procedure Rules; for the accountability and control of staff; and the security, custody and control of all resources appertaining to their area of activity. Resources include funding under devolved budget arrangements, plant, materials, cash and stores.

### **Accounting**

9. The Responsible Finance Officer is responsible for:

- Selecting and applying appropriate accounting policies
- Determining accounting procedures and records

The Responsible Finance Officer shall:

- Make arrangements for the proper administration of the Council's financial affairs
- Apply accounting policies consistently
- Maintain proper accounting records

- Make an annual report to the Cabinet on the financial outturn for the previous financial year

Chief Officers shall:

- Maintain adequate records to provide an audit trail leading from the source of income / expenditure through to the accounting statements
- Provide information as required to enable the Statement of Accounts to be completed in accordance with the guidelines issued by the Responsible Finance Officer

Chief Officers together with the Responsible Finance Officer shall follow these accounting principles:

- The duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums, shall be as separated as completely as possible from the duty of collecting or disbursing them
- Officers charged with the duty of examining and checking the accounts of each transaction shall not themselves be engaged in any of those transactions

10. Schedules of authorised signatories are held within Accountancy Services and shall be updated on an annual basis. Chief Officers must inform Accountancy Services of any intervening changes such as the appointment of new staff. Chief Officers will also determine who is authorised to sign official documents on their behalf and they will provide the Responsible Finance Officer with an up to date list of specimen signatures.
11. The Executive Director (Legal and Democratic Services), and any other officer authorised by him / her, are authorised to seal any document.

## Part F2: Financial Planning

### **Revenue Budget**

12. The revenue budget will be approved by the full Council and proposed by the Cabinet on the advice of the Responsible Finance Officer. The revenue budget will include proposed taxation levels and spend on major service areas.
13. The Responsible Finance Officer shall:
  - Ensure a revenue budget is prepared on an annual basis and a medium term financial plan on a three yearly basis
  - Issue appropriate guidance to officers in order to set the budget as required
  - Ensure the approved budget guidelines are complied with in order that statutory and other deadlines can be met

14. Budget holders shall:

- Submit to the Responsible Finance Officer estimates in accordance with the budget guidelines and within agreed timescales
- Ensure the estimates are prepared with regard to the Council's Corporate Strategy and other corporate aims and objectives
- Provide any other information the Responsible Finance Officer requires

15. The approval of a budget for the year by full Council confers authority to spend in accordance with the budget for that year. Chief Officers are responsible for coordinating programmes of expenditure and income that will achieve the objectives on which the budget was based.

16. Budget holders shall not enter into any new arrangements or other contractual commitments with long term revenue consequences without the prior consent of the Responsible Finance Officer.

17. If an officer wants to incur expenditure outside the approved budget or anticipates either an underspend or overspend against an approved budget head, the procedures set out in paragraphs 22 to 29 of these procedures apply.

18. Chief Officers will notify the Responsible Finance Officer in writing of the names of any officers in their service area authorised to act on their behalf with respect to the responsibilities set out in this section; together with specimen signatures and details of any limitation on the authority delegated to them.

### **Capital Budget**

19. The capital budget will be approved by the full Council and proposed by the Cabinet on the advice of the Responsible Finance Officer. The capital budget will include estimates of individual projects together with designated sources of funding.

20. The Responsible Finance Officer shall:

- Prepare current estimates of resources available to finance capital expenditure
- Prepare a capital programme for the Cabinet before approval at the full Council
- Prepare an annual capital strategy for the Cabinet before approval at the full Council

21. Chief Officers shall give the Responsible Finance Officer early warning of known underspends, overspends and changes to planned resources so that the availability of uncommitted capital resources may be monitored.

### **Budget Monitoring**

22. The Responsible Finance Officer is responsible

- For providing appropriate financial information to enable budgets to be monitored effectively
- For providing quarterly monitoring reports to the Cabinet
- For allocating the revenue budget and capital programme wholly amongst responsible Chief Officers
- For reporting significant variances to the Cabinet where a Chief Officer fails to take action under paragraphs 22 to 29 below.

21. Chief Officers are responsible for:

- The budgets and programmes allocated to them, for delivering the levels of service on which they were based, and for compliance with their financial obligations
- Controlling income and expenditure within their service while taking account of financial information provided by the Responsible Finance Officer
- Reporting on budget variances within their service and taking any necessary corrective action
- Providing any additional information the Responsible Finance Officer may require

#### **Virement**

22. A virement is the transfer of a revenue budget which is not committed:

- From one service area to another
- From one budget to another in the same service area
- From one subjective group to another (and “subjective groups” are employees, premises, transport, supplies and services, third party payments, transfer payments, capital charges and income).

23. Virements between capital and revenue budgets are not allowed.

24. Any virements need to commit resources to meet all and any continuing commitment over future years.

25. All requests must be approved by the Chief Officer and the Responsible Finance Officer.

26. The limits on virement are:

- £50,000 capital funding for the Cabinet
- £20,000 revenue funding for the Cabinet
- £5,000 revenue funding by officers – subject to prior consultation with the portfolio holder.
- Beyond these limits, approval to any virement across budget heads requires the approval of the full Council.

27. Virements below the level of £500 will not normally be considered.

### **Supplementary Estimates**

28. Revenue Expenditure – Where no provision currently exists in the revenue budget, or where the provision made for an existing budget head is insufficient and a virement is not available, then the new or additional budget provision may only be established with the approval of the Cabinet. Any decision taken will have due regard to future year's financial implications and any recommendation by the Responsible Financial Officer.
29. Capital Expenditure – Where no provision currently exists in the capital programme, or where the provision made for an existing budget head is insufficient and a virement is not available, then the new or additional budget provision may only be established with the approval of the Cabinet. Any decision taken will have due regard to future year's financial implications and any recommendation by the Responsible Financial Officer.

### **Maintenance of Reserves**

30. It is the responsibility of the Responsible Finance Officer to advise the Cabinet and / or the full Council on prudent levels of reserves for the Council.

## **Part F3: Control of Resources**

### **Risk Management**

31. The Council is responsible for approving the Council's risk management strategy.
32. The Audit Committee is responsible for the review and monitoring of the Council's risk management arrangements.
33. The Head of Paid Service and the Responsible Finance Officer are responsible for preparing and promoting the Council's risk management policy statement, and for developing risk management controls in conjunction with other Directors and Chief Officers.

### **Internal Control**

34. Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
35. The Responsible Finance Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with the law and proper standards. Arrangements for financial and internal control, and for managing risk, are addressed in the Annual Governance Statement.

36. It is the responsibility of Chief Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness; and for achieving their financial performance targets.

#### **Audit Requirements**

37. The Responsible Finance Officer shall arrange for the external audit of the Council's accounts in accordance with the most recent Accounts and Audit Regulations.
38. The Responsible Finance Officer is responsible for ensuring an adequate and effective internal audit function is operating and is independent in its planning and operation.
39. The Head of Internal Audit will consult with the Responsible Finance Officer and the external auditors in drafting the annual Internal Audit Plan, which will be taken to the Audit Committee for approval.
40. The Responsible Finance Officer or their authorised representative shall have authority to enter at all reasonable times any offices, premises or land under the control of the Council and shall have unrestricted access to all records, documents and correspondence relating to any matter under consideration, without limitation.
41. All staff shall provide such information as the Responsible Finance Officer considers necessary for the proper exercise of his functions and shall produce upon demand cash, stores, documents or other property of the Council under their control.
42. All staff shall notify the Internal Audit Service immediately upon discovery or suspicion of any financial irregularity, whether affecting cash, stores, property, financial records or otherwise. The Responsible Finance Officer will notify the Chief Executive in all significant cases.
43. The Internal Audit Section shall be sufficiently independent to enable its auditors to perform their duties in a manner which will allow their professional judgements and recommendations to be effective and impartial.
44. The Council will conduct an annual review of the effectiveness of Internal Audit and the findings will be considered by the Audit Committee as part of the Council's internal system of control.

#### **Preventing Fraud and Corruption**

45. The Head of Internal Audit is responsible for the development and maintenance of an anti-fraud and anti-corruption policy. The documents will detail the Council's approach to the prevention, detection and investigation of fraud, corruption and bribery.

46. If an instance of theft, fraud, bribery, corruption or other financial irregularity is discovered or suspected all staff are responsible for ensuring the Responsible Finance Officer is notified forthwith. The Responsible Finance Officer is empowered to arrange any special investigations or reports which are deemed necessary.

### **Stocks and Stores**

47. Chief Officers shall make adequate and effective arrangements for the custody, care and physical control of all stocks and stores in their service areas.

#### **Stocks and Stores Records**

48. In consultation with the Responsible Finance Officer, Chief Officers shall maintain adequate records of all issues and other movements of stocks and stores.

49. Chief Officers shall provide to the Responsible Finance Officer each year a stock certificate detailing stocks and stores in hand at 31<sup>st</sup> March.

#### **Maintenance of Stocks**

50. Chief Officers shall maintain stocks at reasonable levels and subject them to a regular independent physical check.

51. All discrepancies shall be investigated, pursued to a satisfactory conclusion and removed from the Council's records by making stock adjustments as necessary. Gains and losses resulting from stock adjustments shall only be written off or adjusted in the records under arrangements approved by the Responsible Finance Officer.

52. Chief Officers shall ensure that all stocks and equipment no longer required are disposed of economically under arrangements approved by the Responsible Finance Officer.

### **Land, Buildings and Other Major Assets**

53. Chief Officers must arrange the proper security of all buildings and other major assets under their control. They should also ensure contingency plans are in place for the security of assets and continuity of service in the event of disaster or system failure.

54. The Responsible Finance Officer shall ensure appropriate financial advice, including tax advice, is available at the point of decision on the acquisition or disposal of land and buildings.

55. All property and land asset disposals up to a capital value of £75,000 must be approved by the Head of Housing and Regeneration.

56. All asset disposals over £75,000 must be approved by the Cabinet

57. The Head of Housing and Regeneration is responsible for maintaining a fixed asset register for land and buildings and the Executive Director (Legal and Democratic Services) is responsible for making arrangements for the custody of title deeds.

### **Insurances**

58. The Responsible Finance Officer is responsible for:

- Effecting all insurance on a corporate basis, through external insurance or through internal self-assurance arrangements as considered appropriate
- Ensuring periodic risk management studies are undertaken to assess the need for insurance cover and to identify appropriate action
- Negotiating all claims in consultation with relevant Chief Officers

59. The Chief Officers will immediately notify the Responsible Finance Officer of the acquisition or disposal of assets requiring insurance cover and of items that, in their view, may require the Council's insurable risks to be amended. They will also promptly notify the Responsible Finance Officer of all new material risks as they are identified.

60. Chief Officers will immediately notify the Responsible Finance Officer of any incident or occurrence which:

- Adversely affects the Council's assets and is likely to give rise to a claim on the Council's insurers
- Might give rise to a claim against the Council
- Might give rise to a claim being made by the Council on its insurance policies e.g. thefts, accidents.

61. Chief Officers must consult with the Responsible Finance Officer and Executive Director (Legal & Democratic Services) in respect of any indemnity that the Council is requested to give.

### **Treasury Management and Leasing**

62. The Council adopts the key recommendations of the Chartered Institute of Public Finance and Accountancy's 'Treasury Management in the Public Services: Code of Practice', including the recommended form of Treasury Management Policy Statement, setting out the policies and objectives of the Council's treasury management activities.

63. Responsibility for the implementation and monitoring of the Council's treasury management policies and practices lies with the Cabinet.

64. The Council has delegated responsibility for the execution and administration of treasury management decisions to the Responsible Finance Officer.

65. The Responsible Finance Officer shall:

- Annually prepare a Treasury Management Policy Statement covering all aspects of treasury management for consideration by the Cabinet and recommendation to the full Council
- Annually prepare a Treasury Management Strategy setting out the Council's strategy for consideration and approval by the Cabinet
- Recommend to the Council a range of Prudential Indicators, including borrowing limits, to be set for the financial year in accordance with statute and the CIPFA Prudential Code
- Provide regular treasury management monitoring reports to the Cabinet
- Arrange the borrowing and investments of the Council in such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the Council's Treasury Management Policy Statement and its annual strategy
- Make all investments, borrowings and other financing transactions only in the name of the Council or in the name of nominees approved by the full Council

66. The Council has nominated Resources Overview and Scrutiny Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.

67. Leasing and other similar arrangements, including new or extended leases of land and property, may only be entered into with the written consent of the Responsible Finance Officer. Such arrangements may be defined for this purpose as any lease, contract hire or other contract or series of contracts under which the use of an asset is obtained in exchange for a series of payments which extend beyond the end of the following financial year.

### **Staffing**

68. The Cabinet is responsible for determining how officer support for executive and non-executive roles within the Council will be organised.

69. The Head of Paid Service is responsible for providing overall management to staff. He or she is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.

70. The Monitoring Officer is responsible for the administration of all arrangements for the payment of salaries, wages and pensions, car loans and car leases to eligible employees; travel and subsistence claims and other emoluments to existing and former employees and for all related matters.

71. The Monitoring Officer shall make proper arrangements for all statutory and other deductions from pay, including tax, national insurance and pension contributions; and payment of such sums to the bodies concerned.

72. Chief Officers are responsible for controlling total staff numbers by:

- Advising the Cabinet on the budget necessary in any given year to cover estimated staff levels
- Adjusting staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs
- The proper use of appointment procedures

73. Chief Officers are also responsible for:

- The terms and conditions applying to new contracts of employment
- Any changes or events affecting the salaries, wages or emoluments of the Council's employees
- All resignations, retirements and terminations of employment

74. Chief Officers shall provide to the Responsible Finance Officer and the Monitoring Officer:

- All relevant information, including notification of sickness absence, in agreed format and within agreed timescales to enable the prompt and accurate payment of all elements of pay
- Notification of the impending departure of any employee involved with the custody of cash or stores

#### **Members Allowances**

75. Payments to elected members of the Council shall be made by the Monitoring Officer in accordance with the Council's approved member's allowances scheme.

#### **Part F4: Systems and Procedures**

76. The Responsible Finance Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records.

77. Any changes to the existing financial systems made by Chief Officers or the establishment of new systems must be approved in advance by the Responsible Finance Officer.

78. Chief Officers are responsible for the proper operation of financial processes in their own service areas.

79. Chief Officers should ensure that their staff receive relevant financial training that has been approved by the Responsible Finance Officer.

80. Chief Officers must ensure that, where appropriate, computer and other systems are operated and used in accordance with data protection legislation.

81. Chief Officers must ensure their staff are aware of their responsibilities under freedom of information and data protection legislation.

### **Computer Systems**

82. New computer systems and changes to existing systems shall only be introduced with the approval of the ICT manager and, for financial systems and those that interact with such systems, with the additional approval of the Responsible Finance Officer.

83. The ICT manager shall:

- Ensure that any new or significantly changed system is in accordance with the Council's IT strategy
- Assist in the selection of all new computer systems, manage effectively the technical process of implementation and assist in ensuring that all staff are properly trained in their use
- Ensure the Council's infrastructure, systems and data are secure
- Make proper arrangements to protect central computer equipment against loss or damage through theft or misuse
- Put in place a tested and documented disaster recovery system and review it regularly
- Issue mandatory standards and guidelines governing the use of all computer systems and monitor their use to ensure they are adhered to

84. Chief Officers shall:

- Ensure that computer systems are fit for the purpose of their business function
- Make staff aware of and ensure they comply with the Council's ICT standards including data security breaches under the Information Security Incident Management Policy and Procedure
- Train all staff in the proper and effective operation of any computer systems they are expected to use
- Restrict user access to systems and data held on computer systems as appropriate
- Ensure processing is genuine, complete, accurate and timely and an audit trail exists to original documentation
- Ensure information generated by computer systems is accurate and complete
- Comply with data protection, computer misuse, software licensing, copyright, design and patent legislation and any other relevant legislation, and in particular ensure that only software which is properly acquired is installed and used on the Council's computers

### **Income**

85. Chief Officers shall implement arrangements made by them under this section only with the approval of the Responsible Finance Officer.

86. Chief Officers shall make adequate and effective arrangements for the prompt identification of all sums due to the Council.
87. Chief Officers shall make adequate and effective arrangements for recording all sums due in the Council's accounts.
88. Accounts for sums due may only be raised on the Council's corporate sundry debtors system, unless alternative arrangements have been approved by the Responsible Finance Officer.
89. Chief Officers shall make adequate and effective arrangements for the collection and receipting of all income and for the security of all cash and other valuables having regard to agreed insurance limits for locked safes.
90. Official receipts, tickets etc. shall be ordered, controlled and issued only under arrangements approved by the Responsible Finance Officer.
91. The Responsible Finance Officer shall arrange for the prompt and secure transfer of cash from the Council's offices to the Council's bankers.
92. Chief Officers shall make effective and adequate arrangements for the sums collected and banked to be reconciled with the records of sums due.
93. In all cases Chief Officers shall take prompt and appropriate action to recover all sums overdue to the Council and ensure the corporate debt recovery policy is followed.
94. Chief Officers are responsible for recommending the write off of irrecoverable debts to the Responsible Finance Officer and for ensuring the corporate debt policy is followed.
95. The Responsible Finance Officer may approve that a debt is written off to the value of £5,000 and may approve write off of any value where there is satisfactory evidence that it is irrecoverable as specified in the Council's scheme of delegation. In any other case the debt may only be written off with the approval of the Cabinet.
96. The duty of providing information, calculating, checking and recording sums due to or from the Council shall be separated as completely as possible from the duty of collecting such sums.

#### **Value Added Tax**

97. The Responsible Finance Officer is responsible for the determination of all arrangements for the collection, recording, payment and recovery of VAT.

98. The Responsible Finance Officer shall:

- Maintain complete and accurate accounting records of all the Council's VAT transactions
- Submit the Council's VAT return to HM Revenue and Customs in accordance with statutory deadlines
- Prepare the Council's partial exemption calculation as at the end of each financial year and monitor the Council's partial exemption position quarterly
- Conduct all negotiations with HM Revenue and Customs in respect of VAT matters affecting the Council
- Provide advice, guidance and training to Council staff on all aspects of VAT as they affect the Council
- Publish and regularly update VAT guidance notes on the Council's intranet

99. Chief Officers shall:

- Properly account for VAT on all transactions under arrangements determined by the Responsible Finance Officer
- Consult the Responsible Finance Officer in all cases where the VAT treatment of any transaction is unclear so that the matter can be reviewed and appropriate treatment determined
- Consult the Responsible Finance Officer in all cases where new projects, schemes or services are proposed, well in advance of commitments being made, so that any impact on the Council's VAT position can be assessed and any necessary action taken to protect the Council's VAT recovery position
- Co-operate with any VAT inspector and give access at all reasonable times to premises, personnel, documents and assets which they consider necessary for the purposes of their work

### **Banking and Cheques**

#### **Operation of Bank Accounts**

100. The Responsible Finance Officer is responsible for opening, closing and operating all bank accounts and related facilities in the Council's name.
101. All communications with the Council's bankers concerning its bank accounts and any changes in banking arrangements shall be made under arrangements approved by the Responsible Finance Director.

#### **Authorisation of Signatories**

102. Only officers personally mandated by the Responsible Finance Officer may sign cheques and other documents transferring funds out of the Council's bank accounts.

#### Payments from Council bank accounts

103. All payments from the Council's bank accounts shall be, so far as is practicable, by crossed cheque or automated bank transfer but the Responsible Finance Officer may exclude from this regulation such payments as may be considered appropriate from time to time.
104. No payments shall be made from the Council's bank accounts unless approved by a signatory authorised in accordance with paragraph 102 above.

#### Custody of Cheques

105. All cheques and related stationery shall be ordered and controlled by the Responsible Finance Officer.
106. The safe custody and issue of cheques and related stationery shall be carried out under arrangements made by the Responsible Finance Officer.

#### Banking of Income

107. The Responsible Finance Officer shall arrange for the prompt and secure transfer of cash from the Council's offices and facilities to the Council's bankers.

#### Reconciliation

108. The Responsible Finance Officer shall regularly reconcile the Council's bank accounts with the accounting records.

#### **Security and Inventories**

109. Resources are to be used solely for the purposes of the Council unless authorised otherwise by the Council, and are to be properly accounted for.

#### Inventories

110. Each Chief Officer is responsible for maintaining an inventory of moveable assets under procedures determined by the Responsible Finance Officer
111. Inventories are to be reviewed at least once a year and an updated copy supplied to the Responsible Finance Officer.

#### Security

112. Chief Officers shall make proper arrangements for:
  - The security of all buildings and other assets under their control
  - The safe custody of all documents held as security
113. Chief Officers shall make adequate and effective arrangements for the custody, care and physical control of all stocks and stores in their service areas.

## Part F5: External Arrangements

### Work Carried out for Others

114. Financial procedures apply equally to any service carried out by the Council on behalf of the County Council or any other authority, body or person, and Chief Officers shall not set up partnership or other arrangements with external parties to operate in conflict with these procedures as far as this Council's involvement is concerned.

Chief Officers shall:

- Properly assess the financial implications of the proposal prior to commitment following consultation with the Responsible Finance Officer
- Draw up contracts having regard to the Council's powers, relevant policies and protocols and in compliance with any insurance or other requirements of the Responsible Finance Officer and Executive Director (Legal & Democratic Services)

### External Funding and Partnership Arrangements

115. The Cabinet is responsible for approving partnerships and joint venture arrangements. It is also responsible for approving the contractual arrangements for any work for third parties or external bodies.

116. The Cabinet can delegate functions, including those relating to partnerships, to officers. These are set out in the scheme of delegation in Part 3 of the Constitution.

### Bidding for External Funding

117. Chief Officers shall seek external resources to further the priorities and aims of the Council's Corporate Strategy.

118. Before bidding for resources which, if successful, would require any financial commitment from the Council, Chief Officers shall ensure that appropriate budgets have been approved or earmarked in accordance with these procedures.

119. In working up bids, Chief Officers shall use appropriate project appraisal processes to assess the viability of the project in terms of resources, staffing and expertise to identify and assess all potential risks and to ensure achievement of the required outcome.

### Setting Up Partnerships

120. The monitoring officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council in conjunction with the Responsible Finance Officer. The monitoring

officer will advise as to the legality (and procedural arrangements required in respect of) any partnership or joint venture.

121. The Responsible Finance Officer must ensure the accounting arrangements to be adopted in relation to partnerships and joint ventures are satisfactory.

122. In conjunction with the Monitoring Officer, the Responsible Finance Officer must also consider the overall corporate governance arrangements and legal issues when contracts are arranged with external bodies. In conjunction with the relevant Chief Officer he or she must ensure the risks have been fully appraised before agreements are entered into with external bodies.

123. Chief Officers shall consult the Responsible Finance Officer on:

- Any financial control, insurance and audit requirement to be incorporated into the partnership arrangements
- The overall financial implications for the Council

124. Prior to entering into any commitment the relevant Chief Officer shall ensure that any match funding or other financial obligations of the Council are provided for within revenue or capital programmes and that arrangements are made for future years financial provisions to reflect these obligations. This should include any audit or consequential fees as appropriate.

#### Working with Partners

125. These financial procedures and the Council's Contract Procedure Rules shall apply to any orders for works, goods or services which are the responsibility of the Council under the partnership arrangements.

126. The relevant Chief Officer shall comply with any key condition of funding and statutory requirement.

127. Any variation in resources to be contributed by the Council, or in the overall resources of the partnership where the Council is the accountable body, shall be dealt with in the same way as other budget variations as set out in paragraphs 22 – 29 (Budget Monitoring) of these procedures.

128. The relevant Chief Officer shall ensure that any financial control, insurance and audit requirements of the partnership are met.

129. The relevant Chief Officer shall communicate regularly with the other partners throughout any project so that problems are identified and shared to achieve their successful resolution.

## **Procedures for dealing with complaints about members**

### **Terms Used**

In this procedure:

- The person making the complaint is referred to as the **complainant**
- The councillor about whom the complaint is made is referred to as the **subject member**
- An **independent person** is a person unconnected with the Council and appointed by the Council to assist with the complaints process
- An **investigating officer** is a person appointed by the Monitoring Officer to undertake a formal investigation in respect of a complaint. This may include the Monitoring Officer, another officer of the Council, an officer of another local authority or an external investigating officer.

### **1. Introduction**

- 1.1 Pursuant to section 28 Localism Act 2011, this procedure sets out the Council's arrangements for dealing with allegations that a councillor has failed to comply with the Council's member code of conduct (and applies also to complaints about members of Altham Parish Council);
- 1.2 The following principles form the basis of this procedure and inform its interpretation and application:
  - This procedure should have the confidence of the public, councillors and Council employees;
  - This procedure should be fair to both the complainant and the subject member, and comply with the principles of natural justice;
  - This procedure should be decisive;
  - This procedure should be as simple and speedy as possible;
  - This procedure should be proportionate and cost effective
- 1.3 The operation and application of this procedure will be the responsibility of the Monitoring Officer. If the Monitoring Officer has a conflict of interest in respect of a particular complaint, that complaint will be overseen by the Deputy Monitoring Officer or a monitoring officer from another local authority. In addition, no councillor or officer will be involved in the consideration, investigation or determination of a complaint if they have a personal conflict of interest in respect of the same;

## **2. Making a complaint**

2.1 Complaints should be made in writing by post or email to:

The Monitoring Officer  
Scaitcliffe House  
Ormerod Street  
Accrington  
BB5 0PF

Or:

[Jane.ellis@hyndburnbc.gov.uk](mailto:Jane.ellis@hyndburnbc.gov.uk).

2.2 The complaint can be made using the complaint form attached at Appendix 1, but this does not have to be used. Guidance has been produced to assist complainants to make a complaint and this is attached at Appendix 2.

2.3 The Monitoring Officer will acknowledge receipt of the complaint in writing within 5 working days and will provide the complainant with a copy of the Council's Publicity Protocol, as attached at Appendix 3.

## **3. Anonymous complaints**

3.1 Anonymous complaints (or complaints made under a false name) will not usually be accepted. The presumption is that, in the interests of fairness, the subject member is entitled to know what allegations are being made against them, and the identity of the person making them. Where a complaint is anonymous there may also be problems in assessing and investigating the complaint.

3.2 In exceptional circumstances, the following factors may together outweigh the presumption that the subject member is entitled to know the identity of the complainant and allow the complaint to be accepted:

- Where there is a good reason why the complaint is being made anonymously. For example, there may be circumstances where a complainant would have a reasonable concern that if their identity is revealed it could lead to adverse consequences for their health and safety or financial well-being. This may depend upon the seriousness of the allegations being made and whether the allegations themselves are of a nature which suggests potential adverse consequences for the complainant.
- Where the complaint relates to a potentially serious breach of the member code of conduct.
- Where the allegations can be properly investigated by reference to documentary, photographic or other evidence without need for further contact with the complainant.

#### **4 Requests For Confidentiality**

- 4.1 Normally the subject member is entitled to know the identity of the complainant, as a matter of fairness and natural justice. Complainants may however request that their identity is not revealed to the subject member. The Monitoring Officer (or the Standards Assessment Panel if the Monitoring Officer refers the complaint to the Panel as part of the assessment process) may grant such requests at their discretion in exceptional circumstances.
- 4.2 When considering a request for confidentiality the following criteria will be applied:
  - does the complainant have reasonable grounds to believe that they will be at risk of physical harm if their identity is revealed ?
  - is the complainant an officer of the Council who fears the consequences for their employment if their identity is revealed ?
  - is there a medical risk to the complainant's health if their identity is revealed and is this supported by medical evidence ?
  - do any other exceptional circumstances exist that justify the grant of confidentiality ?
- 4.3 When considering a request for confidentiality against these criteria the Monitoring Officer or Assessment Panel will also:
  - balance the request for confidentiality against the substance of the complaint
  - consider whether it is possible to investigate the complaint without making the complainant's identity known to the subject member, given the requirement for a proper investigation and a fair hearing.
- 4.4 If a decision is made to refuse a request for confidentiality the complainant will usually be offered the opportunity to withdraw their complaint. When deciding whether to allow a complaint to be withdrawn consideration will be given to whether the public interest in proceeding with an investigation outweighs the complainant's wish to have their identity withheld from the subject member. If the complaint alleges serious wrong-doing, or potential illegality, the Council may be required to continue to investigate the matter in the public interest.

#### **5. Initial Assessment Of A Complaint**

- 5.1 The Monitoring Officer will carry out an initial assessment of all complaints received and may make further enquiries in respect of a complaint as part of this process. The initial assessment will usually be completed within 5 working days of receipt of the complaint. Complaints will be rejected at the outset, with no right of appeal, unless all of the following criteria are satisfied:
  - the complainant is about a current member of Hyndburn Borough Council or Altham Parish Council; and

- the subject member was a member of Hyndburn Borough Council or Altham Parish at the time of the conduct complained about; and
- if proven, the conduct complained about could be a breach of the member code of conduct (and if there is insufficient information to enable the Monitoring Officer to make a decision in this regard, she may offer the complainant 10 working days to provide additional information in support of the complaint. If further information is not provided within that time, the complaint will be rejected).

5.2 The complaint will also be rejected, with no right of appeal if :

- the subject matter has already been considered by the Council (unless the complaint discloses new evidence that could not previously have been produced); or
- it would be more appropriate for the complaint to be dealt with by a court or under another complaints or arbitration procedure; or
- the events to which the complaint relates occurred more than 6 months ago; or
- the complainant is seeking to overturn a decision made by the Council; or
- the matters complained about have already been resolved in favour of the subject councillor through litigation; or
- the complaint relates to conduct of the subject member whilst acting in their private capacity; or
- the complaint is considered to be trivial or a minor, technical breach of the member code of conduct and there is no public interest in pursuing it (in this regard the complaints procedure requires the Monitoring Officer to be mindful of resource considerations); or
- the subject member has remedied (or made reasonable endeavours to remedy) the issues to which the complaint relates and the complaint does not disclose sufficiently serious potential breaches of the code of conduct to merit further action.

5.3 If a complaint is rejected at this initial stage the Monitoring Officer will:

- write to the complainant to advise that the complaint will not be progressed, explaining why;
- write to the subject member providing a summary of the complaint, the name of the complainant and an explanation of why the complaint will not be progressed
- if the complaint relates to a member of Altham Parish Council, write to the clerk, providing the same information as has been provided to the subject member.

5.4 If a complaint is not rejected at this initial stage the Monitoring Officer will:

- write to the subject member enclosing a summary of the complaint, the name of the complainant (subject to any decision in respect of confidentiality made in accordance with paragraph 4 of this procedure)

and a copy of the Council's Publicity Protocol. The subject member will be given 5 working days to submit their initial comments in respect of the complaint. The subject member will also be given contact details for an independent person who they may contact during the complaint process;

- Having regard to the complaint and any comments submitted by the subject member, the Monitoring Officer will then reach one of the following decisions:
  - That the complaint is suitable for informal resolution by the Monitoring Officer; or
  - That the conduct complained about is, if proven, sufficiently serious to merit formal investigation; or
  - That the nature of the complaint is such that it should be referred to the Standards Assessment Panel to determine how it will be dealt with

Note: a complaint will usually be referred to the Standards Assessment Panel if (i) the subject member or the complainant is a member of the Council's Executive or is the leader or deputy leader of a political group or (ii) the Monitoring Officer considers the complaint to be particularly sensitive for any reason

- The Monitoring Officer will notify the complainant and the subject councillor in writing of her decision and will explain how the complaint will be progressed

#### 5.4 Where:

- it appears to the Monitoring Officer that legal action may be taken in respect of the matters complained about (for example because the matter has been reported to the Police and is under investigation); or
- legal action is underway in respect of the matter;

the complaint will not be progressed under this procedure until any such legal action has concluded or until confirmation has been received that no legal action will be taken (e.g. the Police confirm that there will be no prosecution). The Council will not take any action that may compromise the integrity of such other proceedings.

#### 5.5 Where the complaint discloses behaviour that may constitute a criminal offence, the Monitoring Officer will decide whether to refer the allegations to the Police or other appropriate body, such as the Council's external auditors.

### **6 Standards Assessment Panel**

- 6.1 The Standards Assessment Panel will comprise 2 members of the Council's Standards Committee, plus an independent person. The Panel will usually meet within 14 working days of a referral by the Monitoring Officer. Meetings of the Panel will be held in private, with press and public excluded. The complainant and subject member will not attend.

6.2 The Panel will consider the complaint and any comments submitted by the subject member, and may seek advice from the Monitoring Officer.

6.2 The Panel will not make any findings of fact, or make a decision on the complaint or the merits of the allegation. The Panel will make one of the following decisions in respect of the complaint, having regard to the criteria attached at Appendix 4:

- To take no action;
- To refer the complaint for informal resolution;
- To refer the complaint for formal investigation.

6.2 Within 2 working days the Monitoring Officer will notify the complainant and the subject councillor in writing of the Panel's decision and the reasons for the decision, and will explain how the complaint will be progressed.

## **7. Formal Investigations**

7.1 The Monitoring Officer will appoint an investigating officer if a complaint is referred for formal investigation. The investigating officer may be a council officer, an officer of another council or an external investigator.

7.2 The investigating officer will usually be expected to complete their investigation within one month, although this will be subject to witness availability and the complexity of the complaint.

7.3 At the end of their investigation the investigating officer will produce a draft report which will make one of the following recommendations:

- That there has been a breach of the member code of conduct by the subject councillor; or
- That there has not been a breach of the member code of conduct by the subject councillor.

The investigating officer will send a copy of the draft report to both the complainant and subject member and will allow them 10 working days to submit their comments. The investigating officer will consider any comments received and will then issue their final report to the Monitoring Officer, the complainant and the subject councillor. The draft and final report will be treated as confidential at this stage.

7.4 If the investigating officer's report recommends that there has been a breach of the member code of conduct:

- The Monitoring Officer will refer the matter for hearing before the Standards Sub-Committee and will advise the complainant and the subject member accordingly. The complainant and subject member will be provided with a copy of the hearing procedure and will be asked to advise the Monitoring Officer:
  - Whether they dispute the investigating officer's recommendation (in the case of the complainant)

- Whether they wish to be represented at the hearing and, if they do, by whom
- Whether they wish to produce witnesses at the hearing and, if they do, who the witnesses will be
- Whether they wish to produce documentary evidence at the hearing (and, if they do, they will be asked to provide a copy of the same for circulation to the Standards Sub-Committee members and the other party prior to the hearing)
- Whether they object to the hearing taking place in public

- The Monitoring Officer will document the responses received to the above enquiries and will share this with both the complainant and the subject member at least 5 working days before the hearing

7.5 If the investigating officer's report recommends that there has not been a breach of the member code of conduct:

- Within 10 working days of receipt of the investigating officer's report, the Monitoring Officer will confer with the Chair of Standards Committee and an independent person to determine whether the investigating officer's recommendation is to be accepted.
- If the investigating officer's report is accepted, the Monitoring Officer will send the subject member and the complainant a decision notice within 5 working days to confirm the finding of no failure to comply with the member code of conduct (and if the complaint relates to a member of Altham Parish Council, a copy of the decision notice will also be sent to the clerk together with a copy of the investigation report).
- If the Monitoring Officer considers it appropriate, after discussion with the Chair of Standards Committee and an independent person, the Monitoring Officer will refer the matter for hearing before the Standards Sub-Committee and will advise the complainant and the subject member accordingly. The procedure set out in paragraph 7.4 will then apply.

## 8. **Informal Resolution**

8.1 The complainant may indicate that they will be happy with informal resolution of their complaint, or the Monitoring Officer or Assessment Panel may determine that this is appropriate in all the circumstances of the complaint.

8.2 Informal resolution may take many forms including: provision of an apology, provision of training to the subject councillor, provision of advice to the subject councillor as to their future conduct or mediation.

8.3 If the subject member refuses to co-operate with attempts at informal resolution the complaint may instead be referred for formal investigation.

## 9 **Standards Sub-Committee Hearings**

- 9.1 The Standards Sub-Committee will usually meet to consider the complaint within one month of the Monitoring Officer receiving the final report. Where the complaint relates to a member of Altham Parish Council the Sub-Committee will include at least 1 of the parish members co-opted to the Standards Committee. However, a complaint may also be heard by the Standards Committee as a whole if, having regard to all the circumstances, the Chair of the Standards Committee agrees that this is reasonable and proportionate having regard to the principles in paragraph 1.2 above. This procedure applies to hearings before Standards Committee in the same way as it applies to hearings before the Standards Sub-Committee.
- 9.2 The Standards Sub-Committee will follow the hearing procedure attached at Appendix 5. In deciding whether to hold the meeting in public the Sub-Committee will have regard to the guidance attached at Appendix 6.
- 9.3 The Standards Sub-Committee will make its decision regarding breach of the member code of conduct on the balance of probability.
- 9.4 The Standards Sub Committee may make one of the following findings:
  - (a) that the subject councillor has not failed to follow the member code of conduct
  - (b) that the subject councillor has failed to follow the member code of conduct but no action needs to be taken
  - (c) that the subject councillor has failed to follow the member code of conduct and that a sanction should be imposed.
- 9.5 Any sanction imposed must be reasonable and proportionate to the subject councillor's behaviour. When deciding upon a sanction the Sub-Committee should consider the following, along with all other relevant circumstances:
  - (a) what was the subject councillor's intention? Did the subject councillor know that he or she was failing to follow the code of conduct?
  - (b) did the subject councillor get advice from officers in respect of the matter? Was that advice acted on in good faith?
  - (c) has there been a breach of trust?
  - (d) has there been financial impropriety?
  - (e) how serious was the incident?
  - (f) what was the result of the failure to follow the code of conduct?
  - (g) does the subject councillor accept he/she was at fault?
  - (h) did the subject councillor apologise to the relevant people?
  - (i) has the subject councillor previously been warned or reprimanded for similar misconduct?
  - (j) has the subject councillor failed to follow the code of conduct before?
  - (k) is the subject councillor likely to do the same thing again?

9.6 The Sub-Committee may impose any one or more of the following sanctions if satisfied that this is reasonable and proportionate:

- Report its findings in respect of the subject member's conduct to the Council (or Altham Parish Council);
- Recommend to the Council (or Altham Parish Council) that the subject member is censured;
- Request the subject member to attend training and instruct the Monitoring Officer to arrange the same;
- Request the subject member to apologise to the complainant;
- Recommend to the Council that the subject member be removed from any or all committee, sub-committee and outside body appointments;
- Recommend to the Leader of the Council that the subject member be removed from the Cabinet or have portfolio responsibilities withdrawn;
- Withdraw facilities provided to the subject member by the Council, such as computer, internet or email access;
- Exclude the subject member from the Council's offices, or parts of the same, with the exception of access to attend Council, committee and sub-committee meetings.

9.7 Within two weeks of the date of the hearing the Hearing Sub-Committee will publish a decision notice and a copy of that decision notice will be sent to the following:

- (a) the subject councillor
- (b) the complainant
- (c) Altham Parish Council, if the subject councillor is a member of the Parish Council

9.8 The Hearing Sub-Committee will arrange for the decision notice to be published on the Council's website for a period of one month.

## **10 Appeals**

Subject to Judicial Review, or a decision of the Local Government Ombudsman, there is no right of appeal against a decision of the Monitoring Officer, Standards Assessment Panel or Standards Sub-Committee.

## **Appendix 1**

### **COMPLAINT FORM:**

### **CODE OF CONDUCT FOR MEMBERS**

**(HYNDBURN BOROUGH COUNCIL AND ALTHAM PARISH COUNCIL)**

**(Please read the “Guidance Note For Potential Complainants” before completing this form)**

#### **Your details**

1. Please provide us with your name and contact details

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

Your address and contact details will not usually be released to the councillor you are complaining about.

Your complaint will be considered by the Council's Monitoring Officer and she may tell the following people that you have made this complaint:

- the members of the Council's Standards Assessment Panel
- the member(s) you are complaining about
- the clerk of Altham Parish Council (if applicable)

The Monitoring Officer will tell the above your name and give them a summary of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete section 6 of this form.

2. Please tell us which complainant type best describes you:

- member of the public
- An elected or co-opted member of the Council or Altham Parish Council
- An independent member of the Standards Committee
- Member of Parliament
- Council employee
- Other

3. Equality monitoring questions

<b>Your Racial origin:</b>						
0 – White	British		Irish		Other	
1 – Black or Black British	Caribbean		African		Other	
2 – Asian or Asian British	Indian		Pakistani		Kashmiri	Bangladeshi
3 – Mixed Race	White/Black Caribbean		White/ Black African		White/ Indian	White/ Pakistani
4 - Chinese/ other group	Chinese		Other			
5 – Prefer not to answer						

## Making your complaint

4. Please provide us with the name of the member(s) you believe have breached the code of conduct and the name of the Council or authority they belong to:-

Title	First name	Last name	Council or authority name

5. Please explain in this section (or on separate sheets) what the member has done that you believe breaches the code of conduct. If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches the code of conduct.

It is important that you provide all the information you wish to have taken into account when we decide whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said.
- You should provide the date of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information and any documentary evidence you have to support your complaint

Please provide us with the details of your complaint. **Continue on a separate sheet if there is not enough space on this form.**



Please can you let us know what remedy you are seeking in respect of your complaint ?



**Only complete this next section if you are requesting that your identity is kept confidential**

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6. In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made a complaint about them. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason to believe that:
  - you will be at risk of physical harm if your identity is revealed; or
  - you are an officer of the Council who fears the consequences for your employment if your identity is revealed; or
  - there is a medical risk to your health if your identity is revealed and this is supported by medical evidence.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. We will consider the request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

For further information please refer to the Standards Committee Complaints Procedure which is available on the Council's website ([www.hyndburnbc.gov.uk](http://www.hyndburnbc.gov.uk), following the link "Comments, Compliments and Complaints") or from the Council's Monitoring Officer at the address given at the end of this form.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

7. Complaints must be submitted in writing, whether by letter or email. However, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please contact the Council's Monitoring Officer as soon as possible:

Jane Ellis  
Monitoring Officer  
Hyndburn Borough Council  
Scaitcliffe House  
Ormerod Street  
Accrington  
BB5 0PF

Tel: 01254 388111

Email: [Jane.Ellis@hyndburnbc.gov.uk](mailto:Jane.Ellis@hyndburnbc.gov.uk)

### **What you should do if you wish to make a complaint**

- Talk to/raise the matter with the Council's Monitoring Officer for general advice.
- Fully complete this complaint form (or ensure your letter of complaint addresses, in full, all of the issues covered in the complaint form).
- Submit the written complaint by post, e-mail or fax to the address below.

Jane Ellis  
Monitoring Officer  
Hyndburn Borough Council  
Scaitcliffe House  
Ormerod Street  
Accrington  
BB5 OPF

Tel: 01254 388111

e-mail: [Jane.Ellis@hyndburnbc.gov.uk](mailto:Jane.Ellis@hyndburnbc.gov.uk)

## **Appendix 2**

### **HYNDBURN BOROUGH COUNCIL**

#### **CODE OF CONDUCT FOR MEMBERS**

#### **GUIDANCE NOTE FOR POTENTIAL COMPLAINANTS**

##### **Are you using the correct form?**

The points listed below will help you decide whether this is the correct form to use when making your complaint. You may speak to the Council's Monitoring Officer if you are not clear if the Standards Committee can consider your complaint.

- Your complaint must be about one or more named members (i.e councillors) of Hyndburn Borough Council or Altham Parish Council.
- Your complaint must be that the member(s) has, or may have, breached the code of conduct for councillors. A copy of the code of conduct for Hyndburn Council and Altham Parish Council is available on the Council's website.
- Your complaint must be about conduct that occurred while the member(s) complained about were in office. Conduct of an individual before they were elected, co-opted or appointed to the Council or Parish Council, or after they have resigned or otherwise ceased to be a councillor, cannot be considered.
- The Standards Committee is not responsible for dealing with complaints about Council employees, Council services or Council procedures. If this is what you want to complain about you should use the Council's general complaints procedure. Complaint forms are available on the Council's website ([www.hyndburnbc.gov.uk](http://www.hyndburnbc.gov.uk), following the link to "Comments, Compliments and Complaints").
- Your complaint must be in writing. If a disability prevents you from making your complaint in writing you may contact us for assistance.

##### **How should I set out my complaint?**

It is very important that you set your complaint out fully and clearly, and provide all the information you can at the outset. You should also provide any documents or other material that you wish us to consider, where possible (e.g. screenshots of relevant social media posts if your complaint relates to remarks made on social media)

We recommend that you use our complaint form or provide a covering note summarising what you are complaining about, especially if your complaint includes a lot of supporting documentation. You should tell us exactly what each person you are complaining about said or did that has caused you to complain. If you are

sending supporting documentation please cross-reference it against the summary of your complaint where possible.

You should be as detailed as possible and substantiate your complaint where you can. Although you are not required to prove your complaint at this stage, you do have to demonstrate that you have reasonable grounds for believing that the councillor(s) complained about has breached the code of conduct.

Please note that the Council does not generally accept anonymous complaints or complaints made under a false name.

If you do not want the councillor concerned to be told that you are the complainant you will need to make a request for your name to be withheld and explain the reasons for this on the complaint form. Generally, we take the view that fairness requires councillors to be told the identity of the complainant as this may be relevant to their response to the complaint. If we decide to reject your request for confidentiality we will let you know before we progress your complaint and you will usually have the opportunity to withdraw your complaint at this point if you wish to do so (although if your complaint contains allegations of very serious misconduct or illegality, we may be obliged to continue to look into the complaint in the public interest).

### **What happens once you submit your complaint?**

When you submit your complaint we will write to you to let you know we have received it. Unless we are satisfied that there are exceptional circumstances, we will also tell the councillor that you are complaining about that we have received your complaint, who made the complaint and the relevant paragraphs of the code of conduct that it is alleged may have been breached.

The Monitoring Officer will consider your complaint and, where possible and appropriate, the Monitoring Officer will seek to resolve your complaint informally (for example by the provision of advice and / or training to the councillor you are complaining about). The Monitoring Officer may however decide to refer your complaint to the Standards Assessment Panel if she considers that the Panel should decide how the complaint is dealt with.

Meetings of the Assessment Panel are 'closed', which means that neither you nor the councillor you are complaining about will be able to attend. It is therefore very important that you set your complaint out clearly and provide at the outset all the information you wish to Assessment Panel to consider.

The Assessment Panel will decide to do one of the following things:

- ask you for more information to enable it to make a decision; or
- refer your complaint for informal resolution by the Council's Monitoring Officer; or
- refer your complaint for formal investigation; or

- decide to take no action.

The criteria that will be used to assess your complaint and decide whether it should be formally investigated are available on the Council's website, or a copy can be obtained on request from the Council's Monitoring Officer.

We will contact you within 5 working days of the Assessment Panel meeting to advise you of its decision. At the same time we write to you, we will also write to the councillor(s) you have complained about and the parish clerk (if applicable).

If the Assessment Panel decides to take no action on your complaint it will give you the reasons for this decision. If the Assessment Panel refers your complaint for formal investigation we will contact you to explain what will happen next (but you can find a copy of our full member complaint process on our website if you want to find out more now)

## **Appendix 3**

### **Standards Committee**

#### **PROTOCOL ON PUBLICITY FOR COMPLAINTS OF BREACH OF THE CODES OF CONDUCT MADE TO THE STANDARDS COMMITTEE**

The purpose of this Protocol is to ensure that the member complaints process operates fairly and in accordance with the principles of natural justice. The aim is to ensure that:

- the process is fair to both the subject member and the complainant;
- complainants are not deterred from making valid complaints for fear of exposure in the press or media;
- neither the complainant or subject member are subject to trolling or intimidation as a result of press or social media exposure;
- the complaint gets a fair hearing without being aired and / or pre-judged in the press or on social media

There is no statutory mechanism preventing those making a complaint to the Standards Committee (or those the subject of such a complaint) making the nature of the allegation known to the press and public, or making public comment on the allegation. However, any such comments would be subject to the general law of defamation, and either the complainant or the subject member could seek a court injunction and / or damages in respect of the publication of defamatory material.

The Council has therefore adopted this Protocol.

#### **Guidance to complainant / subject member**

- Please do not discuss the complaint on social media or contact the press in respect of the same until the complaint process has concluded.
- The subject councillors is advised not to discuss the complaint in any forum, such as a meeting that is open to the public and not to discuss the complaint or in such a manner as is reasonably likely to cause the complaint to be made known to the public.
- It is recognised that both the complainant and subject councillor may wish to seek advice about the complaint from a third party. In such cases, they are advised to ensure that any person(s) in whom they confide agrees not to make the information known to the press and/or public or to other councillors,

However, despite the best efforts of the complainant and / or subject member, a complaint may become known to the public through the press or some other medium. In these circumstances, this Guidance does not preclude subject councillor or complainant from making a public comment, although it is recommended that they carefully consider the appropriateness of so doing.

## **Appendix 4**

### **HYNDBURN COUNCIL STANDARDS COMMITTEE**

#### **CRITERIA FOR THE ASSESSMENT OF COMPLAINTS**

**A. Circumstances where the Assessment Panel may decide that no action should be taken in respect of the allegation or may decide that the matter should be resolved informally by the Monitoring Officer**

- A1 Where the information provided by the complainant is not sufficient to enable the Panel to make a decision as to whether the complaint should be referred for investigation.
- A2 Where a substantially similar allegation has previously been made by the complainant to the Standards Committee, or the complaint has been the subject of an investigation by another regulatory authority. The Panel will only refer the complaint for investigation or other action if it considers that there is a compelling reason to do so.
- A3 Where the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now. It is acknowledged, however, that where a delay has arisen as a result of criminal or other legal proceedings, it may be appropriate to refer the complaint for investigation or other action.
- A4 Where the allegation is anonymous, unless it includes documentary or photographic evidence indicating an exceptionally serious or significant matter. The Panel will have regard to the Standards Committee Policy On The Handling Of Anonymous Complaints About Member Conduct when assessing such complaints.
- A5 Where the allegation discloses a potential breach of the Code of Conduct, but the Panel considers that the complaint is not serious enough to warrant further action and:
  1. the member and officer resource needed to investigate and determine the complaint is wholly disproportionate to the matter complained about; or
  2. in all the circumstances there is no overriding public benefit in carrying out an investigation.

- A6 Where the complaint appears to be malicious, politically motivated or tit-for-tat.
- A7 Where the complaint ought more properly to be made to the police or another regulatory authority because of its nature and/or seriousness, no action will generally be taken until the outcome of that investigation.

B. **Circumstances where the Assessment Panel may decide to refer the allegation to the Monitoring Officer for Formal Investigation**

- B1 Where the allegation discloses a potential breach of the Code of Conduct that the Committee considers sufficiently serious to justify the cost of an investigation.

## **Appendix 5**

### **Standards Committee**

#### **Procedure For Hearings**

##### **1. Welcome**

The Chair will welcome everyone and introduce the Committee, legal advisor and Member Services officer.

The Chair will explain the role of the Independent Person

The Chair will ask the investigator to introduce themselves and anyone they have brought with them.

The Chair will ask the subject councillor to introduce themselves and anyone they have brought with them.

##### **2. Declaration of interests by the Committee**

##### **3. Non-attendance by the subject councillor**

If the subject councillor is not present the Committee will consider whether to proceed in their absence or whether to adjourn to give an opportunity for attendance.

##### **4. Exclusion of the press and public**

The Chair will ask both the investigator and the subject councillor whether they are seeking the exclusion of the press and public and, if they are, on what grounds.

The Committee will consider any representations made and will determine whether the press and public are to be excluded.

##### **5. Procedural matters**

The Chair will check that all present have a copy of this procedure.

The Chair will ask whether anyone has any questions about the procedure.

The Chair will ask whether there are any procedural issues to be determined before the hearing proceeds.

**NB:** the Committee may agree to vary this procedure if it is satisfied that this is necessary in the interests of fairness and transparency

**NB:** the Committee may limit the number of witnesses if they consider this is appropriate for the efficient conduct of the hearing (for example, because multiple witnesses are present to give evidence on the same points or because there are multiple character witnesses)

## **6. Presentation of the investigation report**

The investigator will present their report and may call witnesses.

The Committee may ask questions of the investigator and their witnesses.

The subject councillor, or their representative, may through the Chair, ask questions of the investigator and their witnesses.

The subject councillor, or their representative, may make representations in respect of the investigation report and may call witnesses.

The Committee may ask questions of the subject councillor and their witnesses.

The investigator may, through the Chair, ask questions of the subject councillor and their witnesses.

The Chair will invite the investigator to sum up.

The Chair will invite the subject councillor, or their representative, to sum up.

**NB:** the Committee may decide to adjourn if it wishes to hear from a witness who is not in attendance at the meeting.

**NB:** although questions may be put to the witnesses, the witness are not required to answer.

## **7. Determination of facts and decision as to breach of the code of conduct**

The investigator, the subject councillor and any representative, the witnesses and the press and public (if present) will withdraw while the Committee makes its findings of fact and reaches a decision in respect of breach of the code of conduct.

The investigator and subject councillor etc will be invited back into the meeting room and the Chair will read out the decision of the Committee on questions of fact and on breach of the code of conduct.

## **8. Decision as to sanction**

If the Committee has determined that there has been a breach of the code of conduct, the Chair will ask both the investigator and the subject councillor (or their representative) to make representations as to possible sanction(s).

The investigator, the subject councillor and any representative, the witnesses and the press and public (if present) will withdraw while the Committee makes its decision as to sanction(s).

The investigator and subject councillor etc will be invited back into the meeting room and the Chair will read out the decision of the Committee as to the sanction(s), if any, to be made.

## **Appendix 6**

### **HYNDBURN BOROUGH COUNCIL**

#### **Excluding the public from Standards Sub-Committee hearings**

Hearings should be held in public where possible to make sure that the hearing process is open and fair. However, there may be some circumstances where parts of the hearing should be held in private.

1. If the Hearing Sub-Committee considers that 'confidential information' is likely to be revealed during the hearing, the Committee must exclude the public by law. For this purpose 'Confidential information' means information that has been provided by a Government department under the condition that it must not be revealed, and information that the law or a court order says cannot be revealed.
2. The Hearing Sub-Committee may also exclude the public if it considers that 'exempt information' is likely to be revealed during the hearing. The categories of exempt information include the following:-
  - Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, the authority
  - Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority
  - Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority
  - Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the authority
  - Information relating to the financial or business affairs of any particular person (other than the authority)
  - The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services
  - Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services
  - The identity of the authority (as well as of any other person, by virtue of paragraph 7 above) as the person offering any particular tender for a contract for the supply of goods or services
  - Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any

labour relations matters arising between the authority and employees of the authority

- Any instructions to counsel and any opinion of counsel (whether or not in connection with any proceedings) and any advice received, information obtained or action to be taken in connection with:
  - (a) any legal proceedings by or against the authority; or
  - (b) the determination of any matter, affecting the authority.  
(whether in either case, proceedings have been commenced or are in contemplation)
- Information which, if disclosed to the public, would reveal that the authority proposes:
  - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment
- Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime
- The identity of a protected informant
- Information relating to the personal circumstances of any person
- Information which is subject to any obligation of confidentiality
- Information which relates in any way to matters concerning national security

3. When considering whether to exclude the press and public on the basis of “exempt information” the Committee / Sub-Committee has a duty to act fairly and in line with the rules of natural justice. In accordance with Section 1 and Schedule 1 Human Rights Act 1998 the Committee / Sub-Committee must also comply with article 6 of the European Convention on Human Rights, which gives people the right to a fair trial and public hearing by an independent and unbiased tribunal. Article 6 says that the public may be excluded from all or part of the hearing if it is in the interests of:

- (a) morals;
- (b) public order;
- (c) justice;
- (d) national security in a democratic society; or
- (e) protecting young people under 18 and the private lives of anyone involved.

4. There should be a public hearing unless the Committee / Sub-Committee decides that there is good reason, which falls within one of the five categories above (3a to e), for the public to be excluded.
5. The Committee / Sub-Committee must also consider Article 8 of the European Convention on Human Rights. Article 8 says that everyone has the right to respect for their private and family life, home and correspondence. It says that no public authority (such as the Committee / Sub-Committee) may interfere with this right unless it is:
  - (a) in line with the law; and
  - (b) necessary in a democratic society in the interests of:
    - (i) national security;
    - (ii) public safety;
    - (iii) the economic wellbeing of the country;
    - (iv) preventing crime or disorder;
    - (v) protecting people's health and morals (which would include protecting standards of behaviour in public life); or
    - (vi) protecting people's rights and freedoms.

There is a clear public interest in promoting the probity, integrity and honesty of public authorities and public confidence in them. For these reasons the hearing should be held in public unless the Committee / Sub-Committee decides that protecting the privacy of anyone involved is more important than the need for a public hearing.

6. In relation to people's rights under both Articles 6 & 8 of the European Convention on Human Rights, it should be remembered that any interference with or restriction of those rights must be 'necessary in a democratic society'. A measure will only be 'necessary' if it meets 'a pressing social need', and any restriction on people's rights must be 'proportionate'.

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**CIVIC PROTOCOL  
FOR THE ROLES OF  
THE MAYOR,  
LEADER OF THE COUNCIL  
AND  
CHIEF EXECUTIVE**

# **CIVIC PROTOCOL FOR THE ROLES OF THE MAYOR, CHIEF EXECUTIVE AND LEADER OF THE COUNCIL**

## **1. THE ROLE OF MAYOR**

1.1 The role of the Mayor is strictly a non-political one. The Mayor represents every section of the Hyndburn community and he or she should aim to promote a positive image of the Borough. The Mayor's role is civic and ceremonial, and the Mayor does not have any executive role in the running of the Borough.

In summary, the function of the Mayor (or the Deputy Mayor in the Mayor's absence) is:

- ◆ To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary
- ◆ To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community
- ◆ To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the executive, or do not hold committee chairs, are able to hold the executive and committee chairs to account
- ◆ To represent the Council at Civic and Ceremonial functions and events
- ◆ To promote the Borough
- ◆ To raise money for the mayoral charities

1.2 The Mayor shall have precedence in the Borough, but not so as to prejudicially affect His Majesty's royal prerogative. The Mayor will determine attendance at events for which a specific invitation has been received by the Mayor's office. Representation of the Council on major civic or formal occasions shall be determined through the offices of the Mayor and Leader.

1.3 Expenditure from the Mayoral budget must be authorised by the Civic support staff following consultation with the Mayor.

1.4 Two weeks' notice should normally be given for all invitations to the Mayor. Events attended by the Mayor should be of a non-political nature. All invitations to the Mayor to attend civic / ceremonial events, or any proposal for a civic event or engagement however arising, should be passed to and processed by the civic support staff, who will liaise closely with the Mayor, conduct any necessary research and advise the Mayor on the suitability of the engagement. All arrangements for the Mayor's attendance at engagements will be co-ordinated by the civic support staff.

1.5 The Mayor is expected to show consideration and respect for Mayoral support staff and recognise the right of such staff to adequate free time in the programming of civic functions. The mayor's attendant and civic support staff's role is to support the Mayor in his or her civic and ceremonial capacity only.

1.6 At the closure time of any event, it should be recognised that the Mayor's attendant will withdraw from the event with the chains of office.

1.7 When undertaking their civic and ceremonial role, the Mayor (or Deputy Mayor in the Mayor's absence) shall:

- i. Not bring the Council into disrepute;
- ii. Take advice from the civic support staff
- iii. Not solicit gifts, engagements or visits or otherwise procure favours by virtue of their office
- iv. Respect the requirement to operate the mayoralty within the civic services budget
- v. Behave in a manner appropriate and fitting to their position as first citizen of the Borough (and a breach of this Protocol may constitute a breach of the member code of conduct)

## **2.1 THE ROLE OF LEADER OF THE COUNCIL**

2.1 The role and function of the Leader (as contained within Article 2 of the Constitution) is:

- ◆ To provide the Council's overall corporate and strategic direction, budget strategy and policy development
- ◆ To chair the Cabinet and be the principal spokesperson for the Council
- ◆ To promote Council initiatives and objectives
- ◆ To represent the Council at civic and ceremonial functions

2.2 The Leader will determine attendance at events for which a specific invitation has been received by the Leader's office or for major civic or formal occasions, in consultation with the Mayor's office.

2.3 To facilitate attendance at events, two weeks' prior notice should be given.

2.4 The Leader is expected to show consideration for support staff involved in any event.

2.5 In the event of the Leader being unavailable, the Leader's office will appoint a representative.

## **3. THE ROLE OF CHIEF EXECUTIVE**

3.1 The principal functions and areas of responsibility of the Chief Executive (as contained in Article 12 of the Constitution) are:

- ◆ To provide overall corporate management and operational responsibility (including overall management responsibility for all officers)
- ◆ To provide professional advice to all parties in the decision making process
- ◆ Together with the Monitoring Officer, to be responsible for a system of record keeping for all the Council's decisions
- ◆ To represent the Council on partnership and external bodies (as required by statute or the Council)

## **4. COUNCIL MEETINGS**

#### **4.1 Conduct at Council Meetings**

4.1.1 The rules governing conduct at meetings of the Council are contained in the Council's constitution. Members of the Council should have respect for the Chair at all times and the following rules shall apply:-

- ◆ Whenever the Mayor speaks during the meeting a member then speaking shall be silent
- ◆ Members must stand to address the Mayor and Council but only when called on by the Mayor to do so (the exception is to draw attention to a point of order or a personal explanation)
- ◆ The ruling of the Mayor on a point of order or on the admissibility of a personal explanation shall not be open to discussion
- ◆ The ruling of the Mayor will be final

#### **4.2 The Mayor's Views**

It is not normally part of the mayoral role to comment on matters before the Council in a way which supports or opposes the issue before the Council

#### **4.3 Mayor's Casting Vote**

4.3.1 Although there are no legal restrictions on the exercise of the casting vote, our convention and practice is that, if the voting on a matter is tied, the second or casting vote of the Mayor shall be cast with the controlling group. The exception to this requirement shall be in respect of those issues where the parties have declared that the vote will not be subject to the whip and in such cases the Mayor will be free to cast his/her second or casting vote in whichever way he/she may choose (Council Procedure Rule A16.2).

4.3.2 This also applies if the Deputy Mayor is called upon to chair the Council meeting.

#### **4.4 Dates of Council Meetings**

4.4.1 Ordinary meetings shall be held at the dates and times agreed at the annual meeting. The date and time of an ordinary meeting may be changed with the consent of the Chief Executive.

4.4.2 On occasions when it is necessary to change the date of the Council meeting or to arrange an extra ordinary meeting, it is custom and practice to consult with the Mayor, Leader of the Council and Leader of the Opposition to agree an alternative/new date.

#### **4.5 Annual Meeting of the Council and Mayor-making**

4.5.1 In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in April or May. The date and time of the annual meeting may be changed with the consent of the Chief Executive (Council Procedure Rule A1.1).

4.5.2 The Mayor may invite a maximum of 20 personal guests to attend the celebration meal following Mayor-making at the Council's expense. The Leader is entitled to a maximum of 8 personal guests to attend the celebration meal, to be funded from the Mayoral budget. Councillors and their guests are expected to pay for their own meal.

4.5.3 Past Mayors and past Mayoresses/Consorts may attend at the Council's expense and bring one guest of their choice to the Mayor-making ceremony and meal. The guests will be expected to pay for their own meals. The invitation to the past Mayor will cease on his/her death.

4.5.4 Aldermen and Freemen may attend and bring one guest of their choice at the Council's expense. An Alderman who has been re-elected to serve as a councillor will be expected to pay for their meal, unless another exemption applies.

#### **4.6 Dress Code**

4.6.1 At meetings of the Council, Members of the Council should dress appropriately for a formal Council meeting.

### **5. USE OF MAYOR'S PARLOUR**

5.1 The Mayor's Parlour is to be used for entertaining and meeting civic dignitaries in conjunction with the role of Mayor. The Mayor's Parlour is also used by the Mayor and Chief Executive for the purposes of preparation for Council meetings and civic events. Following a meeting of the Council, the Mayor, Chief Executive, Leader, Deputy Leader, Opposition Leader will retire to the Mayor's Parlour along with any other guests the Mayor may wish to invite. The Mayor is not to use the Mayor's Parlour other than for civic and ceremonial purposes without the consent of the Chief Executive

5.2 The Mayor's Parlour should remain solely for use by the Mayor and requests for use of the Parlour by other parties will only be granted in exceptional circumstances. Requests for use of the Mayor's Parlour shall be agreed by the Mayor in consultation with the Chief Executive.

5.3 In the case of an approved letting of the Council Chamber to a third party by Hyndburn Leisure, the booking of Mayor's Parlour for use as an anteroom will be permitted by agreement with the Civic Office.

### **6. USE OF MAYORAL CHAINS**

6.1 During the term of office of the Mayor, the Chains of Office shall be worn when carrying out official duties in the office of Mayor which shall be defined as:

- ◆ Chairing meetings of the Council
- ◆ Attendance at civic events organised by Hyndburn Borough Council
- ◆ Attendance at civic events organised by other local authorities
- ◆ Attendance at events where an official invitation has been issued to the Mayor in advance and the purpose and details of the event have been supplied to the Civic support staff
- ◆ Funerals of current Councillors or past Mayors, Leaders or Chairs of former urban districts

6.3 The Mayor will wear only the Hyndburn Chains of Office when attending civic functions. Any requests by the Mayor in office for use of the Chains of Office other than on those occasions as described above will be determined by the Chief Executive in consultation with the Leader of the Council.

- 6.4 There may be exceptional circumstances when it is appropriate for the Mayor and/or Mayoress and the Deputy Mayor to wear their chains of office at the same event. These exceptions shall apply only in respect of civic events organised by Hyndburn Borough Council.
- 6.5 On occasions, when the Mayor attends an official event and is not accompanied by an attendant, the Mayor's badge can be worn to signify the Mayor's position.
- 6.6 Any requests for use of the chains or fobs of the former urban districts by the Mayor will be determined by the Chief Executive in consultation with the Leader of the Council. Use of these items will be strictly restricted due to budgetary and insurance implications.

## **7. USE OF CIVIC CAR**

- 7.1 The Mayoral Car shall only be used by the Mayor the following occasions:-
  - ◆ Chairing meetings of the Council
  - ◆ Attendance at Civic events organised by Hyndburn Borough Council
  - ◆ Attendance at Civic events organised by other local authorities
  - ◆ Attendance at events where an official invitation has been issued in advance and the purpose and details of the event have been supplied to the civic support staff
- 7.2 Requests for use of the Mayoral car for other events/occasions will be determined by the Chief Executive, in consultation with the Mayor and Leader of the Council, providing that there is no conflict between the requirements of the Mayor for use of the vehicle for civic events. In the event of a clash, the Mayor shall have precedence.
- 7.3 Where it is necessary to transport people who are accompanying the Mayor on civic duties, arrangements shall be made with the Civic support staff. Up to 4 passengers may be carried on such occasions.

## **8. ROLE OF DEPUTY MAYOR IN MAYOR'S ABSENCE**

- 8.1 If the Mayor is unavailable to attend a Mayoral function, the Deputy Mayor will represent the Council on his/her behalf.
- 8.3 Where a commitment has been given for the Deputy Mayor to represent the Council at an event, the commitment should be honoured. The only exceptions to this will be in the event of the illness of the Deputy Mayor (or in the event of a family bereavement) where the Mayor finds he/she available to attend the function.
- 8.4 If neither the Mayor nor Deputy Mayor is available to attend a function, the Mayor Designate shall be invited to attend.

## **9. USE OF HYNDBURN COAT OF ARMS**

- 9.1 Any requests for use of the Hyndburn coat of arms (as distinct from the corporate logo which incorporates the Hyndburn coat of arms) and the town crests will be determined by the Leader.

## **10. RULES OF PRECEDENCE AT CIVIC EVENTS**

10.1 The Mayor takes precedence over all persons in the Borough whether or not he/she is wearing the chains of office. When the Mayor is not occupying the chair at any function he/she should be seated on the immediate right of the Chairman and the Mayoress (or Consort) seated on the left of the Chairman (unless the Lord Lieutenant of the County is present, in which case the Mayor should be seated on the left of the Chairman with the Mayoress (or Consort) on his/her immediate left)

10.2 At Civic Events organised by Hyndburn Borough Council the Order of Precedence will be as follows:-

- 1 Mayor (and Mayoress/Consort if present)
- 2 Leader (and Deputy Leader if present)
- 3 Deputy Mayor (and Deputy Mayoress / Consort if present)
- 4 Chief Executive
- 5 Member of Parliament
- 6 Divisional Police Commander or representative
- 7 Mayor's Chaplain (where appropriate)
- 8 Leader of the Main Opposition Group
- 9 Deputy Leader of the Main Opposition Group
- 10 Members of the Council
- 11 Officers of the Council

Note 1: The Mayoress/Consort and Deputy Mayoress/Consort will be recognised as part of the official party in determining any line-up/seating arrangements for civic processions/events.

Note 2: Where the occasion allows for the attendance of spouses/partners/guests, they will be included in the official party and positioned accordingly. In the event of any dispute the order of precedence will be determined by the Chief Executive.

## **11 The Mayor's Charity**

11.1 The Hyndburn Mayoral Charity is a separate legal entity from the Council. It appoints up to four trustees, *ex officio*, who are officers of the Council. The trustees are responsible for the governance and operation of the Charity.

11.2 It is expected that the Mayor's Charity will undertake all fund raising and its own administration. The Mayor may appoint a Charity Committee to assist in the planning and delivery of fund-raising activities and events. However, the civic support staff are happy to advise the charity as to the suitability of events, appropriate procedures and matters of protocol if required.

11.3 The Mayor's charity has been registered with the Charity Commission. A bank account is held with the National Westminster Bank and civic support staff will undertake the day to day administration of this account. All monies raised during the Mayor's year of office will be distributed to the Mayor's chosen charities as soon as possible after the end of the Mayor's term of office.

## **12 Support to Charities**

12.1 The Mayor may select one or more charities which he or she will support. These charities will already be established and registered with the Charity Commission. If, in the opinion of the Chief Executive, any charity is unacceptable for legal, financial or reputational reasons, the Mayor shall select an alternative.

### **13. Media and Publicity**

- 13.1 It is inappropriate for the Mayor to appear in any electoral material, whether associated with their own election or that of another candidate, in any official regalia or robes. The Mayor should use all reasonable endeavours to stop this occurring.
- 13.2 Given the status of the Mayor as first citizen of the Borough, any dealings with the media should be conducted through the Council's press officer on behalf of the Council. All official communication relating to the Council (but not on private matters) should be dealt with by the Council's press officer. Any private or party political communications issued to the media by the Mayor may bring their office into disrepute and the Mayor should seek advice from the press officer or civic support officers before doing so.
- 13.3 Once a commitment is given to the organiser of a function that the Mayor/Deputy Mayor will attend the function, organisers, having received such commitment, may give whatever publicity is required for the event and may quote the attendance on the Mayor/Deputy Mayor on posters and tickets.

### **14. REMEMBRANCE SUNDAY**

- 14.1 The Royal British Legion or other local organisers are responsible for the Parades and Services to commemorate Remembrance Sunday held throughout the Borough. The Council (through the Civic support staff) provides administrative support for the organisation of these parades and services.
- 14.2 The Remembrance Sunday Parades and Services are Civic Events which require the attendance of the Mayor and Leader at certain locations. Other Members of the Council may be requested to attend Parades and Services throughout the Borough.
- 14.3 The Mayor and Leader will be expected to attend the Remembrance Sunday Parade and Service in Accrington and, by invitation and mutual agreement, can attend another service in their home towns.

### **15. CHRISTMAS LIGHTS OFFICIAL 'SWITCH ONS'**

- 15.1 The Mayor shall switch on Accrington Christmas lights and may attend switch on events in other townships by invitation.

### **16. MAYOR'S BALL**

- 16.1 This is an annual event where the primary purpose is to raise funds for the Mayoral Charity. The event should be self-funding.
- 16.2 The Mayor, with the assistance of his/her Charity Committee, will be responsible for arranging the Ball, including the hire of the venue, booking of caterers, tablecloths and decorations, entertainment and ancillary equipment, marketing and printing of tickets and the procurement of raffle, or auction, prizes for this event, as appropriate. The Mayor will consult the Civic Office about the proposed date of the Ball. The Civic Office will provide advice, as necessary, and facilitate the distribution of any tickets sold, the receipt and processing of any payments or donations made and the payment of any invoices received. Invoices received will require

signing off by the Mayor or Charity Committee prior to payment being made. The Mayoral Attendant will provide close support to the Mayor at the Ball.

16.3 Free use of the Ballroom at Accrington Town Hall is available for the Ball, but charges may apply for the use of other rooms including the kitchen, any drinks served and additional staffing required.

16.4 The Mayor and Mayoress/Consort will be entitled to attend the event for free. All other guests will be required to purchase tickets, the proceeds from which will be donated to charity. Tickets will be available for sale to the general public and businesses, and invitations will normally be sent to the following persons:

- The Lord Lieutenant of Lancashire and Spouse/Guest
- The High Sheriff of Lancashire and Spouse/Guest
- The Leader of the Council and Spouse/Guest
- The Chief Executive and Spouse/Guest
- The Deputy Mayor and Mayoress/Consort of Hyndburn
- The Member of Parliament and Spouse/Guest
- The Mayor's Chaplain and Spouse/Guest
- The Chief Superintendent of Police and Spouse/Guest
- The Chairman and Lady/Consort of Lancashire County Council
- The Mayor and Mayoress/Consort of Bury MBC, each of the Lancashire district/unitary councils, and Clitheroe Town Council.

## **17. CRITERIA FOR SELECTION OF HONORARY FREEMEN AND ALDERMEN <sup>1</sup>**

### **17.1 Selection Criteria: Freeman of the Borough**

- a) The title of Honorary Freeman of the Borough is the highest honour that the Council can award, the right contained in S. 249 of the Local Government Act 1972.
- b) In keeping with the special nature of the award, conferment should be for those who have made a very significant contribution to the Borough.
- c) No more than one nomination will be made each year, unless there are exceptional circumstances.
- d) This honour will be restricted to a person who has made a significant contribution to the Borough over a period of more than 15 years.
- e) Self-nomination or lobbying may result in the nomination being rejected.
- f) Honorary Freemen will be invited to attend the following ceremonies:-
  - Annual Mayor Making Ceremony
  - Freedom of the Borough Ceremony
  - Civic processions
  - Special Memorial services

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<sup>1</sup> Revised criteria approved by Council, 20<sup>th</sup> March 2014

g) A nomination will be submitted to and considered in the first instance by Leader's Policy Development Board, with a recommendation to Council if the nomination is supported.

**17.2 Selection Criteria: Honorary Alderman**

- a) The title of Honorary Alderman will be awarded to an individual who has, in the opinion of the Council, rendered eminent service as a past member of the Council (Section 249 of the Local Government Act 1972).
- b) The criteria for selection shall be:
  - 12 years' service
  - Consideration will be given to members not having 12 years' service but who have, during their years of office, held the title of Mayor, Mayoress, Consort, Leader of the Council or Leader of an Opposition group (providing the latter office was held for three years or more).
- c) If an Honorary Alderman is re-elected to the Council, the title will be held in abeyance until the end of the term of office
- d) Honorary Aldermen will be invited to attend the following ceremonies:-
  - Annual Mayor Making Ceremony
  - Freedom of the Borough Ceremony
  - Civic processions
  - Special Memorial services
- e) A nomination will be submitted to and considered in the first instance by Leader's Policy Development Board, with a recommendation to Council if the nomination is supported.

**18. SELECTION OF NEW MAYORS / DEPUTY MAYORS**

- 18.1 As a general principle the Mayor should be selected on a fair and equitable basis, having regard to the various political groups represented on the Council and nominees for the office of Mayor will usually be expected to have served on the Council for a minimum of four years and gain the support of the majority of Councillors.
- 18.2 The Deputy Mayor shall be appointed annually at the Council's Annual Meeting and will take up office in the year before being elected Mayor.

## ANNEX A

### Flying the Flag on Hyndburn Borough Council Buildings and Sites

#### 1. Union Flag

The union flag to be flown on Hyndburn Borough Council buildings (Accrington Town Hall and Oswaldtwistle Civic Arts Centre and Theatre) and on Town Square, Great Harwood on the following occasions:-

##### Full Mast:

Coronation (unless a bespoke Coronation flag is being flown)

King's Official Birthday

Commonwealth Day

St. George's Day (unless there is a single flag pole, which should instead fly the St George flag)

Armistice Day until Remembrance Sunday (or vice-versa if Remembrance Sunday is earlier)<sup>2</sup>

Visits of Distinguished Persons

Mayor's Sunday

Annual Meeting of Council and installation of Mayor

Conferring the Freedom of the Borough

Official opening of new public buildings

##### Half Mast:

On the deaths of:-

Members of the Royal Family

Serving or former Prime Ministers or Leaders of the Opposition

Local Members of Parliament

Former Mayors of Hyndburn Borough Council

Serving Councillors and Chief Officials

Former Councillors

Ex-Mayors and Chairmen respectively of the former Accrington Borough Council and the Urban District Councils

Honorary Freemen and Honorary Aldermen

#### 2. St. George Flag<sup>3</sup>

The St. George Flag to be flown at full mast on Hyndburn Borough Council buildings (Accrington Town Hall and Oswaldtwistle Civic Arts Centre and Theatre) and on Town Square, Great Harwood on St. George's Day until the nearest Sunday to the Scouts' annual St. George's Day Service (or vice-versa if the Service is earlier).

*Exceptions to the policy, including requests to fly a flag other than the union flag, are determined by the Chief Executive, in consultation with the Mayor and Group Leaders<sup>4</sup>. A general exception to the above policy allowing the Union and St George flag to be flown continuously is currently in place.*

<sup>2</sup> confirmed at Leader's Policy Development Board on 24th June 2014

<sup>3</sup> confirmed at Leader's Policy Development Board on 24th June 2014

<sup>4</sup> Scheme of Delegation – Delegation to Chief Executive, para.2.10

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## **C - OVERVIEW AND SCRUTINY AND PROCEDURE RULES**

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## **C. OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **C1. Number and arrangements for overview and scrutiny committees**

The Council will appoint up to three overview and scrutiny committees with such terms of reference as it shall determine. A joint meeting of two or more of the overview and scrutiny committees may be held no more than once per municipal year. Joint meetings of the Committees will be chaired alternately between the committee chairs or as the committee chairs may all agree.

### **C2. Right to sit on overview and scrutiny committees**

Up to four members of the public may be appointed to each Overview and Scrutiny Committee as non-voting co-optees, if they are deemed to have relevant experience of matters falling within the remit of that Overview and Scrutiny Committee. The intention is that such co-optees will be non-political.

- (i) Co-optees may be appointed following nomination by a councillor or following an application received directly from a member of the public.
- (ii) Nominations or applications received will be considered first at the relevant Overview and Scrutiny Committee. The Committee will consider the knowledge and experience of the applicant relevant to the terms of reference or work programme of the Committee. If the majority of the Overview and Scrutiny members support the appointment of the applicant, the proposed appointment will be presented to Council for approval.

### **C3. Frequency of meetings**

Ordinary meetings of the overview and scrutiny committees shall be held no more than once in every committee cycle.

In addition, extraordinary meetings may be called from time to time by:

- (i) the chair of the relevant overview and scrutiny committee,
- (ii) any 5 members of the relevant overview and scrutiny committee
- (iii) the Chief Executive if he/she considers it necessary or appropriate.

### **C4. Quorum**

The quorum of each overview and scrutiny committee shall be one quarter of the members of the committee or 3, whichever is the larger.

### **C5. Chairs of overview and scrutiny committee meetings**

The Chair of each overview and scrutiny committee will be drawn from among the councillors sitting on the committee

## **C6. Work programme**

- (a) The chair and vice chair of each overview and scrutiny committee will meet with the Cabinet within four weeks of each Annual Meeting to discuss the Cabinet's policy priorities for the coming year. The chairs and vice chairs will propose a draft work programme for their committee within two weeks of that meeting. The draft work programmes will be submitted to the next following meeting of the Cabinet for comment and the draft work programme for each overview and scrutiny committee will then be submitted to the next following meeting of that committee (together with any comments or recommendations from the Cabinet) for approval.
- (b) The overview and scrutiny committees will, subject to the above, be responsible for setting their own work programme and in doing so they shall take into account the wishes of committee members who are not members of the largest political group on the Council.

## **C7. Agenda items**

- (a) Any member of an overview and scrutiny committee may give notice to the chair (or vice chair in the chair's absence) that they wish an item relevant to the functions of the committee to be included on the agenda for the next available meeting of the committee. On receipt of such a request the chair or vice chair will ensure that it is included on the next available agenda. A request may be refused if, in the opinion, of the chair or vice chair the item is not relevant to the functions of the committee. Only 6 such items may be placed on the agenda for any particular meeting. If notice is received of more than 6 such items, the chair of the overview and scrutiny committee, (or the vice chair in the chair's absence), shall determine which 6 items to place on the agenda and the remaining items shall be deferred to the next meeting of the relevant committee.
- (b) Any 5 members of the Council who are not members of the relevant overview and scrutiny committee may give written notice to the chair (or vice chair in the chair's absence) that they wish an item relevant to the functions of the committee to be included on the agenda for the next available meeting of the committee. If the chair or vice chair receives such a notification, then he/she will include the item on the next available agenda. The request may be refused if, in the opinion of the chair or vice chair, the item is not relevant to the functions of that committee. Only 3 such items may be placed on the agenda for any particular meeting. If notice is received of more than 3 such items, the chair of the overview and scrutiny committee, (or the vice chair in the chair's absence), shall determine which 3 items to place on the agenda and the remaining items shall be deferred to the next meeting of the relevant committee.
- (c) The relevant overview and scrutiny committee shall also respond, as soon as their work programme permits, to requests from the Council and the executive to review particular areas of Council activity. Where they do so, the overview and scrutiny committee shall report their findings and any recommendations back to the body which requested the review. That body shall consider the report of the overview and scrutiny committee within one month of receiving it.

(Note: for Councillor Calls For Action, see Rule C18)  
(Note: for crime and disorder matters, see Rule C19)

## **C8. Policy review and development**

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

## **C9. Reports from overview and scrutiny committee**

- (a) Once it has formed recommendations or prepared a formal report the overview and scrutiny committee may submit the report or recommendations to the proper officer for consideration by the Cabinet (if the proposals are consistent with the existing budget and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework). Any dispute as to whether a report should be considered by the Council or the Cabinet will be determined by the Chief Executive
- (b) If an overview and scrutiny committee cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- (c) The Council or Cabinet as appropriate shall consider the report of the overview and scrutiny committee within two months of it being submitted to the proper officer.

## **C10. Consideration of overview and scrutiny reports by the executive**

- (a) The agenda for Cabinet meetings shall include an item entitled 'Issues arising from overview and scrutiny'. Overview and scrutiny committee reports or recommendations referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda) of the next meeting of the Cabinet unless this occurs within 5 working days of the relevant meeting of the overview and scrutiny committee, in which case the report will be referred to the next meeting after that, subject to (b) below.
- (b) Reports and recommendations to Council or to Cabinet will be considered by Cabinet or Council (as appropriate) within two months of receipt by the proper officer. If for any reason the Cabinet does not consider the overview and scrutiny report within two months then the matter will be referred to Council for review, and the proper officer will arrange for the report to be included on the agenda for the next Council meeting for consideration.
- (c) The overview and scrutiny committees will in any event have access to the Cabinet's forward plan and timetable for decisions and intentions for consultation. Even where an

item is not the subject of detailed proposals from an overview and scrutiny committee following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

#### **C11. Rights of overview and scrutiny committee members to documents**

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

#### **C12. Members and officers giving account**

- (a) Each overview and scrutiny committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions within the overview and scrutiny committee's terms of reference. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the executive, the Chief Executive and/or any chief officer or service head to attend before it to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performanceand it is the duty of those persons to attend if so required.
- (b) Where any member or officer is required to attend an overview and scrutiny committee under this provision, the chair of that committee will inform the Chief Executive. The Chief Executive shall inform the member or officer in writing giving at least 5 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the overview and scrutiny committee shall in consultation with the member or officer arrange an alternative date for attendance.

#### **C13. Attendance by others**

Each overview and scrutiny committee may invite people other than those people referred to in paragraph 12 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

#### **C14. Call-in**

This Procedure Rule applies to each overview and scrutiny committee

- (a) When a decision is made by the executive (or an individual member of the executive, a committee of the executive, an area committee or under joint arrangements or a key decision is made by an officer with delegated authority from the executive) the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 days of being made. Chairs of the overview and scrutiny committees will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision. If the chair of the overview and scrutiny committee is of the same political party as the executive, copies of all such decisions shall also be sent to all members of the committee.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 6 working days after the publication of the decision, unless an overview and scrutiny committee objects to it and calls it in.
- (c) During that period, the proper officer shall call-in a decision for scrutiny by the relevant committee upon receipt of the appropriate call-in form signed by the chair (or the vice chair in the chair's absence) or any 2 members of the committee, and shall then notify the decision-taker of the call-in. He/she shall call a meeting of the committee on such date as he/she may determine, where possible after consultation with the chair of the committee, and in any case within 9 working days of the end of the 6 working day call-in period. If there is a dispute over which committee shall consider the call in, the final decision shall lie with the Executive Director (Legal Services).
- (d) If, having considered the decision, the overview and scrutiny committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns. The decision maker shall then reconsider amending the decision or not, before adopting a final decision. If it is a Cabinet decision it will be reconsidered at the next scheduled meeting of the Cabinet. The member who sponsored the call-in may attend the relevant Cabinet meeting to make representations on the item, as may the chair of the relevant overview and scrutiny committee if he/she supported the call-in. If it is an officer decision or a decision by an individual cabinet member it will be reconsidered within 5 working days.
- (e) If following an objection to the decision, the overview and scrutiny committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the overview and scrutiny meeting, or the expiry of the 10 working day call-in period whichever is the earlier.
- (f) Details of all decisions called in by overview and scrutiny committees and the decision makers response to them shall be reported annually to Council for information.

#### **CALL-IN AND URGENCY**

- (i) The call-in procedure set out above shall not apply where the decision being taken by the executive is urgent. A decision will be urgent if any delay likely to be caused by the

call in process would seriously prejudice the Council's or the public interest. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in and the reason for that opinion. The mayor must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency prior to the decision being taken. In the absence of the mayor, the deputy mayor's consent shall be required. In the absence of both, the head of paid service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

- (j) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

#### **C15. The party whip**

This Procedure Rule applies to the overview and scrutiny committees

(a) "Party whip" means any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council or any committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner.

(b) When considering any matter in respect of which a member of an overview and scrutiny committee is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

#### **C16. Procedure at overview and scrutiny committee meetings**

This Procedure Rule applies to the overview and scrutiny committees

- (a) The overview and scrutiny committees shall consider the following business:
  - (i) apologies
  - (ii) declarations of interest (including whipping declarations);
  - (iii) minutes of the last meeting;
  - (iv) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
  - (v) responses of the executive to reports of the overview and scrutiny committee; and
  - (vi) the business otherwise set out on the agenda for the meeting.
- (b) Where the overview and scrutiny committee conducts investigations (e.g. with a view to policy development), the committee may also ask people to attend to give evidence at

committee meetings which are to be conducted in accordance with the following principles:

- (i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
- (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

(c) Following any investigation or review, the committees shall prepare a report, for submission to the executive and/or Council as appropriate and shall make its report and findings public.

## **C17 Panels**

Each Overview & Scrutiny committee may appoint up to one panel at any time and may determine the Panel's terms of reference, size, membership and duration.

## **C18 Councillor Call For Action**

- (a) Subject to this Rule C18 any councillor may instigate a Councillor Call For Action in respect of issues of concern affecting all or part of the wards they represent.
- (b) In order to qualify as a Councillor Call for Action the issue of concern must:
  - (i) be within the functions of the overview and scrutiny committee concerned
  - (i) affect all or part of the ward the member represents or people who live and work there;
  - (iii) not be a local crime and disorder matter within s19 Police and Justice Act 2006;
  - (iv) not relate to a decision in respect of an application for an agreement, approval or permission under planning legislation
  - (v) not relate to an enforcement decision under planning legislation
  - (vi) not relate to a decision in respect of an application for a premises licence, a club premises certificate or a temporary event notice or a request for a review of such a decision
  - (vii) not relate to any enforcement decision made under the Licensing Act 2003
  - (viii) not relate to a matter in respect of which there is a statutory right of appeal or review (but the item is not excluded just because there is a right to pursue it with the Local Government Ombudsman)
- (c) The councillor shall complete the Councillor Call for Action form (available from Democratic Services) which must state the reason for the referral to the committee and demonstrate that other appropriate methods of resolving the issue have been tried and exhausted
- (d) The Councillor Call for Action form must be delivered to the Chief Executive.
- (e) The Councillor Call for Action will be considered by the chair of the relevant committee (or vice chair in the chair's absence) within 6 working days of its receipt (not counting the day of receipt) and the Call for Action may be refused if in the opinion of the chair (or vice chair in the chair's absence):
  - the issue of concern does not meet the criteria referred to in (b) above; or

- it is vexatious or discriminatory; or
- the chair (or vice chair in the chair's absence) is not satisfied that reasonable steps have been taken to resolve the issue of concern in other ways

(f) If the chair (or vice chair) receives a notification which satisfies the criteria referred to in (b) and (e) above then s/he will include the Councillor Call for Action on the agenda for the next available meeting of the committee. Only 3 such items may be placed on the agenda of any particular meeting. If valid notice is received of more than 3 Councillor Call for Action, the chair of the overview and scrutiny committee (or the vice chair in the chair's absence) shall determine which 3 items to place on the agenda and the remaining items shall be deferred to the next meeting of the relevant committee.

(g) The overview and scrutiny committee may permit the councillor who made the Call for Action to make representations in respect of the issue of concern, including the reason for the Call for Action and the steps already taken to resolve the same.

(h) If the overview and scrutiny committee decides to take no action in respect of a Councillor Call for Action it must inform the councillor who instigated it accordingly and give reasons for its decision. If the overview and scrutiny committee decides to take action in respect of the item it must inform the councillor who instigated the Call for Action accordingly and give him / her a copy of any report or recommendations it makes to Council or to Cabinet

## C19 Crime and Disorder Matters

(a) This Rule applies to the overview and scrutiny committee with responsibility for crime and disorder matters

(b) In this Rule the following expressions have the meaning shown:

local crime and disorder matter	<p>(i) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment); or</p> <p>(ii) misuse of drugs, alcohol or other substances which affects all or part of ward the councillor making the referral represents, or people who live or work there</p>
responsible authorities	<p>Chief Officer of Lancashire Police</p> <p>Lancashire County Council</p> <p>Lancashire Police Authority</p> <p>Lancashire Fire and Rescue Service</p> <p>East Lancashire NHS Teaching Primary Care Trust</p>
co-operating bodies	<p>the local Probation Board</p> <p>providers of probation services in Hyndburn pursuant</p>

	<p>to section 3 Offender Management Act 2007</p> <p>Altham Parish Council</p> <p>governing bodies of schools maintained by the local education authority</p> <p>governing body of Accrington &amp; Rossendale College</p> <p>East Lancashire Hospitals NHS Trust</p> <p>Lancashire Care NHS Foundation Trust</p> <p>Proprietors of Independent Schools – Heathland Private School, “Broad Oak”, Sandy Lane, Accrington</p>
relevant committee	<p>the overview and scrutiny committee with responsibility for crime and disorder matters</p>
written information	<p>Information relating to:</p> <p>(i) the discharge or decisions of, or other action taken by, the responsible authorities in connection with their crime and disorder functions</p> <p>(ii) local crime and disorder matters</p> <p>the information will be depersonalised unless the identification of an individual is necessary or appropriate to enable the relevant committee to properly exercise its powers</p> <p>the information will not include information that would be reasonably likely to prejudice legal proceedings or current or future operations by the responsible authorities or the co-operating bodies</p>

- (c) The relevant committee will meet at least once in each municipal year to review the exercise by the responsible authorities of their crime and disorder functions under section 6 Crime And Disorder Act 1998. Where the relevant committee makes a report or recommendations either to Cabinet or to Council in respect of such matters it shall provide a copy of the report or recommendation to each of the responsible authorities and each of the co-operating bodies.
- (d) The relevant committee may request written information from the responsible authorities and the co-operating bodies and may specify a date by which the written information should be provided
- (e) The relevant committee may require the attendance before it of an officer or employee of a responsible authority or a co-operating body to answer questions but must give reasonable notice of the date and time of the meeting at which attendance is required

**Member referrals of local crime and disorder matters**

- (f) Any councillor may refer a local crime and disorder matter to the relevant committee. The referral must be made in writing, giving full details of the local crime and disorder matter and the reason for the referral. The referral must be delivered to the Chief Executive.
- (g) Valid referrals will be placed on the agenda for the next available meeting of the relevant committee. Only 3 such items may be placed on the agenda for any particular meeting. If valid referrals are received in respect of more than 3 local crime and disorder matters the chair of the relevant committee (or the vice chair in the chair's absence) shall determine which 3 items to place on the agenda and the remaining items shall be deferred to the next meeting of the relevant committee.
- (h) The relevant committee must consider whether to make a report or recommendations to either the Council or the Cabinet in respect of the local crime and disorder matter, having regard to any representations made by the councillor who made the referral. If the relevant committee decides to take no action it must notify the councillor who made the referral of its decision and reason for it. If the relevant committee decides to make a report or recommendations either to the Cabinet or to Council it must provide a copy of the report or recommendations to:
  - (i) the councillor who made the referral
  - (ii) such of the responsible bodies as it thinks it appropriate
  - (iii) such of the co-operating bodies as it thinks it appropriate.
- (i) Where the relevant committee makes a report or recommendations to Council or Cabinet and provides a copy of the same to any responsible authority or co-operating body the relevant committee must inform each of them of their obligations under section 19(8B)(b) Police and Justice Act 2006, namely:
  - (i) to consider the report or recommendations
  - (ii) to respond to the relevant committee in writing to say what action (if any) it proposes to take, such response to be made within 28 days of receipt of the report or recommendations (or, if this is not reasonably possible, as soon as reasonably possible thereafter)
  - (iii) to have regard to the report or recommendations in exercising its functions

## C20 Exempt and Confidential Information

- (a) Where an overview and scrutiny committee intends to

- (i) publish a report or recommendations; or
- (ii) submit a report or recommendations to another organisation

it must first do the following:

- request the proper officer to exclude any confidential information (i.e. any information the Council is legally prevented from disclosing pursuant to s100A(3) Local Government Act 1972); and
- consider whether any exempt information should be excluded (i.e. any information covered by s100I Local Government Act 1972 and / or s246 National Health Service Act 2006) and, if it decides that it should, request the proper officer to remove any such information prior to disclosure.

- (b) Where an overview and scrutiny committee intends to supply a copy of a report or recommendations to a member of the Council it must first consider whether any confidential or exempt information should be excluded and, if it decides that it should, request the proper officer to remove any such information prior to disclosure
- (c) Where any exempt or confidential information is removed from a report or recommendations the proper officer shall provide sufficient non-exempt and non-confidential information to the recipient to enable the report or recommendations to be properly understood.

# Agenda Item 13.

<b>REPORT TO:</b>	Annual Council Meeting	
<b>DATE:</b>	18 <sup>th</sup> May 2023	
<b>PORTFOLIO:</b>	Leader of the Council	
<b>REPORT AUTHOR:</b>	Executive Director (Legal & Democratic Services)	
<b>TITLE OF REPORT:</b>	Annual Review of The Planning and Licensing Codes of Practice	
<b>EXEMPT REPORT:</b>	<b>No</b>	
<b>KEY DECISION:</b>	<b>No</b>	If yes, date of publication:

## 1. Purpose of Report

1.1 To seek approval for the planning and licensing codes of practice following an annual review of the same.

## 2. Recommendations

2.1 That Council approves the planning code of practice and licensing code of practice appended to this report;

2.2 That Council notes that training will be arranged for all members of the Planning and Judicial Committees in respect of their respective code of practice as soon as possible in the new municipal year.

## 3. Reasons for Recommendations and Background

3.1 Local authorities are recommended, as a matter of good practice, to supplement their member code of conduct with specific codes of practice to assist members involved in the planning and licensing processes. These are complex areas, involving quasi-judicial decision-making and the codes are designed to give members guidance about dealing with the difficult issues that can arise – such as conflicts of interest, dealing with applicants, possible bias and predetermination etc.

3.2 There are only a few, minor changes to the codes proposed this year. The changes are intended to make the documents shorter, clearer and easier to read. In addition a summary page has been added at the start of each code, setting out the key points in an easy to read format for quick reference purposes, with the rest of the code offering more detailed guidance.

3.3 Following a recommendation of the Member Learning & Development Panel in 2016, members sitting on Planning and Licensing / Judicial Committees are required to have undergone training before they serve on the Committee and take part in decision making.

3.4 It is intended that all members serving on the Planning, Licensing and Judicial Committees will receive training in respect of their respective code of practice as soon as possible after approval of the codes of conduct. These sessions will be as short and informal as possible and will be delivered by Legal Services staff and their Planning and Licensing colleagues at no additional cost to the Council.

#### **4. Alternative Options considered and Reasons for Rejection**

4.1 The Council could decide not to have specific codes for these service areas.

4.2 Most local authorities have codes of practice for planning and licensing, as these are complicated areas requiring quasi-judicial decision-making and involving potentially difficult issues in respect of conflict of interest and bias. The codes of practice therefore strengthen the Council's corporate governance arrangements and it is suggested that they should be retained as a matter of good practice.

#### **5. Consultations**

5.1 None.

#### **6. Implications**

<b>Financial implications (including mainstreaming)</b>	None anticipated – it is proposed that the briefing sessions will be presented by Legal Services staff alongside Planning and Licensing colleagues. If an external trainer is proposed instead, a suitable budget will be identified before any booking is made.
<b>Legal and human rights implications</b>	There is no legal requirement to have codes of practice for members involved in the Council's planning and licensing functions, but it is recommended as good practice and minimises the risk of legal challenge to the Council's decision-making in these areas.
<b>Assessment of risk</b>	None
<b>Equality and diversity implications</b> A <a href="#">Customer First Analysis</a> should be completed in relation to policy decisions and should be attached as	None identified.

*an appendix to the report.*

7. **Local Government (Access to Information) Act 1985:**  
**List of Background Papers**

None

8. **Freedom of Information**

8.1 The report does not contain exempt information under the Local Government Act 1972, Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.



**HYNDBURN BOROUGH COUNCIL**  
**MEMBERS PLANNING CODE OF GOOD PRACTICE**

**A summary of some key points:**

- This Planning Code of Good Practice is supplementary to the Members Code of Conduct, which applies to Members at all times.
- Planning Committees are “quasi-judicial” proceedings and the principle of natural justice applies – everyone has the right to a fair hearing, and the decision-making process must always be fair, and must be seen to be fair by all involved.
  - Individuals must be afforded a fair opportunity to present their case.
  - A decision maker should have no pecuniary or proprietary interest in the outcome of the proceedings and must not be suspected or show a likelihood of bias or predetermination.
- You should not take part in a decision if:
  - You have made up your mind beforehand or indicated to others that you have done so (predetermination);
  - You have a personal interest in the application that comprises your ability to give the application a fair hearing, or gives the impression that you are prejudiced one way or the other (bias); or
  - You have a Disclosable Pecuniary interest in the matter.
- Be as open as possible about your interests, your actions and your decisions, and be prepared to give reasons for your actions and decisions.
- You can be predisposed towards a particular outcome provided that you don’t have a closed mind and you are willing to listen to and consider everything presented to the Committee before you reach a final decision.
  - If you indicate a predisposition to anyone, always make it clear that you are still open to hearing all the evidence before making a final decision.
  - Always consider how what you say and do would look to others.
- Avoid being lobbied and having contact with interested parties where possible, but where it isn’t possible make it clear that you must remain open minded, and then report it to the Chief Planning and Transportation Officer.
- Political Group Meetings must never dictate how Members should vote on a planning application.
- Take account of relevant advice from the Council’s statutory and other professional officers, taking all relevant information into consideration, remain objective and make decisions on merit.
- You must make decisions in accordance with planning law, all relevant planning policies and all material considerations, such as the NPPF.
  - There is always a presumption in favour of the Council’s development/local plan, underpinned by national policy. In order to make a decision against the local plan, there must be strong material considerations which you believe outweigh the local plan.
  - If you are proposing, seconding or supporting a decision contrary to officer recommendation you must clearly identify and understand the planning reasons leading to this decision, and these reasons must be recorded.

*This summary sheet is designed to provide an overview only, and should be read in conjunction with the rest of this Code of Good Practice.*

**HYNDBURN BOROUGH COUNCIL**  
**MEMBERS PLANNING CODE OF GOOD PRACTICE**

## **1. INTRODUCTION**

- 1.1. The aim of this Code of Good Practice** is to make sure that the planning process is fair, open and conducted in accordance with all relevant planning policy, and to ensure that there can be no grounds for suggesting that any decision has been affected by bias, predetermination or is unreasonable in any way.
- 1.2. Your role as a Member of the Planning Authority** is to make planning decisions openly, impartially, with sound judgement and for legally justifiable reasons. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies provided that you do not predetermine any application. You must weigh up all material considerations and give fair regard to all relevant points raised, both in the Officer's report and presentation and by any person addressing the Planning Committee, with an open mind before making any decision.
- 1.3. This Code applies to Members at all times when they are involved in the planning process.** This includes taking part in the decision making meetings of the Council when it is acting in its role as a Local Planning Authority which will usually be through the Planning Committee, or when you are involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies not only to the determination of planning applications but also to planning enforcement matters or site specific policy issues. Any Member may make a written request to refer an application to Planning Committee, such request must be in writing giving planning reasons for the referral and must be made within 14 days of the planning application first being included on the weekly list of such applications.
- 1.4. If you have any doubts about the application of this Code to your own circumstances you should seek advice from the Monitoring Officer or her staff, preferably well before any meeting takes place.**
- 1.5. If you do not abide by this Code of Good Practice** your conduct may lead to the legal challenge of a Planning Committee decision, or invoke a finding of maladministration by the Local Government Ombudsman. You may also put yourself at risk of being reported to the Standards Committee, which could result in you being named in a report made to the Council or, if the failure is also likely to be a breach of the interest provisions of the Localism Act 2011, a complaint being made to the Police to consider criminal proceedings.

## 2. RELATIONSHIP TO THE MEMBERS' CODE OF CONDUCT

- 2.1. You must apply the rules in the Members' Code of Conduct first, as they must always be complied with. This includes the rules on Personal Interests, Disclosable Pecuniary Interests and Conflicts of Interest, as well as the general rules contained therein.
- 2.2. You should then apply the rules in this Planning Code of Good Practice, which explains and supplements the Members' Code of Conduct with specific reference to the Council's role as a Local Planning Authority.

## 3. DEVELOPMENT PROPOSALS AND INTERESTS UNDER THE MEMBERS' CODE OF CONDUCT

- 3.1. The Members' Code of Conduct requires you to notify the Council's Monitoring Officer of any Disclosable Pecuniary Interests, and any Personal Interests. You are also required to declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties, and to take steps to resolve any conflicts arising in a way that protects the public interest. This could be done by registering or declaring those interests in accordance with the Members' Code of Conduct.
- 3.2. In addition, a Member should always seek to act with integrity when reaching a decision, which is defined in terms that:

*"Holders of public office must avoid placing themselves under an obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships**".*

### 3.3. Disclosable Pecuniary Interests

- 3.3.1. Disclosable Pecuniary Interests are dealt with in detail in the Members' Code of Conduct and this section should be read in conjunction with the rules set out therein. In short, a Disclosable Pecuniary Interest is an interest of yourself or your partner in employment, office, trade, profession, sponsorship, contract, land, licenses, corporate tenancies or securities.
- 3.3.2. If you have a Disclosable Pecuniary Interest in any matter that is being considered by the Council / Planning Committee;

- You must not participate in any discussion of the matter at the meeting (unless you have obtained a dispensation from the Standards Committee that permits you to speak on the item).
- You must not participate in any vote taken on the matter at the meeting (unless you have obtained a dispensation from the Standards Committee that permits you to vote on the item).
- You must disclose the interest to the meeting.
- If the interest is not registered and is not the subject of a pending notification, you must register the interest in your register of member's interests within 28 days.
- You should leave the meeting room whilst the matter in which you have a Disclosable Pecuniary Interest is being discussed and voted on.

3.3.3. The Members' Code of Conduct explains how failure to comply with the requirements relating to Disclosable Pecuniary Interests can amount to a criminal offence.

3.3.4. There are specific rights for Ward Members to speak at Planning Committee meetings on applications within their wards. However, even if you are not on the Planning Committee you are prohibited from speaking if you have a Disclosable Pecuniary Interest and have not been granted a dispensation by the Standards Committee.

3.3.5. Any ward member who does not have a Disclosable Pecuniary Interest or other conflict of interest of any description may address the Planning Committee in the same way as a member of the public i.e. by registering to speak. In such cases Members who are also Members of the Planning Committee should remove themselves from the seating area reserved for Members of the Committee.

### **3.4. Personal Interests**

3.4.1. Personal Interests are also dealt with in detail in the Members' Code of Conduct and again this section should be read in conjunction with the rules set out therein. A Personal Interest can be any interest, no matter how small, that a Member may have in any business of the Council.

3.4.2. If you have, or think that you might have a Personal Interest in any planning matter before the Council / Planning Committee then you must disclose that interest at the commencement of the meeting, or as soon as the interest becomes apparent. You do not, however, have to leave the meeting and you may still be able to take part in the discussion and voting, provided you are satisfied that the interest will not affect your ability to deal

with the matter fairly and with an open-mind, nor can it reasonably be perceived to do so.

3.4.3. You should notify the Monitoring Officer in writing of any personal planning applications / proposals that you submit to the Council. This notification should be given to the Monitoring Officer no later than submission of the application.

3.4.3.1. The proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers.

3.4.3.2. It would also be advisable to employ an agent to act on your behalf on the proposal in dealing with officers and any public speaking at the Planning Committee. You are not prevented from seeking to explain and justify a proposal in which you have a conflict of interest to an appropriate officer, in person or in writing, but your role as a Member may place additional limitations on you in representing the proposal in which you have a Personal Interest. For example, you will need a dispensation from the Standards Committee if you wish to speak as a member of the public in respect of your own planning application.

3.4.3.3. You must not sit on the Committee nor take part in any discussion or voting. You may wish to leave the meeting room altogether whilst the item is heard.

3.4.4. If you have a private interest in a matter before the Planning Committee you may consider that the only way to resolve any conflict of interest, and for the sake of the matter appearing to be fair and free from any bias, is not to vote or even participate in any discussion.

#### 4. PREDISPOSITION, PREDETERMINATION AND BIAS

4.1. **“Predetermination”** occurs where a Member’s mind is closed to the merits of any arguments relating to a particular application and the Member makes a decision without taking them into account.

4.2. **“Bias”** occurs where a Member has a clear inclination or prejudice for or against one person or group relating to a particular application in a way that can be considered to be unfair.

4.3. Do not limit your discretion or appear to limit your discretion, and therefore limit your ability to participate in a planning decision, by making up your mind, or clearly appearing to have made up your mind, on how you will vote on any planning matter prior to formal consideration of that matter at the meeting of the Planning Committee and hearing the officer’s presentation and evidence and all of the arguments for both sides of a decision.

4.4. Restricting your discretion in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and/or a legal challenge on the grounds of there being a danger of bias or predetermination, or a failure to take into account all of the factors enabling the proposal to be considered properly and fairly on its planning merits.

4.5. This rule should not however be interpreted in such an unnecessarily restrictive way so as to limit the quality of debate or stifle valid discussion. You are entitled to have a “**predisposition**” towards a particular outcome, and even indicate your likely voting intentions, provided that you don’t have a closed mind and you are willing to listen to and consider all arguments and points being made on a matter before you reach a final decision.

4.6. Section 25 of the Localism Act 2011 clarifies the rules on predetermination by providing that:

**“A decision maker is not to be taken to have had, or to appear to have had, a closed mind when making the decision just because –**

**(a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took or would or might take, in relation to a matter, and,**

**(b) the matter was relevant to the decision”.**

4.7. Members are able to publicise their views on issues, indicate their likely voting intentions and engage fully with their local communities (as this will help Members to better represent their constituents and enrich local debate) without this affecting participation in the Planning Committee’s formal decision-making process, provided that Members go into the Planning Committee meeting with an open mind, being prepared to listen to all of the facts, evidence and opinions presented before making a final decision.

4.7.1. In order to confirm this is the case the Chairman of the Planning Committee may ask a Member to confirm whether or not they still have an open mind in respect of any application to be considered.

4.7.2. If you do indicate that you are predisposed towards a particular outcome or state that based on what you have currently heard you are of a certain opinion, at any time before the Planning Committee votes on a particular matter you should always make it clear when doing so that you are still open to hearing all the evidence/arguments/debate before making a final decision.

4.7.3. If you are a Member of the Planning Committee it is permissible to speak on any item being heard on behalf of constituents providing you retain an open mind on the application. In such cases it may be appropriate to refer the constituents to another Member who is not on the Planning Committee and who is willing to speak on behalf of the residents.

4.7.4. If you have formed such a strong view on an item yourself that you feel unable to take part in the Committee decision then, subject to the rules on Interests, you may stand down from the Planning Committee and speak as a member of the public on behalf of residents.

4.8. Members are able to take part in any debate on a proposal when acting as part of a consultee body outside of their duties for this Council (where you are also a member of a Parish Council, for example, or both the Borough and County Council), provided that:

- The proposal does not substantially affect the well-being or financial standing of the consultee body; and
- You make it clear to the consultee body that:
  - Your views are expressed on the limited information before you only;
  - You must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Planning Committee, and you must hear all of the relevant information;
  - You will not in any way commit yourself as to how you or others may vote when the proposal comes before the Planning Committee, and;
  - You disclose the Personal Interest regarding your membership or role when the Planning Committee comes to consider the proposal.

4.9. Do not speak and vote on a proposal where you have openly and uncompromisingly limited your discretion for example by commenting in a newspaper or on social media that you will never support an application. You do not have to withdraw from the meeting room, but you may prefer to do so for the sake of appearances.

4.9.1. You should explain that you do not intend to speak or vote because you have or you could reasonably be perceived as having predetermined the matter elsewhere, so that this may be recorded in the minutes.

4.10. In determining whether there is an appearance of predetermination or bias Members who are responsible for making the decision should apply the following test:

***Would a fair minded and informed observer having considered all the facts, decide that there is a real possibility that the Member had determined the issue or was biased?***

4.11. When applying this test it is important to remember that it is legitimate for a Member to be predisposed towards a specific outcome as long as the Member

remains open minded and is prepared to consider all the arguments and points made before reaching a final decision, however you must not do or say anything that could appear to others as though you have a closed mind.

## **5. CONTACT WITH APPLICANTS, DEVELOPERS AND OBJECTORS**

- 5.1. If any applicant, developer, objector or other interested party approaches you as a Member of the Planning Committee you should, as far as is practicable, discourage them from speaking to you in relation to any individual planning application or any other matter which may give rise to a planning application. You should always refer them to Council officers for planning, procedural or technical advice.
- 5.2. Do not agree to any request (other than from the Chief Planning and Transportation Officer) to attend a meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should request the Chief Planning and Transportation Officer to organise it.
  - 5.2.1. The Council officer will then ensure that those present at the meeting are advised from the start that the discussions will not bind the Council to any particular course of action. They will also ensure that the meeting is properly recorded on the application file and that the record of the meeting is disclosed when the application is considered by the Planning Committee.

- 5.3. Otherwise when contacted you should:

- follow the Council's guidance on lobbying (see section 6 below);
- take notes wherever possible,
- ask relevant questions for the purposes of clarifying your understanding but remember this is not part of the formal process of debate and determination of any subsequent application,
- do not express any strong view or state how you or other Members might vote, and;
- report to the Chief Planning and Transportation Officer any significant contact with the applicant and any other interested parties, explaining the nature and purpose of the contact and your involvement in it, and ensure that this is recorded on the planning file.

## **6. LOBBYING OF COUNCILLORS**

- 6.1. Always explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, expressing an unequivocal intention to vote one way or another or such a firm point of view that it amounts to the same thing prejudices your impartiality and therefore your ability to participate in the Planning Committee's decision making process.
  - 6.1.1. In such cases it may be advisable to refer those lobbying you to another Ward Member.
- 6.2. Remember that your overriding duty is to the whole community not just to the people in your ward/local area and, taking account of the need to make decisions impartially, you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- 6.3. Do not accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible and register the gift or hospitality where its value is over £100 in accordance with the Members' Code of Conduct.
- 6.4. Always copy or pass on any lobbying correspondence that you receive to the Chief Planning and Transportation Officer at the earliest opportunity, and you should promptly refer to the Chief Planning and Transportation Officer any offers made to you of planning gain or constraint of development.
- 6.5. If you believe that you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality) you should promptly inform the Monitoring Officer.
- 6.6. Unless you have a Disclosable Pecuniary Interest, you will not have compromised your discretion or breached this Planning Code of Good Practice through:
  - listening or receiving viewpoints from residents or other interested parties;
  - making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to predetermination of the issue and you make clear that you are keeping an open mind;
  - seeking information through the appropriate channels.

## **7. LOBBYING BY COUNCILLORS**

- 7.1. If you are a Member of the Planning Committee it is inadvisable to become a member of, or lead or represent an organisation whose primary purpose is to

lobby to promote or oppose any planning proposals. If you do you will have restricted your discretion and will have a Personal Interest.

- 7.2. You may join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but you should disclose a Personal Interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal.
- 7.3. Do not excessively lobby fellow Councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- 7.4. Do not decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.
  - 7.4.1. It is not permissible for your political party to expect you to follow any position it may have taken on an application prior to the Planning Committee. It is important that each Member of the Planning Committee forms their own view on applications after considering officer advice and any representations.

## **8. SITE VISITS**

- 8.1. Try to attend site visits organised by the Council where possible.
- 8.2. Do not request a site visit unless you feel it is strictly necessary because particular site factors are significant in terms of the weight attached to them relative to other factors, or due to the difficulty of their assessment in the absence of a site inspection; or there are significant policy or precedent implications and specific site factors that need to be carefully addressed.
- 8.3. Any information which you gained from the site visit should be reported back to the Committee, so that all Members have the same information.
- 8.4. Ensure that you treat the site visit only as an opportunity to obtain information and to observe the site. No debate on the planning merits of the case should take place during the site visit.
- 8.5. During the site visit you may ask questions or seek clarification from the officers on matters which are relevant to the site inspection.

8.6. During the site visit you should not hear representations from the applicant or any other party. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the Council and direct them to or inform the officer present. They should also be advised of the right to address the Planning Committee when the application comes forward for determination.

8.7. During the site visit try to avoid giving any express opinions or views to anyone.

8.8. Do not enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias, unless you feel it is essential for you to visit the site and you are unable to attend the official site visit. In such cases it is advisable to inform the Chief Planning and Transportation Officer about your intention to do so and why (which will be recorded on the file). You must ensure that you comply with these good practice rules on any such site visits.

## **9. PUBLIC SPEAKING AT MEETINGS**

9.1. Do not allow members of the public to communicate with you during the Planning Committee's proceedings (orally or in writing including social media) other than through the scheme for public speaking, as this may give the appearance of bias.

9.2. Always ensure that you comply with the Council's procedures in respect of public speaking, and seek clarification from officers if you are unsure of these procedures.

## **10. OFFICERS**

10.1. Do not put pressure on officers to put forward a particular recommendation. This does not prevent you from asking questions or submitting views to the Chief Planning and Transportation Officer which may be incorporated into any committee report.

10.2. You should recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.

10.3. You should also recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations

will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Planning Committee or its Members.

## 11. DECISION MAKING

- 11.1. If you request a proposal to go before the Planning Committee rather than be determined through officer delegation, your reasons for doing so should be recorded and repeated in the report to the Committee.
- 11.2. You must always come to Planning Committee meetings with an open mind and you should be able to demonstrate that you are open minded.
- 11.3. You must make decisions in accordance with section 70 of the Town and Country Planning Act 1990 (as amended), all relevant planning policies and all material considerations, such as the National Planning Policy Framework.
  - 11.3.1. Planning decisions are constrained by the need to operate within the law and to give proper weight to policy. Planning decisions need to be taken on an authority wide basis – often putting the desires of local people second to the need to work within the authority's overall policy framework.
  - 11.3.2. There is always a presumption in favour of the Councils development/local plan, underpinned by national policy. In order to make a decision against the local plan, there must be strong material considerations which you believe outweigh the local plan.
- 11.4. You should come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel that there is insufficient time to digest new information or that there is simply insufficient information before you, you should request that further information be provided, or if necessary defer or refuse the application.
- 11.5. Do not vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, any public speakers and the officers' introduction to the matter. If you come in to Planning Committee late and public speaking has already commenced on an item, or if you have to leave the room part way through an item being heard, you will not be able to vote on that item.
- 11.6. You must record the reasons for any Planning Committee decision to defer the determination of an application.
- 11.7. You must make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations that you clearly identify and understand the **planning reasons** leading to this conclusion/decision. These

reasons must be given prior to the vote and they must be recorded. Be aware that you may have to justify the resulting decision by giving evidence at an appeal, in the event of any legal challenge.

## **12. TRAINING**

- 12.1. Members are required to attend any training prescribed by the Council before they participate in decision making at meetings dealing with planning matters.
- 12.2. You should endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures etc. beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- 12.3. You should participate in any review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.

## **13. GENERAL**

- 13.1. This Planning Code of Good Practice will be kept under annual review by the Executive Director, Legal and Democratic Services. It will also be reviewed following any relevant change in the Council's Constitution and Rules of Procedure.

April 2023

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**HYNDBURN BOROUGH COUNCIL**  
**MEMBERS LICENSING CODE OF GOOD PRACTICE**

**A summary of some key points:**

- This Licensing Code of Good Practice is supplementary to the Members Code of Conduct, which applies to Members at all times.
- Licensing Committees are “quasi-judicial” proceedings and the principle of natural justice applies – everyone has the right to a fair hearing, and the decision-making process must always be fair, and must be seen to be fair.
  - Individuals must be afforded a fair opportunity to present their case.
  - A decision maker should have no pecuniary or proprietary interest in the outcome of the proceedings and must not be suspected of or show a likelihood of bias or predetermination.
- You should not take part in a decision if:
  - You have made up your mind beforehand or indicated to others that you have done so (predetermination);
  - You have a personal interest in the matter before the Committee that comprises your ability to give it a fair hearing, or gives the impression that you are prejudiced one way or the other (bias); or
  - You have a Disclosable Pecuniary interest in the matter.
- Be as open as possible about your interests, your actions and your decisions, and be prepared to give reasons for your actions and decisions.
- You can be predisposed towards a particular outcome provided that you don't have a closed mind and you are willing to listen to and consider everything presented to the Committee before you reach a final decision.
  - If you indicate a predisposition to anyone, always make it clear that you are still open to hearing all the evidence before making a final decision.
  - Always consider how what you say and do will look to others.
- Avoid being lobbied and having contact with interested parties where possible, but where it isn't possible make it clear that you must remain open minded, and then report the contact to the Head of Licensing.
- Political Group Meetings should never dictate how Members should vote on a licensing matter.
- Take account of relevant advice from the Council's statutory and other professional officers, taking all relevant information into consideration, remain objective and make decisions on merit.
- You must make decisions having regard to all of the relevant statutory criteria, policy and guidance relating to the determination of the matter.
  - If you are proposing, seconding or supporting a decision contrary to the licensing objectives, officer recommendations, statutory guidance or any relevant policies, then you must be satisfied that there are exceptional circumstances and justifiable reasons to do so and you must clearly identify and understand the licensing reasons leading to this decision, which must be recorded.

*This summary sheet is designed to provide an overview only, and should be read in conjunction with the rest of this Code of Good Practice.*

**HYNDBURN BOROUGH COUNCIL**  
**MEMBERS LICENSING CODE OF GOOD PRACTICE**

**1. INTRODUCTION**

- 1.1. The aim of this Code of Good Practice** is to make sure that the licensing process is fair, open and conducted in accordance with all relevant licensing law and policy, and to ensure that there can be no grounds for suggesting that any decision has been affected by bias, predetermination or is unreasonable in any way.
- 1.2. Your role as a Member of the Licensing and/or Judicial Committee** is to make licensing decisions openly, impartially, with sound judgement and for legally justifiable reasons. You are entitled to be predisposed to make licensing decisions in accordance with your political views and policies provided that you do not predetermine any particular matter. You must weigh up all the relevant factors and give fair regard to all relevant points raised, both in the Officer's report and presentation and by any person addressing the Committee, with an open mind before making any decision.
- 1.3. This Code applies to Members at all times when they are involved in the licensing process.** It applies to the conduct of Members appointed to both the Licensing and the Judicial Committee, including any sub-committee of those Committees. It applies to the taking part in Committee meetings of the Council when it is determining licensing matters, and also when you are involved on less formal occasions, such as meetings with officers or the public and consultative meetings.
- 1.4. If you have any doubts about the application of this Code to your own circumstances you should seek advice from the Monitoring Officer or her staff, preferably well before any meeting takes place.**
- 1.5. If you do not abide by this Code of Good Practice** your conduct may lead to the legal challenge of a Licensing/Judicial Committee decision, or invoke a finding of maladministration by the Local Government Ombudsman. You may also put yourself at risk of being reported to the Standards Committee, which could result in you being named in a report made to the Council or, if the failure is also likely to be a breach of the interest provisions of the Localism Act 2011, a complaint being made to the Police to consider criminal proceedings.

## 2. RELATIONSHIP TO THE MEMBERS' CODE OF CONDUCT

- 2.1. You must apply the rules in the Members' Code of Conduct first, as they must always be complied with. This includes the rules on Personal Interests, Disclosable Pecuniary Interests and Conflicts of Interest, as well as the general rules contained therein.
- 2.2. You should then apply the rules in this Licensing Code of Good Practice, which explains and supplements the Members' Code of Conduct with specific reference to dealing with licensing matters.

## 3. INTERESTS

3.1. The Members' Code of Conduct requires you to notify the Council's Monitoring Officer of any Disclosable Pecuniary Interests, and any Personal Interests. You are also required to declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties, and to take steps to resolve any conflicts arising in a way that protects the public interest. This could be done by registering or declaring those interests in accordance with the Members' Code of Conduct.

3.1.1. It is advisable for any Member to decline to sit on a Licensing or Judicial Committee if one of his or her friends, for example, is making an application or an objection

3.1.2. Any Member that has substantial interests, or other interests that would prevent taking part or voting on a regular basis, should avoid membership of the Licensing and/or Judicial Committees.

3.2. In addition, a Member should always seek to act with integrity when reaching a decision, which is defined in terms that:

*"Holders of public office must avoid placing themselves under an obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships**".*

### 3.3. Disclosable Pecuniary Interests

3.3.1. Disclosable Pecuniary Interests are dealt with in detail in the Members' Code of Conduct and this section should be read in conjunction with the rules set out therein. In short, a Disclosable Pecuniary Interest is an interest of yourself or your partner in employment, office, trade, profession, sponsorship, contract, land, licenses, corporate tenancies or securities.

3.3.2. If you have a Disclosable Pecuniary Interest in any matter that is being considered by the Council / Licensing or Judicial Committee;

- You must not participate in any discussion of the matter at the meeting (unless you have obtained a dispensation from the Standards Committee that permits you to speak on the item).
- You must not participate in any vote taken on the matter at the meeting (unless you have obtained a dispensation from the Standards Committee that permits you to vote on the item).
- You must disclose the interest to the meeting.
- If the interest is not registered and is not the subject of a pending notification, you must register the interest in your register of member's interests within 28 days.
- You should leave the meeting room whilst the matter in which you have a Disclosable Pecuniary Interest is being discussed and voted on.

3.3.3. The Members' Code of Conduct explains how failure to comply with the requirements relating to Disclosable Pecuniary Interests can amount to a criminal offence.

#### **3.4. Personal Interests**

3.4.1. Personal Interests are also dealt with in detail in the Members' Code of Conduct and again this section should be read in conjunction with the rules set out therein. A Personal Interest can be any interest, no matter how small, that a Member may have in any matter before the Council.

3.4.2. If you have, or think that you might have a Personal Interest in any planning matter before the Council / Licensing and/or Judicial Committee then you must disclose that interest at the commencement of the meeting, or as soon as the interest becomes apparent. You do not, however, have to leave the meeting and you may still be able to take part in the discussion and voting, provided that you are satisfied that the interest will not affect your ability to deal with the matter fairly and with an open-mind, nor can it reasonably be perceived to do so.

3.4.3. You should notify the Monitoring Officer in writing of any personal licensing applications that you submit to the Council. This notification should be given to the Monitoring Officer no later than submission of the application.

3.4.3.1. The proposal should always be reported to the Committee as a main item and not dealt with by officers under delegated powers.

3.4.3.2. It would also be advisable to employ an agent to act on your behalf on the proposal in dealing with officers and any public speaking at the Committee meeting. You are not prevented from seeking to explain and justify a proposal in which you have a conflict of interest to an appropriate officer, in person or in writing, but your role as a Member may place additional limitations on you in representing the proposal in which you have a Personal Interest. For example, you will need a dispensation from the Standards Committee if you wish to speak as a member of the public in respect of your own licensing application.

3.4.3.3. You must not sit on the Committee nor take part in any discussion or voting. You may wish to leave the meeting room altogether whilst the item is heard.

3.4.4. If you have a private interest in a matter before the Licensing and/or Judicial Committee you may consider that the only way to resolve any conflict of interest, and for the sake of the matter appearing to be fair and free from any bias, is not to vote or even participate in any discussion.

3.4.5. Any Member that is not a member of the Licensing or Judicial Committee and speaks at a meeting of one of those Committees on a particular item should, when addressing the Committee, make it clear whether that Member is speaking in their capacity as an interested party (as defined by section 13 of the Licensing Act 2003) or as a representative of interested parties.

#### **4. PREDISPOSITION, PREDETERMINATION AND BIAS**

4.1. **“Predetermination”** occurs where a Member’s mind is closed to the merits of any arguments relating to a particular matter and the Member makes a decision without taking them into account.

4.2. **“Bias”** occurs where a Member has a clear inclination or prejudice for or against one person or group relating to a particular item in a way that can be considered to be unfair.

4.3. Do not limit your discretion or appear to limit your discretion, and therefore limit your ability to participate in a licensing decision, by making up your mind, or clearly appearing to have made up your mind, on how you will vote on any licensing matter prior to formal consideration of that matter at the meeting of the Licensing or Judicial Committee and hearing the officer’s presentation and evidence and all of the arguments for both sides of a decision.

4.4. Restricting your discretion in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and/or a legal challenge on the grounds of there being a danger of bias or predetermination, or a failure to

take into account all of the factors enabling the proposal to be considered properly and fairly and on genuine licensing grounds.

4.5. This rule should not however be interpreted in such an unnecessarily restrictive way so as to limit the quality of debate or stifle valid discussion. You are entitled to have a “**predisposition**” towards a particular outcome, and even indicate your likely voting intentions, provided that you don’t have a closed mind and you are willing to listen to and consider all arguments and points being made on a matter before you reach a final decision.

4.6. Section 25 of the Localism Act 2011 clarifies the rules on predetermination by providing that:

**“A decision maker is not to be taken to have had, or to appear to have had, a closed mind when making the decision just because –**

**(a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took or would or might take, in relation to a matter, and,**

**(b) the matter was relevant to the decision”.**

4.7. Members are able to publicise their views on issues, indicate their likely voting intentions and engage fully with their local communities (as this will help Members to better represent their constituents and enrich local debate) without this affecting participation in the Licensing and/or Judicial Committee’s formal decision-making process, provided that Members go into the Committee meeting with an open mind, being prepared to listen to all of the facts, evidence and opinions presented before making a final decision.

4.7.1. In order to confirm this is the case the Chairman of the particular Committee meeting may ask a Member to confirm whether or not they still have an open mind in respect of any application to be considered.

4.7.2. If you do indicate that you are predisposed towards a particular outcome or state that based on what you have currently heard you are of a certain opinion, at any time before the Committee votes on a particular matter then you should always make it clear when doing so that you are still open to hearing all the evidence/arguments/debate before making a final decision.

4.7.3. If you are a Member of the Licensing and/or Judicial Committee it is permissible to speak on any item being heard on behalf of constituents providing you retain an open mind on the application. In such cases it may be appropriate to refer the constituents to another Member who is not on the Committee and who is willing to speak on behalf of the residents.

4.7.4. If you have formed such a strong view on an item yourself that you feel unable to take part in the Committee decision then, subject to the rules on

Interests, you may stand down from the Committee and speak as a member of the public on behalf of residents.

4.8. Members are able to take part in any debate on a matter when acting as part of a consultee body outside of their duties for this Council (where you are also a member of a Parish Council, for example, or both the Borough and County Council), provided that:

- The matter does not substantially affect the well-being or financial standing of the consultee body; and
- You make it clear to the consultee body that:
  - Your views are expressed on the limited information before you only;
  - You must reserve judgement and the independence to make up your own mind on each separate matter, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee, and you must hear all of the relevant information;
  - You will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee, and;
  - You disclose the Personal Interest regarding your membership or role when the Committee comes to consider the matter.

4.9. Do not speak or vote on a matter where you have openly and uncompromisingly limited your discretion for example by commenting in a newspaper or on social media that you will never support an application. You do not have to withdraw from the meeting room, but you may prefer to do so for the sake of appearances.

4.9.1. You should explain that you do not intend to speak or vote because you have or you could reasonably be perceived as having predetermined the matter elsewhere, so that this may be recorded in the minutes.

4.10. In determining whether there is an appearance of predetermination or bias Members who are responsible for making the decision should apply the following test:

***Would a fair minded and informed observer having considered all the facts, decide that there is a real possibility that the Member had determined the issue or was biased?***

4.11. When applying this test it is important to remember that it is legitimate for a Member to be predisposed towards a specific outcome as long as the Member remains open minded and is prepared to consider all the arguments and points made before reaching a final decision, however you must not do or say anything that could appear to others as though you have a closed mind.

## **5. CONTACT WITH APPLICANTS, OBJECTORS AND OTHER INTERESTED PARTIES**

5.1. If any applicant, objector or other interested party approaches you as a Member of the Licensing and/or Judicial Committee you should, as far as is practicable, discourage them from speaking to you in relation to any individual application or any other matter which may give rise to a licensing application. You should always refer them to Council officers for licensing, procedural or technical advice.

5.2. Do not agree to any request (other than from the Council's Head of Licensing) to attend a meeting with applicants, objectors or other interested parties where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should ask the Head of Licensing to organise it.

5.2.1. A Council officer will then ensure that those present at the meeting are advised from the start that the discussions will not bind the Council to any particular course of action. They will also ensure that the meeting is properly recorded on the application file and that the record of the meeting is disclosed when the application is considered by the Committee.

5.3. Otherwise when contacted you should:

- follow the Council's guidance on lobbying (see section 6 below);
- take notes wherever possible,
- ask relevant questions for the purposes of clarifying your understanding but remember this is not part of the formal process of debate and determination of any subsequent application,
- do not express any strong view or state how you or other Members might vote, and;
- report to the Head of Licensing any significant contact with the applicant and any other interested parties, explaining the nature and purpose of the contact and your involvement in it, and ensure that this is recorded on the file.

## **6. LOBBYING OF COUNCILLORS**

6.1. Always explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, expressing an unequivocal intention to vote one way or another or such a firm point of view that it amounts to the same thing prejudices your impartiality and therefore your ability to participate in the Licensing or Judicial Committee's decision making process.

- 6.1.1. In such cases it may be advisable to refer those lobbying you to another Ward Member.
- 6.2. Remember that your overriding duty is to the whole community not just to the people in your ward/local area and, taking account of the need to make decisions impartially, you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- 6.3. Do not accept gifts or hospitality from any person involved in or affected by a licensing matter. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible and register the gift or hospitality where its value is over £100 in accordance with the Members' Code of Conduct.
- 6.4. Always copy or pass on any lobbying correspondence that you receive to the Head of Licensing at the earliest opportunity, and you should promptly refer to the Head of Licensing any offers of any kind made to you.
- 6.5. If you believe that you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality) you should promptly inform the Monitoring Officer.
- 6.6. Unless you have a Disclosable Pecuniary Interest, you will not have compromised your discretion or breached this Licensing Code of Good Practice through:
  - listening to or receiving viewpoints from residents or other interested parties;
  - making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to predetermination of the issue and you make clear that you are keeping an open mind;
  - seeking information through the appropriate channels.

## **7. LOBBYING BY COUNCILLORS**

- 7.1. If you are a Member of the Licensing and/or Judicial Committee it is inadvisable to become a member of, or lead or represent an organisation whose primary purpose is to lobby to promote or oppose any licensing matters. If you do you will have restricted your discretion and will have a Personal Interest.
- 7.2. You may join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular licensing matters, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but you should disclose a Personal Interest where that organisation has made

representations on a particular matter and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal.

7.3. Do not excessively lobby fellow Councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.

7.4. Do not decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a licensing issue.

7.4.1. It is not permissible for your political party to expect you to follow any position it may have taken on an application prior to the Licensing or Judicial Committee. It is important that each Member of the Licensing and/or Judicial Committee forms their own view on applications after considering officer advice and any representations.

## **8. PUBLIC SPEAKING AT MEETINGS**

8.1. Do not allow members of the public to communicate with you during the Licensing and/or Judicial Committee's proceedings (orally or in writing including social media) other than through any official scheme for public speaking, as this may give the appearance of bias.

8.2. Always ensure that you comply with the Council's procedures in respect of public speaking, and seek clarification from officers if you are unsure of these procedures.

## **9. OFFICERS**

9.1. Do not put pressure on officers to put forward a particular recommendation. This does not prevent you from asking questions or submitting views to the Head of Licensing which may be incorporated into any committee report.

9.2. You should recognise that officers are part of a management structure and only discuss a licensing matter, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the matter at a Member level.

9.3. You should also recognise and respect that officers involved in the processing and determination of licensing matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct. As a result, licensing officers' views and recommendations will be presented on the basis of their professional opinion, which may on occasion be at odds with the

views, opinions or decisions of the Licensing and/or Judicial Committee or its Members.

## 10. DECISION MAKING

- 10.1. You must always come to Licensing and/or Judicial Committee meetings with an open mind and you should be able to demonstrate that you are open minded.
  - 10.1.1. Questions should be asked only to ascertain facts to assist in the decision-making process and not to seek to enhance or reduce a point of view.
  - 10.1.2. All parties concerned are provided with an opportunity to put their case to the Committee in accordance with Regulations and the Council's own policies and procedures. However, if a party does not attend Committee then a decision may be taken in their absence.
- 10.2. You must make decisions having regard to all of the relevant statutory criteria, policy and guidance relating to the determination of the application.
- 10.3. You should come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel that there is insufficient time to digest new information or that there is simply insufficient information before you, you should request that further information be provided, or if necessary defer or refuse the application. The reason for deferring any item must be recorded.
- 10.4. Do not vote or take part in the meeting's discussion on a matter unless you have been present to hear the entire debate, any public speakers and the officers' introduction to the matter. If you come in to Licensing or Judicial Committee late and public speaking has already commenced on an item, or if you have to leave the room part way through an item being heard, you will not be able to vote on that item.
  - 10.4.1. If any matter is adjourned when it is part heard then, save for exceptional circumstances, it must be heard by the same Members when it is next before the Committee.
- 10.5. You must make sure that if you are proposing, seconding or supporting a decision contrary to the licensing objectives, contrary to officer recommendations, contrary to any statutory guidance or contrary to any relevant policies adopted by the Council, that you clearly identify and understand the **licensing reasons** leading to this conclusion/decision. These reasons must be given prior to the vote and they must be recorded. Be aware that you may have to justify the resulting decision by giving evidence at an appeal, in the event of any legal challenge.

10.6. In order to reach a decision that is contrary to the licensing objectives, statutory guidance or any relevant policies adopted by the Council you must be satisfied that there are exceptional circumstances and justifiable reasons that are relevant to licensing to do so. Again, you must clearly identify and understand the licensing reasons and be able to explain why you have given them such weight so as to reach this conclusion/decision, and you should again be aware that you may have to justify the decision by giving evidence at an appeal, in the event of any legal challenge.

10.7. When Members of the Licensing and/or Judicial Committee move into private session to deliberate a matter before them they will only be accompanied by the Democratic Services Officer and the Legal Advisor, neither of whom will take any part in the debate nor in the decision making process.

## **11. TRAINING**

11.1. Members are required to attend any training prescribed by the Council before they participate in decision making at meetings dealing with licensing matters.

11.2. You should endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of licensing law, regulations, procedures etc. beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

11.3. You should participate in any review of a sample of licensing decisions to ensure that Members' judgements have been based on proper licensing considerations.

## **12. GENERAL**

12.1. This Licensing Code of Good Practice will be kept under annual review by the Executive Director, Legal and Democratic Services. It will also be reviewed following any relevant change in the Council's Constitution and Rules of Procedure.

April 2023



### NOTICE OF MEETINGS 2023-2024

<u>Date</u>	<u>Meeting</u>	<u>Time</u>	<u>Venue</u>
Monday, 1st May, 2023	Bank Holiday- May Day		
Thursday, 4th May, 2023	Local Elections		
Saturday, 6th May, 2023	King Charles III Coronation		
Monday, 8th May, 2023	Bank Holiday - The Coronation of King Charles III		
<b>Thursday, 18th May, 2023</b>	<b>Council (2023 AGM)</b>	<b>7.00 p.m.</b>	<b>Council Chamber</b>
<b>Saturday, 27th May, 2023</b>	<b>Council (2023 Mayor-Making)</b>	<b>10.00 a.m.</b>	<b>Council Chamber</b>
Monday, 29th May, 2023	Bank Holiday - Spring		
Wednesday, 14th June, 2023	Planning Committee	3.00 p.m.	QER, Scaitcliffe House
Wednesday, 21st June, 2023	Cabinet	3.00 p.m.	QER, Scaitcliffe House
Monday, 26th June, 2023	Audit Committee	5.00 p.m.	QER, Scaitcliffe House
<b>Thursday, 29th June, 2023</b>	<b>Council</b>	<b>7.00 p.m.</b>	<b>Council Chamber</b>
Wednesday, 12th July, 2023	Cabinet	3.00 p.m.	QER, Scaitcliffe House
Tuesday, 18th July, 2023	Resources Overview and Scrutiny Committee	3.00 p.m.	QER, Scaitcliffe House
Wednesday 19th July, 2023	Planning Committee	3.00 p.m.	QER, Scaitcliffe House
Tuesday 25th July, 2023	Special Scrutiny Committee	3.00 p.m.	QER, Scaitcliffe House
Wednesday 26th July, 2023	Communities and Wellbeing Overview and Scrutiny Committee	3.00 p.m.	QER, Scaitcliffe House
Monday 28th August, 2023	Bank Holiday - Summer		
Tuesday, 5th September 2023	Resources Overview and Scrutiny Committee	3.00 p.m.	QER, Scaitcliffe House
Wednesday, 6th September, 2023	Communities and Wellbeing Overview and Scrutiny Committee	10.00 a.m.	QER, Scaitcliffe House
Wednesday, 6th September, 2023	Planning Committee	3.00 p.m.	QER, Scaitcliffe House
Tuesday, 12th September, 2023	Special Scrutiny Committee	3.00 p.m.	QER, Scaitcliffe House
Wednesday, 13th September, 2023	Cabinet	3.00 p.m.	QER, Scaitcliffe House
<b>Thursday, 21st September, 2023</b>	<b>Council</b>	<b>7.00 p.m.</b>	<b>Council Chamber</b>
Monday, 25th September, 2023	Audit Committee	5.00 p.m.	QER, Scaitcliffe House
Wednesday, 4th October, 2023	Planning Committee	3.00 p.m.	QER, Scaitcliffe House
Thursday, 12th October, 2023	Standards Committee	1.30 p.m.	QER, Scaitcliffe House
Tuesday, 17th October, 2023	Resources Overview and Scrutiny Committee	3.00 p.m.	QER, Scaitcliffe House
Wednesday, 18th October, 2023	Communities and Wellbeing Overview and Scrutiny Committee	10.00 a.m.	QER, Scaitcliffe House
Wednesday, 18th October, 2023	Cabinet	3.00 p.m.	QER, Scaitcliffe House
Tuesday 24th October, 2023	Special Scrutiny Committee	3.00 p.m.	QER, Scaitcliffe House
<b>Thursday, 2nd November, 2023</b>	<b>Council</b>	<b>7.00 p.m.</b>	<b>Council Chamber</b>
Wednesday, 29th November, 2023	Planning Committee	3.00 p.m.	QER, Scaitcliffe House
Wednesday, 6th December, 2023	Cabinet	3.00 p.m.	QER, Scaitcliffe House
Tuesday, 12th December, 2023	Resources Overview and Scrutiny Committee	3.00 p.m.	QER, Scaitcliffe House
Wednesday, 13th December, 2023	Communities and Wellbeing Overview and Scrutiny Committee	3.00 p.m.	QER, Scaitcliffe House
Monday, 18th December, 2023	Audit Committee	5.00 p.m.	QER, Scaitcliffe House
Tuesday, 19th December, 2023	Special Scrutiny Committee	3.00 p.m.	QER, Scaitcliffe House
Monday, 25th December, 2023	Bank Holiday - Christmas Day		
Tuesday, 26th December, 2023	Bank Holiday - Boxing Day		
Monday 1st January, 2024	Bank Holiday - New Year		
<b>Thursday, 11th January, 2024</b>	<b>Council</b>	<b>7.00 p.m.</b>	<b>Council Chamber</b>
Wednesday, 17th January, 2024	Planning Committee	3.00 p.m.	QER, Scaitcliffe House
Wednesday, 24th January, 2024	Cabinet	3.00 p.m.	QER, Scaitcliffe House
Wednesday, 7th February, 2024	Cabinet	3.00 p.m.	QER, Scaitcliffe House
Wednesday, 14th February 2024	Planning Committee	3.00 p.m.	QER, Scaitcliffe House
Thursday, 15th February, 2024	Resources Overview and Scrutiny Committee (Budget Meeting)	3.00 p.m.	QER, Scaitcliffe House
<b>Thursday, 22nd February, 2024</b>	<b>Council (Budget-Setting Meeting)</b>	<b>7.00 p.m.</b>	<b>Council Chamber</b>
Tuesday, 12th March, 2024	Special Scrutiny Committee	3.00 p.m.	QER, Scaitcliffe House
Wednesday, 13th March, 2024	Communities and Wellbeing Overview and Scrutiny Committee	10.00 a.m.	QER, Scaitcliffe House
Wednesday, 13th March, 2024	Cabinet	3.00 p.m.	QER, Scaitcliffe House
Tuesday, 19th March, 2024	Resources, Overview and Scrutiny Committee	3.00 p.m.	QER, Scaitcliffe House
Wednesday, 20th March, 2024	Planning Committee	3.00 p.m.	QER, Scaitcliffe House
<b>Thursday, 21st March, 2024</b>	<b>Council</b>	<b>7.00 p.m.</b>	<b>Council Chamber</b>
Monday, 25th March, 2024	Audit Committee	5.00 p.m.	QER, Scaitcliffe House
Friday, 29th March, 2024	Bank Holiday- Good Friday		
Monday, 1st April, 2024	Bank Holiday- Easter Monday		
Wednesday, 17th April, 2024	Planning Committee	3.00 p.m.	QER, Scaitcliffe House
Thursday, 2nd May, 2024	Local Elections		
Monday, 6th May, 2024	Bank Holiday - May Day		
<b>Thursday, 16th May, 2024</b>	<b>Council (2023 AGM)</b>	<b>7.00 p.m.</b>	<b>Council Chamber</b>
<b>Saturday, 1st June, 2024</b>	<b>Council (2024 Mayor-Making)</b>	<b>10.00 a.m.</b>	<b>Council Chamber</b>
Monday 27th May, 2024	Bank Holiday - Spring		

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# Agenda Item 15.

<b>REPORT TO:</b>	Annual Council Meeting	
<b>DATE:</b>	18 <sup>th</sup> May 2023	
<b>REPORT AUTHOR:</b>	Susan Gardner, Senior Member Services Officer	
<b>TITLE OF REPORT:</b>	Record of Attendance at Council Meetings 2022/23	
<b>EXEMPT REPORT:</b>	<b>No</b>	
<b>KEY DECISION:</b>	<b>No</b>	If yes, date of publication: n/a

## 1. Purpose of Report

1.1 To provide an annual report of Members' attendance at Council meetings, in accordance with a decision of Council on 26th July 2005 (see paragraph 3 below).

## 2. Recommendations

2.1 Council is requested to note the report.

## 3. Background

3.1 At the Council meeting on 26th July 2005, the Council approved revisions to the Members' Allowances Scheme.

3.2 Council accepted a recommendation of the Independent Remuneration Panel that the "75% rule" be removed on the basis of its possible incompatibility with guidance and legislation – this provision had meant that the basic allowance paid to Members was withheld if a Member attended less than 75% of Council meetings. In removing this requirement, Council agreed to receive an annual report of the attendance of Councillors at eligible meetings of the Council.

3.3 This report complies with this request and overleaf is a record of Councillors' attendance at Council meetings in 2022/23.

## 4. Local Government (Access to Information) Act 1985: List of Background Papers

4.1 Minutes of Council meetings 2022/23 and attendance data recorded in the modern.gov system.

**5. Freedom of Information**

5.1 The report does not contain exempt information under the Local Government Act 1972, Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.

## ATTENDANCE AT COUNCIL MEETINGS 2022-2023

*(Listed in alphabetical order)*

There were a total of 9 Council meetings in the Municipal Year 2022/23 and the attendance record of each Councillor is as follows.

KEY:

Y= Attended, N= Non Attendance

Councillor x35	19 May AGM 2022	21 May 2022	30 Jun 2022	22 Sep 2022	3 Nov 2022	1 Dec 2022	12 Jan 2023	23 Feb 2023	23 Mar 2023	Total Max. = 9 Meetings	%
Addison	Y	Y	Y	Y	N	Y	Y	Y	Y	8	88.8%
D. Allen	Y	N	Y	N	Y	N	Y	Y	N	5	55.5%
J. Allen	Y	Y	Y	Y	Y	Y	N	Y	Y	8	88.8%
Ayub	Y	Y	Y	Y	N	Y	Y	Y	Y	8	88.8%
Aziz	Y	Y	Y	Y	Y	Y	Y	Y	Y	9	100%
Brerton	Y	N	Y	Y	Y	Y	Y	Y	Y	8	88.8%
Britcliffe	Y	Y	Y	Y	Y	Y	Y	Y	Y	9	100%
Cassidy	Y	Y	N	Y	Y	Y	Y	Y	Y	8	88.8%
Clegg	Y	Y	Y	Y	Y	Y	Y	Y	Y	9	100%
Clements	Y	Y	Y	Y	Y	N	Y	Y	N	7	77.7%
L. Cox	Y	Y	Y	N	Y	Y	Y	Y	Y	8	88.8%
P. Cox	Y	Y	Y	N	Y	Y	Y	Y	Y	8	88.8%
Dad	Y	Y	N	Y	Y	Y	Y	Y	Y	8	88.8%
Dawson	Y	Y	Y	Y	Y	Y	Y	Y	Y	9	100%
Edwards	Y	N	Y	Y	Y	Y	Y	Y	Y	8	88.8%
Fisher	Y	Y	Y	N	Y	N	Y	Y	Y	7	77.7%
Harrison	Y	Y	Y	Y	Y	Y	Y	Y	Y	9	100%
Haworth	Y	Y	Y	N	Y	Y	Y	Y	Y	8	88.8%
Hayes	Y	N	Y	Y	Y	N	Y	Y	Y	7	77.7%
Haythornthwaite	Y	N	Y	Y	Y	Y	Y	Y	Y	8	88.8%
Higgins	Y	Y	Y	N	N	N	N	Y	Y	5	55.5%
Hurn	Y	Y	Y	Y	Y	Y	Y	Y	Y	9	100%
A. Khan	Y	Y	N	Y	N	Y	Y	Y	Y	7	77.7%
Z. Khan	Y	N	Y	Y	Y	Y	Y	N	Y	7	77.7%
Mahmood	Y	N	Y	Y	Y	Y	N	Y	Y	7	77.7%
McGinley	Y	Y	Y	Y	Y	N	N	Y	Y	7	77.7%
McKenzie *	-	-	-	Y	Y	Y	N	Y	Y	5 of 6	83.3%
Montague	Y	Y	Y	Y	Y	Y	Y	Y	Y	9	100%
M. Parkinson	Y	Y	Y	Y	Y	Y	Y	Y	Y	9	100%
Plummer	N	Y	Y	Y	Y	Y	Y	Y	Y	8	88.8%
Pratt	Y	Y	Y	Y	Y	Y	Y	Y	N	8	88.8%
Short	Y	N	Y	Y	Y	Y	Y	Y	Y	8	88.8%
Smithson	Y	Y	Y	Y	Y	Y	Y	Y	Y	9	100%
Walsh	Y	Y	Y	N	Y	Y	Y	Y	N	7	77.7%
Whitehead	Y	Y	Y	N	N	N	Y	Y	Y	6	66.6%

\*Councillor McKenzie was elected at a by-election for the Overton Ward on 14<sup>th</sup> July 2022.

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