

## Constitution

<b>Date:</b>	<b>Wednesday, 22 May 2024</b>
<b>Time:</b>	<b>6.00 p.m.</b>
<b>Venue:</b>	

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# CONSTITUTION OF THE COUNCIL

## Part 1

### SUMMARY AND EXPLANATION

#### The Council's Constitution

1. Wirral Metropolitan Borough Council has agreed a constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 16 articles, which set out the basic rules governing the Council's business, followed by the more detailed procedures, and codes of practice provided in standing orders, rules and protocols contained within the other parts of this Constitution.

#### What's in the Constitution?

2. This section of the Constitution (Part 1) provides a summary and explanation of how the Council operates, including an outline of the rights of citizens or residents in the Borough to engage with and participate in the Council's democratic processes.
3. Part 2 of the Constitution comprises 16 Articles providing details of the Council's decision-making structure and the duties and powers of its various bodies
  - (a) Article 1 sets out the purpose of the Constitution and the mechanisms for its review. Against this background, a principal purpose of the Constitution is to meet the objectives of the Council in its decision to adopt a committee system form of governance arrangements, which were:
    - **Accountability** – responsibilities and accountability should be clear, within the Council and to residents;
    - **Credibility** – governance should assist good decision making, which involve proper and early scrutiny;
    - **Transparency** – the decision-making process should be open and transparent to Members and to the public;
    - **Collaboration** - decision making should be collaborative across parties and less combative; and
    - **Timeliness** – decision making should be both quick and effective and, when necessary, allow for urgent decision making.

(b) Articles 2 to 13 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- The Public & the Council (Article 3)
- Full Council (Article 4)
- The Mayor (Article 5)
- Policy and Services Committees (Article 6)
- Delegated Authority and Review (Article 7)
- Regulatory and Other Committees (Article 8)
- Joint Arrangements (Article 9)
- Leadership of the Council (Article 10)
- Committee Chairs and Spokespersons (Article 11)
- Officers (Article 12)
- Decision Making (Article 13)
- Finance, Contracts and Legal Matters (Article 14)
- Review and Revision of the Constitution (Article 15)
- Suspension, Interpretation and Publication of the Constitution (Article 16)

4. Part 3 of the Constitution sets out who is responsible for making what decisions, including remits of Committees and a scheme of delegation to officers.
5. Part 4 of the Constitution details the framework for the administrative conduct of the Council and its committees, including Standing Orders, Procedure Rules at meetings, Contract Standing Orders, Financial Regulations, procedures for tendering under the Standing Order limit and Access to Information Procedure Rules.
6. Part 5 comprises a number of codes and protocols by which councillors and employees of the Council are bound, including some guidance on the Council's practices and the law.
7. Part 6 is the current Members' Allowances Scheme.
8. Part 7 is the Council's management structure (which may be via a link to another webpage).

### **How the Council operates**

9. The Council comprises 66 councillors (often referred to as 'Members' of the Council) with three Councillors in each ward. Councillors are elected every four years to serve for a four year term. Full Council is the ultimate governing body of the Council and its membership comprises all the elected councillors at any one time. Each councillor is



elected for a particular ward. Details of the current wards and councillors are on the Council's website.

10. Councillors are democratically elected by, and accountable to, the residents of the Borough. They have no individual executive powers. Councillors influence and make decisions corporately through full Council and committee meetings.
11. The overriding duty of councillors is to the whole of the community that makes up the Metropolitan Borough of Wirral. Councillors must represent their constituents as a body and vote in the interests of the whole Borough. However, councillors have a special duty to the constituents within their ward, including those who did not vote for them. Councillors must comply with the Code of Conduct (see Part 5). The Council has appointed a Constitution and Standards Committee, which is responsible for encouraging, developing and maintaining high standards of conduct for all councillors. Article 8 provides more information about this Committee.
12. The Council is responsible for functions as provided by statute, but also has a general power of competence. The Council arranges for its functions to be carried out through its committee system and by delegated responsibilities to its senior employees. All committees, panels, working parties and forums are subordinate to the Full Council and dependent on it, through this Constitution and the policies and decisions agreed by it, for the delegation of powers and duties.
13. Full Council agrees the Council's overall policies, sets the budget each year and sets the Council's major plans, policies and strategies. Meetings of the Council are normally open to the public, except when 'exempt' or 'confidential' matters are being discussed (see the Access to Information Procedure Rules in Part 4 for more information about this).
14. Each year usually in May, at the Annual Council meeting, Full Council appoints councillors and representatives to committees and other bodies. **The current committee structure is shown on the chart below.** Full council also appoints the Chairs and Vice-Chairs of Committees, including a Leader and Deputy Leader of the Council, at the first Annual Council meeting immediately following local government elections. The Full Council appoints councillors to all committees. Appointments to all committees except those identified as a result of legislation of a vote where there was no objection from any Member of the Council, comply with the requirements of political proportionality set out in the Local Government and Housing Act 1989.
15. The Annual Council meeting elects a Mayor and a Deputy Mayor. The new Mayor may appoint a Mayor's Chaplain. During their period of office, the Mayor is the first citizen of the Borough and chairs meetings of the full Council.

### How decisions are made

16. The Council has set up procedures to ensure that its functions are carried out effectively and efficiently in accordance with the principles of good administration.

17. The Council established a committee form of governance as of the Council's Annual Meeting of September 2020. Under its governance arrangements decisions are made by full Council, Policy and Services Committees or by Regulatory Committees. The Council has resolved to not establish any Overview and Scrutiny Committees as of May 2022.
18. There are six Committees responsible for the Council's policy making and the management of its resources, known as executive functions, and these are referred to as the **Policy & Services Committees**. Their roles and functions are further explained in Article 6 which are shown in the table below and have full terms of reference set out in Part 3(B) of this Constitution.

With the exception of Policy & Resources Committee, these committees meet on a planned basis on an approximate six weekly interval in public (except where personal, exempt or confidential matters are being discussed) to take operational, policy and strategic decisions not reserved to Full Council or delegated to other committees or senior employees. Policy and Resources Committee is the principal committee of the Council and is made up of the Leader as Chair, the Deputy Leader as Vice-Chair and the Chairs of the other Policy & Services Committees as members of the Committee, together with other Members of the Council as determined by the Council and as may be required to achieve political balance. The other Policy & Services Committees are made up of a Chair, Vice-Chair and other councillors as determined by the Council and as initially appointed at the Annual Meeting of the Council each year.

19. There are procedures so that controversial decisions that would normally be made by Policy & Services Committees may be referred to Policy and Resources for re-consideration, as set out in Article 7.
20. The Council has a number of additional statutory scrutiny functions and these are incorporated into the Policy & Services Committees' functions or delegated to joint committees where these functions are shared with other authorities in the region
21. Overview and scrutiny as an approach, meaning the review of implementation of policies and develop of future policy, will also be undertaken by the Policy & Services Committees. In doing do the committees will have regard to the process set out in Part 4(3) of this Constitution.
22. Other Committees with decision making powers carry out regulatory, statutory and administrative functions and are known as **Regulatory and Other Committees**, which include the Planning Committee, the Regulatory and Licensing Committees, Audit and Risk Management Committee, Pension Committee and the Constitution and Standards Committee. These are explained further in Article 8, shown in the table below and the full terms of reference are set out in Part 3 of this Constitution.
23. Committees may form **Sub-Committees** but only where required. The Council has established some standing Sub-Committees, and these exist to fulfil a specific function set apart from the parent Committee. These Standing Sub-Committees are shown in the table below and the full terms of reference are set out in Part 3 of this Constitution. Sub-Committees act in the same manner and must comply with the

same procedural rules as the parent committees, such as meeting in public and complying with political balance rules.

24. The Health and Wellbeing Board is a Committee of the Council made up of Councillors, but also officers of the Council and representatives from local health based or related organisations. It is a statutory forum required for discussing shared health and wellbeing issues and concerns.
25. **All Committees** have to make decisions in accordance with the Council's Principles set out in Article 13 and abide by the Access to Information Procedure Rules and other legal requirements. Any prospective decision that is outside of the budget or policy framework or outside of the parameters agreed for in-year modifications (set out in Part 4(3) of this Constitution), may only form a recommendation and must be referred to the Full Council to decide.
26. **Panels, Forums, Working Groups, Liaison and Task & Finish Groups** may be established by Committees. Their purpose of these working groups is to examine in detail specific issues or aspects of policy, procedure or service, according to their remit. These groups do not take any decisions but inform the deliberations of the committees. Their membership may include councillors from each party, non-councillors by invitation and, occasionally, employees.
27. The Council is required to set up other joint bodies, as stipulated by legislation, for specific purposes.

### **Access to Information Requirements**

28. Meetings of Full Council, committees, panels, and forums are subject to the Access to Information Procedure Rules described in Part 4 (2) of the Constitution. Working groups and task and finish groups do not meet in public session and are not subject to these rules. The Council has retained the use of a 'Key Decision' to identify those decisions subject to advance notice and publication under the Forward Plan.

### **The Council's Employees**

29. Employees of the Council (referred to as "officers") manage the day-to-day delivery of Council services and carry out functions in accordance with the duties delegated to them by the Council. The most senior officers are designated as 'Chief Officers' and some as statutory chief officers under various legislation, responsible for leading the organisation and their statutory functions. Full Council agrees the overall scheme of delegations of authority to officers and Committees and Chief Officers set a scheme of reserved decisions and authorisations particular to their terms of reference and portfolio of responsibilities. The current scheme is set out in Part 3.

Employees must be politically impartial and sensitive to the political environment. The role of some named officers is prescribed by legislation. A code of practice governs the relationships between employees and councillors. Some employees are politically restricted in accordance with the Local Government and Housing Act 1989.

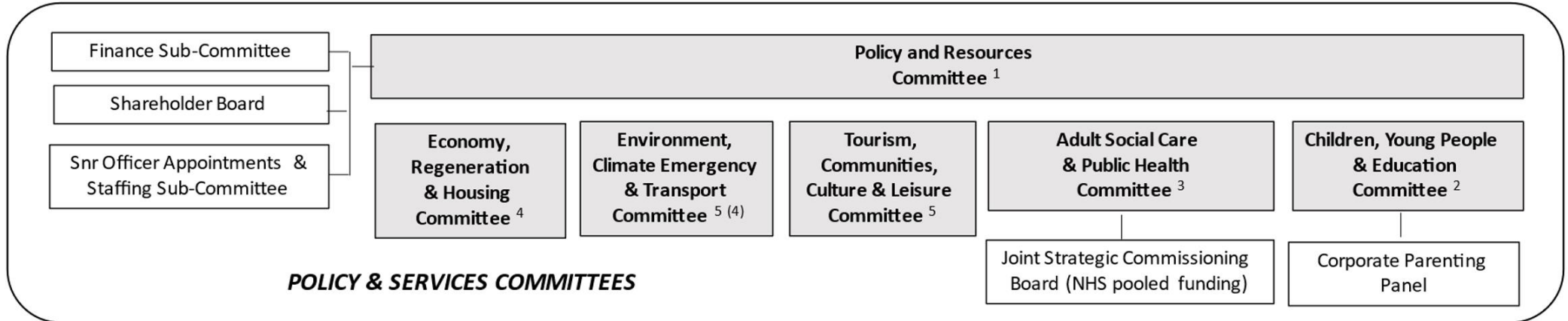
This means that they cannot participate in political activities. Article 12 and Part 5 gives more information about this.

## **Citizens' Rights**

30. Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3 in Part 2. Some of these are legal rights, while others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.
31. Where members of the public use specific Council services, for example as a parent of a school pupil or as a council tenant, they have additional rights. These are not covered in this Constitution.
32. The rights of citizens to inspect agendas and reports and attend meetings are set out in more detail in Part 4(2) of this Constitution under "Access to Information Procedure Rules".
33. For more information on the rights of citizens to engage with and participate in the Council's democratic processes, contact Democratic Services staff whose contact details can be found on the Council's website [wirral.gov.uk](http://wirral.gov.uk).



# COUNCIL



## Let's Talk Directors

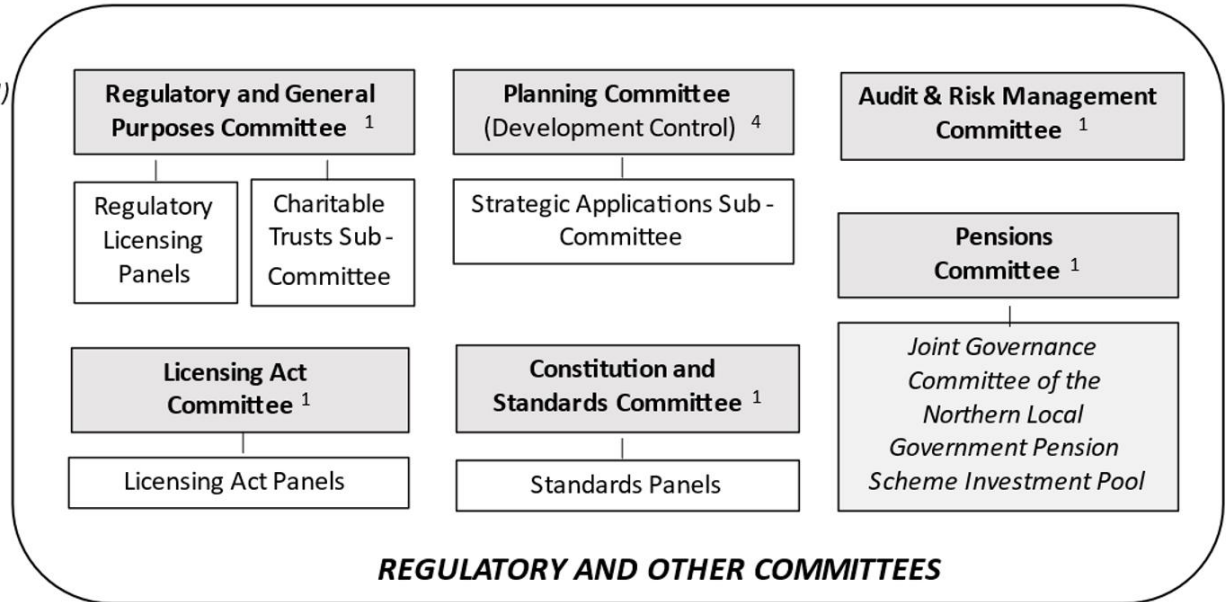
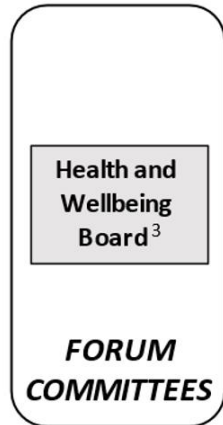
1. ACX, s151 & MO

2. Director for Children's Services (DCS)

3. Director for (Adult) Care and Health & Director of Public Health (DASS & DPH)

4. Director for Economic and Housing Growth & ACX

5. Director for Delivery Services & ACX



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# CONSTITUTION OF THE COUNCIL

## Articles of the Constitution

- Article 1 The Constitution
- Article 2 Members of the Council
- Article 3 The Public & the Council
- Article 4 Full Council
- Article 5 The Mayor
- Article 6 Policy and Services Committees
- Article 7 Reconsideration and the Overview and Scrutiny Function
- Article 8 Regulatory and Other Committees
- Article 9 Joint Arrangements
- Article 10 Leader and Deputy Leader of the Council – Role and Responsibilities
- Article 11 Committee Chairs and Spokespersons – Roles and Responsibilities
- Article 12 Officers
- Article 13 Decision Making
- Article 14 Finance, Contracts and Legal Matters
- Article 15 Review and Revision of the Constitution
- Article 16 Suspension, Interpretation and Publication of the Constitution



# CONSTITUTION OF THE COUNCIL

## Part 2 Article 1

### ARTICLE 1 – THE CONSTITUTION

#### 1.01 Powers of the Council

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

#### 1.02 The Constitution

This Constitution, and all its appendices, is the Constitution of the Wirral Metropolitan Borough Council.

#### 1.03 Governance

The contents of these documents fulfil the Council's duties under section 9P of the Local Government Act 2000 to prepare and keep up to date a Constitution which is to contain:

- (a) a copy of the authority's standing orders for the time being;
- (b) a copy of the authority's Members' Code of Conduct for the time being under section 28 of the Localism Act 2011;
- (c) such information as the Secretary of State may direct;
- (d) a statement, in the case of this Council operating a committee system form of governance, as to whether the authority has resolved to have an overview and scrutiny committee under section 9JA of the Local Government Act 2000; and
- (e) such other information (if any) as the authority considers appropriate.

Standing orders is the name given to those rules and procedures by which the Council conducts its business. This Constitution contains both mandatory standing orders, those that are set out or are to have an effect as required by law, and those other standing orders that are agreed from time to time by the Council.

In adopting this Constitution and its standing orders the Council will have had regard to historic and current guidance issued by the Secretary of State and will also have sought to follow the principles of good corporate governance and to meet the objectives set out by the Council in its decision to move from a leader and cabinet executive form of governance arrangements. Those objectives, as agreed by the Council in its decision to move to a committee system form of governance on 14<sup>th</sup> October 2019 and at subsequent meetings in adopting governance arrangements, were to achieve:



- **Accountability** – responsibilities and accountability should be clear, within the Council and to residents;
- **Credibility** – governance should assist good decision making, which involve proper and early scrutiny;
- **Transparency** – the decision-making process should be open and transparent to Members and to the public;
- **Collaboration** - decision making should be collaborative across parties and less combative; and
- **Timeliness** – decision making should be both quick and effective and, when necessary, allow for urgent decision making.

#### **1.04 Purpose of the Constitution**

The Constitution is also prepared with the following purposes in mind which are to:

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement of citizens in the process of local authority decision-making;
3. help Councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no one will review or scrutinise a decision in which they were directly involved;
7. ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions;
8. ensure that high standards of probity and ethics are evident in decision-making and all activities of the Council
9. provide a means of improving the delivery of services to the community and
- 10, provide a means of supporting the Council to deliver its Corporate Plan as adopted for the current municipal year.

#### **1.05 INTERPRETATION AND REVIEW OF THE CONSTITUTION**

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.



# CONSTITUTION OF THE COUNCIL

## Part 2 Article 2

### ARTICLE 2 - MEMBERS OF THE COUNCIL

#### 2.1 Composition and eligibility

- (a) **Composition** - The Council will comprise 66 members, otherwise called Councillors. Three Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility** - Only registered voters of Wirral Borough or those living or working there will be eligible to hold the office of Councillor.

#### 2.2 Election and terms of Councillors

The regular election of Councillors will usually then be held on the first Thursday in May every four years as of 2023 onwards. The terms of office of Councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

#### 2.3 Roles and functions of all Councillors

- (a) **Key roles** - All Councillors will:
- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making
  - (iii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
  - (iv) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - (v) balance different interests within the ward and represent the ward as a whole;
  - (vi) be involved in decision-making;
  - (vii) be available to represent the Council on other bodies;
  - (viii) maintain the highest standards of conduct and ethics; and
  - (ix) take part in member development and training.

(b) **Rights and duties**

- (a) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (b) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (c) For these purposes, “confidential” and “exempt” information is defined in the Access to Information Rules in Part 4(2) of this Constitution.

**2.4 Conduct**

Councillors will at all times observe the Members’ Code of Conduct and the related Protocols and Codes set out in Part 5 of this Constitution, including the Protocol on Member/Officer Relations.

**2.5 Allowances**

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



# CONSTITUTION OF THE COUNCIL

## Part 2 Article 3

### ARTICLE 3 – CITIZENS AND THE COUNCIL

#### 3.1 Citizens' Rights

Members of the public have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4(2) of this Constitution.

- (a) **Voting and petitions** - Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Information** - Citizens have the right to:
  - (i) attend meetings of the Council, its Committees and Sub-Committees, except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
  - (ii) find out from the Forward Plan what key decisions will be taken by the Council and its Committees and when;
  - (iii) see reports and background papers, and any records of decisions made by the Council and its Committees; and
  - (iv) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation** - Citizens may:
  - (i) speak or ask a question at meetings of the Council and its committees according to the Council Standing Orders set out in Part 4(1) of this Constitution;
  - (ii) contribute to investigations as and when Committees are exercising their policy development and review function;
  - (iii) participate in consultations; and
  - (iv) submit petitions to Councillors or officers about matters that are of local concern.
- (d) **Citizens' Responsibilities** - Citizens are expected to conduct themselves in an appropriate and respectful manner and not to indulge in violent, abusive or threatening behaviour or language to anyone, including Members and Officers of the Council. This is particularly important when attending or addressing meetings

where there are likely to be a wide range of views strongly held by different sections of the community where emotions will run high. Citizens' rights of participation are dependent upon:

- (i) refraining from causing damage to property;
- (ii) respecting the diversity and equality of all sections of the community
- (iii) respecting the integrity of the roles that Members and professional officers of the Council are required to undertake; and
- (iv) avoiding language, making statements or behaviours that are racist, derogatory or offensive, such conduct can amount to a criminal offence and may also amount to slander or libel.

(e) **Complaints** - Citizens have the right to complain to:

- (i) the Council itself under its complaints scheme;
- (ii) the Ombudsman after using the Council's own complaints scheme;
- (iii) the Monitoring Officer about a breach of the Councillors' Code of Conduct.



# CONSTITUTION OF THE COUNCIL

## Part 2 Article 4

### ARTICLE 4 – THE FULL COUNCIL

#### 4.1 Composition

The Full Council is made up of the 66 elected Members.

#### 4.2 Council Meetings

There are three types of Council meeting:

- (a) The Annual Meeting
- (b) Ordinary meetings
- (c) Extraordinary meetings

Meetings will be conducted in accordance with the Council Standing Orders in Part 4 of this Constitution.

#### 4.3 Functions and Powers

(a) **Functions** – Full Council has a number of specific functions allocated to it by statute. These include:

- approving the Council's Policy Framework
- approving the Council's Budget
- adopting and amending the Constitution
- establishing committees, agreeing their terms of reference and deciding their composition
- adopting the Pay Policy Statement
- appointing the Head of Paid Service
- adopting the Members Allowances Scheme

#### (b) Meanings

(i) **Policy Framework:** The Council's Policy Framework means the following:-

- (1) The following plans and strategies where adoption or approval is required by law to be reserved to a meeting of full Council, which will

take into account the recommendation of the Policy and Resources Committee or relevant Policy and Service Committee:

- Annual Library Plan (Section 1(2) of the Public Libraries and Museums Act 1964(1))
- Crime and Disorder Reduction Strategy (Sections 5 and 6 of the Crime and Disorder Act 1998(2))
- Development Plan Documents (Section 15 of the Planning and Compulsory Purchase Act 2004(3))
- Licensing Authority Policy Statement (Section 349 of the Gambling Act 2005(4))
- Local Transport Plan (Section 108(3) of the Transport Act 2000(5))
- Plans and alterations which together comprise the Development Plan (the Local Plan) (Part 2 of, and Schedule 8 to, the Planning and Compulsory Purchase Act 2004(6))
- Sustainable Community Strategy (Section 4 of the 2000 Act)
- Youth Justice Plan (Section 40 of the Crime and Disorder Act 1998(8))

(2) The following plans and strategies where Council has decided that adoption or approval is to be reserved to a meeting of full Council, which will take into account the recommendation of the Policy and Resources Committee or relevant Policy and Service Committee:

- Council's Corporate Plan

(3) Any plans and strategies where the Policy and Resources Committee has recommended that adoption or approval should be determined only by a meeting of full Council.

(ii) **Budget** – The approval or adoption of a plan or strategy for the control of the local authority's borrowing, investments or capital expenditure, or for determining the authority's minimum revenue provision, which meaning will include:

- the allocation of financial resources to different services and projects,
- proposed contingency funds
- the Council tax base
- setting the Council tax



- decisions relating to the control of the Council's borrowing requirement
- treasury management functions
- the control of its capital expenditure and
- the setting of virement limits.

#### 4.4 **Responsibility for Functions**

Part 3 of this Constitution sets out those and other responsibilities for the Council's functions, both those above that are reserved to Full Council and those that are delegated to Committees and Sub-Committees, to an officer or to another local authority.



# CONSTITUTION OF THE COUNCIL

## Part 2 Article 5

### ARTICLE 5 – THE MAYOR

#### 5.1 Role and function of the Mayor

The Mayor and Deputy Mayor will be elected by the Council annually. The Mayor and, in his/her absence, the Deputy Mayor will have the following responsibilities:

- (i) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (ii) 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;
- (iii) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and a place at which Members are able to ask questions of the Leader and the Chairs of Committees and are able to hold each other to account;
- (iv) to promote public involvement in the Council's activities; and
- (v) to act as the Borough's first citizen and to attend such civic and ceremonial functions as the Council and or he/she determines appropriate.



# CONSTITUTION OF THE COUNCIL

## Part 2 Article 6

### ARTICLE 6 – POLICY AND SERVICE COMMITTEES

#### 6.1 Background to Committees

- (a) **Power** - Unless legislation directs otherwise, the Council may appoint a committee or sub-committee of the authority or the Council with one or more other local authorities may appoint a joint committee of those authorities, and any such committee may appoint one or more sub-committees, for the discharge of any of the Council's functions.
- (b) **Form and functions** - The law requires that certain committees must be established and must operate in a particular manner. Those and other committees, where established, are required by law to discharge particular functions and to discharge their functions in particular ways. Full Council is otherwise free to decide on the size, terms of reference and level of delegation of each committee or sub-committee it establishes. The Council will establish a number of standing committees in order to undertake its functions in a more efficient way or as required. The Committees are grouped accordingly.

#### 6.2 Policy and Service Committees

- (a) **Purpose** - Policy and Service Committees are those committees established for the implementation of the Council's budget and policy framework, with powers delegated from the full Council.
- (b) **Functions** - These are known as policy and service committees because their business concerns the Council's delivery of services to the Council's area. Their functions are
- (i) to take decisions on those matters that do not need to be referred to the Council and
  - (ii) to examine in detail specific issues or aspects of policy, procedure or service, including performance and risk management, and to make recommendations to other committees and to the Council.

#### 6.3 Terms of Reference

The Council has currently agreed to establish the following standing Policy and Service Committees. A summary of the functions of each Committee is shown in the third column of the table below. The detailed terms of reference, functions and powers delegated to each of these committees are more particularly set out in Part 3 – Responsibility for Functions: Committees of Council.

<i>Name of Standing Committee</i>	<i>Name of Standing Sub-Committee</i>	<i>Summary of Purpose</i>
<b>Policy &amp; Resources Committee</b>		This Committee is the principal policy committee of the Council and is responsible for co-ordinating processes for the development of the Budget and Policy Framework, together with decision making on cross-cutting policies not part of the Policy Framework and decisions on resources concerning virements and purchase and sale of assets. The Committee is also responsible for a number of corporate functions, including employment of officers, company and major asset ownership and overall performance and risk management in respect of the Council's delivery of functions as well as matters of urgency and review. This committee may perform the functions of any other policy and services committee in matters of urgency.
	Finance Sub-Committee	Responsible for development and monitoring of the Council's budget and oversight of the Council's procurement framework
	Senior Officer Appointments & Staffing Sub-Committee	Responsible for appointments and related matters in respect of chief officers as set out at Part 4(7) of the Constitution, together with oversight of employment policies, terms and conditions.
	Shareholder Board	Responsible for the Council's functions as corporate shareholder of a company, or group of companies.
<b>Adult Social Care and Public Health Committee</b>		This Committee is responsible for those services under the remit of adult social care and as the lead Committee on matters of public health.
	Joint Strategic Commissioning Board	A sub-committee with responsibility for pooled funding with the NHS, sitting in common or jointly with representatives of the NHS

<i>Name of Standing Committee</i>	<i>Name of Standing Sub-Committee</i>	<i>Summary of Purpose</i>
		[Shadow body to be reviewed]
	Cheshire and Merseyside Joint Health and Integrated Care Services Health Committees	Joint Committees to exercise the Council's health and ICS scrutiny functions jointly with authorities across the health region
<b>Children, Young People and Education Committee</b>		This Committee is responsible for education, social care services and health services to children and young people and exercises the functions of the Council as Local Education Authority.
	Corporate Parenting Panel	To oversee the Council's role as corporate parent
<b>Economy, Regeneration and Housing Committee</b>		This Committee is responsible for formulating the Council's planning policies and for the Council's housing policies and statutory functions, development projects and growth and the economic development of the Borough
<b>Tourism, Communities, Culture and Leisure Committee</b>		This Committee is responsible for community development and community services including libraries, cultural services & museums and leisure centres, for community safety and customer services. It is also responsible for public protection services including environmental health and trading standards.
<b>Environment, Climate Emergency and Transport Committee</b>		This Committee is responsible for formulating the Council's transport policies, for the Council's response to the climate emergency and for the Council's functions for the environment, including parks and open spaces, highways management and infrastructure, coastal protection, flood defence and recycling and waste.

## 6.4 **Composition**

- (a) **Political Balance** - All committees, other than where specified, will comply with the proportionality rules as set out in the Local Government and Housing Act 1989.
- (b) **Membership** -
  - (i) Policy and Resources Committee will comprise of the Leader of the Council (Chair), the Deputy Leader of the Council (Vice Chair) and the Chairs of other Policy and Services Committees, together with such other numbers as Council wishes to appoint or so as to adhere to accommodate the overall political balance calculation;
  - (ii) Other Committees will normally be constituted as determined by Council at its Annual Meeting and to accommodate the overall political balance calculation;
  - (iii) Sub-committees, constituted of members of the parent committee, will normally number three (3) or more (5) members in accordance with political balance requirements, the establishment of which is either made by Council or ratified by the Policy and Resources Committee; and
  - (iv) Committees may include non-councillors by invitation of up to two (2) non-voting co-optees in addition to any statutory co-opted members.
- (c) **Chairs** – The Chair and Vice-Chair of each committee will be appointed by Full Council or, where no appointment has been made by Council, each Committee shall appoint a Chair at its first meeting.
- (d) **Procedure** - Meetings will be conducted in accordance with the Council Standing Orders and Procedure Rules set out in Part 4 of this Constitution.
- (e) **Policy development and review functions** - Where fulfilling a function of policy development, reviewing or scrutinising decisions made and action taken to implement them in connection with the discharge of any functions of the Council a Policy and Services Committee will have regard to the Review Procedures at Part 4(4) of this Constitution.

## 6.5 **Urgent Business**

When an urgent matter has arisen after the publication and dispatch of an appropriate agenda of a Committee the following procedure applies:

### (a) **Urgent agenda item**

The Committee Chair has the authority to agree to take urgent items not on the agenda. The Chair will consult with the Vice-Chair and Group Spokespersons for the Committee. The Chair (with advice from the Monitoring Officer as

appropriate) needs to be satisfied as to the need for urgency under the following criteria:

- i) the item has arisen between the compilation of the agenda and the date of the meeting.
- ii) the item requires an urgent decision in the public interest which cannot be dealt with by other means

In all cases the reason for the urgency shall be clearly stated and recorded in the minutes of the meeting and the urgent item will be taken as the Chair may decide.

**(b) Item of urgent or extraordinary business to be undertaken by Policy & Resources Committee**

The Policy and Resources Committee may exercise responsibility for the function of any other policy and services committee where a decision on an issue is required as a matter of urgency or for some other extraordinary reason. An urgent or extraordinary matter for these purposes is to be as determined by the head of paid service (or in their absence one or more statutory chief officers) and wherever possible only after consultation with the Leader (or Deputy Leader) and the Political Group Leaders. The Committee must consult with the Chair of the relevant other Committee wherever it is reasonable and practicable to do so.

On application of this provision the reasons for doing so shall in all cases be clearly stated and recorded in the minutes of the meeting and reported to the next meeting of Full Council.

**(c) Use of Delegated authority by an officer**

If a decision on an issue is required as a matter of urgency, and the urgency means that time does not allow for the holding of a committee under the provisions of the Access to Information Rules as set out at Part 4(2) of this Constitution, then responsibility for the exercise of such a function is granted to the Head of paid Service (or other officer acting under delegated authority from him or her). This authority is concurrent with the Scheme of Delegation of Officers set out in Part 3(C) of this Constitution and included here for the avoidance of doubt.



# CONSTITUTION OF THE COUNCIL

## Part 2 Article 7

### ARTICLE 7 – RECONSIDERATION AND THE OVERVIEW AND SCRUTINY FUNCTION

#### 7.1 Decisions

Any Committee, Sub-Committee or officer when making a decision within the scope of their delegated authority, as set out in Part 3 of this Constitution, shall be held to be exercising that authority and the decision shall be implemented accordingly except in the circumstances set out in this Article.

#### 7.2 Decisions contrary to the Budget and Policy Framework or Constitution

A decision can be challenged on the grounds that the decision has been taken contrary to the terms of delegation established by the Council (the Budget and Policy Framework) and as set out in Part 3 of this Constitution, the Council's Principles of Decision Making as set out in Article 13 of this Constitution or has in some other way breached the Council's Constitution. If such a challenge is made, the Monitoring Officer, in liaison with the Chief Executive and S.151 Officer, after having carried out appropriate consultation, will determine whether the challenge is upheld and if so, what action should be taken.

#### 7.3 Removal of delegation (Reconsideration by P&R Committee)

The decision-making powers of each committee are specified in their terms of reference in Part 3(B), Responsibility for Functions: Committees of Council. Additionally:

##### (a) Removal of delegation and re-consideration

There is a process whereby the Policy and Resources Committee can re-consider a decision made by one of the other Policy and Service Committees (as set out in Article 6 above) or of a Key Decision taken by an officer acting under delegated authority from a Policy and Service Committee. This results in delegated authority for that decision being removed so that the item of business may be reconsidered by the Policy and Resources Committee and the decision taken afresh.

##### (b) Process

The re-consideration of a decision will be conducted in accordance with the Reconsideration and Scrutiny Procedure Rules set out at Part 4(4) of this



Constitution.

## 7.4 Overview and Scrutiny

### (a) Overview And Scrutiny Committees

The Council has resolved at the Annual Meeting of May 2022 not to appoint any separate overview and scrutiny committee. This decision was made in exercise of the Council's discretion as provided by s.9JA of the Local Government Act 2000. For the avoidance of doubt, whilst the Council may wish to have regard to any relevant provisions in conducting overview and scrutiny related business, Parts 3 to 5 of the Local Authority (Committee System) (England) Regulations 2012 will not apply to any of the Council's proceedings.

### (b) Overview and Scrutiny approach

Each Policy and Services Committee may scrutinise and review decisions made or actions taken by the Authority in so far as they have a direct impact on the role or functions of the Committee and that Committee can make recommendations to any other the relevant Committee on policies, budget and service delivery. Overview and scrutiny of the Council is an important part of the Committee's remit as part of a 'doing and reviewing' approach.

The Policy and Services Committees are also responsible for the overview and scrutiny of external organisations where this directly or indirectly impacts on the role and functions of the Committee. The Council has a wider role in acting as the democratically elected body for the Borough to act in the widest sense on behalf of its citizens, businesses and visitors and this role is an integral part of each Policy and Services Committee's remit.

Upon conclusion of a scrutiny exercise the Committee may produce a report containing recommendations for decision by another Policy and Services Committee, the Policy and Resources Committee or the Council as may be considered relevant.

### (c) The Council's Statutory Scrutiny Functions

The statutory overview and scrutiny functions of the authority will be exercised by individual Policy & Services Committees in respect of the Council's functions, services and partnerships that they cover, and by the Policy & Resources Committee in respect of functions, services and partnerships that cover more than one committee.

The Council has delegated specific statutory external scrutiny functions, in respect of health, crime and disorder, and flood prevention, to individual Committees and in accordance with joint arrangements with other authorities across the Liverpool City Region, or the Liverpool City Region and Cheshire as the case may be, as set out Part 3(B) of this Constitution





# CONSTITUTION OF THE COUNCIL

## Part 2 Article 8

### ARTICLE 8 – STATUTORY, REGULATORY AND OTHER COMMITTEES

#### 8.1 Background to Committees

- (a) **Power** - Unless legislation directs otherwise, the Council may appoint a committee or sub-committee of the authority or the Council with one or more other local authorities may appoint a joint committee of those authorities, and any such committee may appoint one or more sub-committees, for the discharge of any of the Council's functions.
- (b) **Form and functions** - The law requires that certain committees must be established and must operate in a particular manner. Those and other committees, where established, are required by law to discharged particular functions and to discharge their functions in particular ways. Full Council is otherwise free to decide on the size, terms of reference and level of delegation of each committee or sub-committee it establishes. The Council will establish a number of standing committees in order to undertake its functions in a more efficient way or as required. The Committees are grouped accordingly.
- (c) **Statutory, Regulatory and Other Committees** - These committees regulate the conduct of the Council's business and make decisions in relation to regulatory, administrative and corporate governance matters. A summary of the functions of each Committee is shown below. The detailed terms of reference, functions and powers delegated to each of these committees are more particularly set out in Part 3C.

#### 8.2 Statutory Committees

The Council is obliged to establish the following standing Statutory Committees. A summary of the functions of each Committee is shown in the third column of the table below. The detailed terms of reference, functions and powers delegated to each of these committees are more particularly set out in Part 3B – Responsibility for Functions: Committees of Council.

<i>Name of Committee</i>	<i>Name of Sub-Committee</i>	<i>Summary of Purpose</i>
<b>Licensing Act Committee</b>		This statutory committee is established under the Licensing Act 2003, responsible for discharging the Council's functions as licensing authority under the Licensing Act

<i>Name of Committee</i>	<i>Name of Sub-Committee</i>	<i>Summary of Purpose</i>
		2003 and Gambling Act 2005
	Licensing Sub-Committees	These Sub-Committees meet to consider individual applications and determinations
<b>Health and Well-being Board</b>		This statutory committee is established under the Health and Social Care Act 2012 to act as a partnership forum in which key leaders from the local health and care system could work together to improve the health and wellbeing of their local population.

### 8.3 Regulatory Committees

The Council has currently agreed to establish the following standing Regulatory Committees. A summary of the functions of each Committee is shown in the third column of the table below. The detailed terms of reference, functions and powers delegated to each of these committees are more particularly set out in Part 3

<i>Name of Committee</i>	<i>Name of Sub-Committee</i>	<i>Summary of Purpose</i>
<b>Regulatory and General Purposes Committee</b>		This committee is responsible for discharging the Council's licensing functions (other than under the Licensing Act 2003) and miscellaneous other administrative and civic functions
	Regulatory Panels	These Sub-Committees meet to consider individual applications and determinations
<b>Planning (Development Control) Committee</b>		This committee is responsible for making decisions on planning applications and similar regulatory matters

### 8.4 Other Committees

The Council has currently agreed to establish the following standing Other Committees. A summary of the functions of each Committee is shown in the third

column of the table below. The detailed terms of reference, functions and powers delegated to each of these committees are more particularly set out in Part 3.

<i>Name of Committee</i>	<i>Name of Sub-Committee</i>	<i>Summary of Purpose</i>
<b>Constitution and Standards Committee</b>		This committee is responsible for keeping under review all aspects of the Council's Constitution so as to ensure that it remains current and fit for purpose.
	Standards Panels	These Sub-Committees meet to consider individual allegations of a failure to observe the members Code of Conduct and any referred appeals
<b>Audit and Risk Management Committee</b>		This Committee is responsible for discharging the Council's function to review and approve the annual statement of accounts and to provide independent assurance of the adequacy of the risk management framework and the associated control environment
<b>Pension Committee</b>		This Committee is responsible for all matters relating to the Council's pension fund, operated as a Joint Committee by Wirral MBC on behalf of the Merseyside Pension Fund



# CONSTITUTION OF THE COUNCIL

## Part 2 Article 9

### ARTICLE 9 – JOINT ARRANGEMENTS

#### 9.1 Arrangements to Promote Wellbeing

The Council, in order to take the reasonable action needed ‘for the benefit of the authority, its area or persons resident or present in its area’ may:

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

#### 9.2 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities to exercise functions and any such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Adult Social Care and Public Health Committee may delegate its functions under Section 7 of the Health and Social Care Act 2001 as amended by the Health and Social Care Act 2012 to a joint overview and scrutiny committee when this is required by a Direction issued by the Secretary of State for Health or is otherwise considered to be conducive to the efficient scrutiny of proposals affecting more than one Social Services local authority area.
- (c) The Adult Social Care and Public Health Committee may appoint members to a joint overview and scrutiny committee established under paragraph (b) above. In this case the political balance requirements will apply to such appointments.
- (d) Any joint arrangements, including any delegations to joint committees, will be found in Articles 6, 7 and 8 and in the Responsibility for Functions and as set out in Part 3 of this Constitution.

#### 9.3 Access to Information

The Access to Information Procedure Rules in Part 4(2) of this Constitution apply.

#### 9.4 Delegation to and from other Local Authorities

- (a) The Council may delegate functions to another local authority.

- (b) Other local authorities may delegate functions to the Council and the decision whether or not to accept such a delegation from another local authority shall be reserved to the relevant Committee of Council.

## 9.5 Contracting Out

The Council may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an Order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.



# CONSTITUTION OF THE COUNCIL

## Part 2 Article 10

### ARTICLE 10 – LEADER, DEPUTY LEADER AND GROUP LEADERS OF THE COUNCIL

#### 10.1 Introduction

As the Council operates a Committee System, no formal legal powers and duties are vested in the Leader or Deputy Leader under the Local Government Act 1972 or the Local Government Act 2000. In practice, however, all local authorities need to appoint a councillor to hold the most significant elected Member role within the Council, to be seen as the political head of the Council and to provide a focal point for political leadership and strategic direction for the Council, both within the Authority but also to outside organisations, partners, governmental bodies and the community at large.

Likewise, there are several other roles that involve political leadership and representation of the Council, beyond civic or formal functions and the role of a councillor as Member of the Authority (described Article 2 above) as set out below.

#### 10.2 Appointment of Leader and Deputy Leader

- (a) At the Annual Meeting of Council the Council will appoint a Leader of the Council who shall act as Chair of the Policy and Resources Committee.
- (b) At the Annual Meeting of Council the Council will appoint a Deputy Leader of the Council who shall act as Vice-Chair of the Policy and Resources Committee.
- (c) Once appointed, the Leader and the Deputy Leader will hold office until the next Annual Meeting unless he/she:-
  - (i) resigns from the office;
  - (ii) is no longer a member of the Council; or
  - (iii) is removed from office by resolution of the Council
- (d) The process of appointment is set out in the Council's Standing Orders at Part 4(1) of the Constitution.

#### 10.3 Role and Function of the Leader

- (a) The Leader shall be:
  - (i) the Chair of the Policy and Resources Committee;



- (ii) the Council’s representative Member to the Liverpool City Region Combined Authority; and
  - (iii) entitled to attend all meetings of the Council’s functional committees in an ex officio capacity.
- (b) The Leader will:
- (i) provide a focal point for political leadership and strategic direction for the Council;
  - (ii) represent the interests of the Council in circumstances where that is necessary; and
  - (iii) ensure effective Corporate Governance and ethical conduct throughout the Council.

#### 10.4 Key Responsibilities of the Leader

The Leader will:

- (a) Be the political (rather than ceremonial) leader of the Council, for the benefit of all the Borough’s communities - its citizens, taxpayers, businesses, public bodies and other public authorities.
- (b) Represent and pursue the interests of the Council in the community and at international, national and regional levels.
- (c) Be the key contact for outside organisations (including Central Government, Local Authority Associations and Council partners), and internally for the Council’s Chief Officers.
- (d) Be the representative voice of the Council, for example, in its dealings with Central Government, other Local Authorities and their Associations, and positively promote the Council as a whole to the media.
- (e) Promote the long-term financial, business and economic stability of the Council and the Borough.
- (f) Meet regularly to progress the Council’s objectives with Committee Chairs, the Chief Officers, Group Leaders, partner organisations, stakeholders, community representatives, government representatives, local Members of Parliament, etc.
- (g) Promote high standards of corporate governance and ethical conduct throughout the Council including working with all political groups to seek to achieve, where possible, cross party co-operation.
- (h) Promote and maintain professional working relationships and mutual respect between all Members and officers.
- (i) Work across the Council, particularly with the Chairs and Vice-Chairs of its Committees and Sub-Committees, and to be responsible for the development

and implementation of the Council's strategic vision for the future, policy framework, budgets and other strategies.

## **10.5 Role and Function of the Deputy Leader**

- (a) The Deputy Leader shall be:
  - (i) the Vice-Chair of the Policy and Resources Committee
  - (ii) the substitute Wirral Borough Council's Constituent Council Member of the Liverpool City Region Combined Authority (unless another Member of the Council is so appointed)
- (b) The Deputy Leader will:
  - (i) assist the Leader of the Council in representing the Council to its citizens, stakeholders and partners and in providing political leadership for the Council and the Borough;
  - (ii) assist the Leader in carrying out the key responsibilities associated with the role of Leader (as set out at 10.4 above);
  - (iv) work with the Leader on budget and policy development; and
  - (v) undertake the powers, functions and responsibilities of the Leader in their absence.

## **10.6 Political Group Leaders**

- (a) Political groups, and the leader (and any deputy group leader) of a political group, have a formal role under the provisions of the Local Government and Housing Act 1989 and The Local Government (Committees and Political Groups) Regulations 1990 in respect of political balance of committees and appointments of the Council.
- (b) The Council acknowledges the key leadership role played by the leaders of all political groups on the Council and the importance of their commitment to cross-party working.
- (c) The role and responsibilities of Political Group Leaders are:
  - (i) To provide the leadership of a political group.
  - (ii) To be the principal political spokesperson for the political group.
  - (iii) To nominate members of their Group to serve on Committees, Working Groups, outside bodies, etc.
  - (iv) To be a representative voice in dealings with government agencies, local authority associations etc.
  - (v) To encourage the highest standards of conduct by members of the group.

- (vi) To appoint group spokespersons and allocate other responsibilities to group members as appropriate.
- (vii) To assist in ensuring appropriate levels of attendance are maintained by group members.
- (viii) To encourage a culture of learning and development among members, including the active participation of group members in briefings, seminars and other learning and development processes.
- (ix) To maintain effective liaison with the other group leaders, including being a member of an informal Group Leaders' meeting, attending Group Leaders' briefings and so forth.
- (x) To establish and maintain effective working relationships with the Chief Officers and other senior officers and to meet regularly them in order to keep fully apprised of relevant service issues.



# CONSTITUTION OF THE COUNCIL

## Part 2 Article 11

### ARTICLE 11 – COMMITTEE CHAIRS, VICE-CHAIRS AND GROUP SPOKESPERSONS: ROLE AND RESPONSIBILITIES

#### 11.1 Introduction

Some formal powers are vested in the chair of a committee under the Local Government Act 1972 and a number of powers lie with the chair under the Council's Standing Orders or the common law, all in relation to the calling of a meeting and the and procedure during it. In practice, however, the chairs of committees in a local authority bear a wider responsibility of influence and undertake a wider leadership role on behalf of their committee's remit. The Committee Chair is widely seen as the political focal point for the functions of the committee, the services they deliver and the business of the committee as a whole.

#### 11.2 Appointment of Committee Chairs and Vice-Chairs

- (a) The Annual Meeting of the Council will agree the appointment of members to committees and the appointment of Chairs and Vice-Chairs to such committees as are provided for, unless the Council decides in any instance not to do so, in which case the chair is appointed at the first meeting of a committee in the municipal year.
- (b) The appointment of a Member as Chair of a Committee shall not take effect unless and until that Member has undergone such training as may be determined by the Council (in the absence of which shall be such training as may be determined by the Monitoring Officer).
- (c) The process of appointment is set out in the Council's Standing Orders at Part 4(1) of the Constitution.

#### 11.3 Role and Function of Committee Chairs

- (a) The Chair of a Committee shall:
  - (i) lead the work of the committee and make sure it carries out its business effectively and efficiently, lawfully and within its terms of reference;
  - (ii) chair meetings of the committee impartially and in such a way as to facilitate open discussion, obtain valid contributions from members and produce sound decisions;
  - (iii) assist the public and press in terms of their rights of access; and

- (iv) ensure respectful engagement between the committee, its officers, guests and the public and maintain ethical conduct throughout the meeting.
- (b) The Chair of a Committee will:
- (i) lead an agenda management process for the Committee in association with the Vice-Chair and Group Spokespersons; and
  - (ii) act as consultee and spokesperson for their Committee in instances of exercise of delegated authority by an officer, where that delegation is subject to being in consultation with the Chair of the Committee or where otherwise requested by a Chief Officer

#### 11.4 Key Responsibilities of Committee Chairs

- (a) The Chair of a Committee will undertake:
- (i) To have a working knowledge of the functions, policies, practices, procedures, services and budgets of the Committee which they chair.
  - (ii) To lead in the development of the work of the Committee which they chair in association with the Vice-Chair and Group Spokespersons, including the agenda management process, also taking into account the wider vision, such as corporate, cross-service and partnership issues.
  - (iii) To lead in consideration and review of service delivery, policy development and in the implementation of policies approved by the Council where these relate to the Committee which they chair.
  - (iv) To be the Council's lead spokesperson in respect of the Committee's activities and act in liaison with the Leader and Deputy Leader in matters of Council policy.
  - (v) To establish effective working relationships with the Group Spokespersons on the Committee and with other Committee Chairs and the Leader and Deputy Leader of the Council
  - (vi) To establish effective working relationships with the Chief Officers, and other key officers.
  - (vii) To represent and pursue the interests of the Committee which they chair in the community and at regional and national levels
  - (viii) To ensure that meetings of the Committee which they chair are properly conducted and reports of proceedings are forwarded on as necessary, for example to full Council
  - (ix) To promote and uphold high standards of ethical conduct by the Council's Members and officers

#### 11.5 Role and Responsibilities of Committee Vice-Chairs

The Vice Chair will:

- (a) assist the Chair in carrying out their role and responsibilities as set out at 11.3 and 11.4 above; and
- (b) undertake the responsibilities of the Chair in their absence

## 11.6 Group Spokespersons

- (a) A Group Spokesperson is a position that is held by members of each of the political groups on the Council in relation to each Committee. The overall role is to provide an effective political counter-balance to the role of the Committee Chair.
- (b) In respect of activities within the relevant Committee (or functional) area, the role and responsibilities of a Group Spokesperson is:
  - (i) To develop expertise and knowledge.
  - (ii) To provide political focus and leadership within the Group.
  - (iii) To lead the development of approaches to policy and operational issues, on behalf of the Group.
  - (iv) To support the democratic process by ensuring that the activities of the Administration (the Council's largest political group) are examined and where necessary challenged.
  - (v) To be the Group's lead spokesperson and first political point of contact within the Group.
  - (vi) To keep members of the Group apprised of all relevant information.
  - (vii) To establish and maintain effective working relationships with Chief Officers, Heads of Service and other key officers.
  - (viii) To establish effective working relationships with other Group spokespersons.
  - (ix) To establish appropriate contacts with other bodies and individuals to exchange views and learning.
  - (x) To meet with relevant senior officers at organised briefings or as necessary in order to keep fully apprised of relevant issues and to advise the Group and Group Leader.



# CONSTITUTION OF THE COUNCIL

## Part 2 Article 12

### ARTICLE 12 – OFFICERS

#### 12.1 Management Structure

- (a) **General** - The Council engages such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers** - The full Council will engage persons who will be designated chief officers and deputy chief officers (referred to as executive directors and assistant directors). Chief Officer appointments are made by Members of the Council in accordance with the Officer Employment Procedure Rules set out at Part 4(7), which shall include:
  - (j) the statutory chief officers, being the Head of Paid Service, Chief Finance (s.151) Officer, Monitoring Officer, Director of Children's, Families and Education, Director of Care and Health and Director of Public Health (DPH); and
  - (ii) such other chief officers and deputy chief officers as are considered necessary by the authority for the co-ordination and discharge of its different functions.
- (c) **Structure** - The Head of Paid Service will determine and publicise a description of the overall directorate structure of the Council, showing the management structure and deployment of officers. This is set out in Part 7 of this Constitution.

#### 12.2 Functions of Chief Officers

- (a) **Definition** – For these and all other purposes, a Chief Officer of the Council is defined in Part 1 of the Localism Act 2011 and includes each of the following—
  - (i) the head of its paid service designated under section 4(1) of the Local Government and Housing Act 1989;
  - (ii) its monitoring officer designated under section 5(1) of that Act;
  - (iii) a statutory chief officer mentioned in section 2(6) of that Act;
  - (iv) a non-statutory chief officer mentioned in section 2(7) of that Act; and
  - (v) a deputy chief officer mentioned in section 2(8) of that Acteach of whom will be subject to specific duties in respect of the legislation related to their post, some of which are described further below.

- (b) **General Role** - Chief Officers are the Authority's most senior post-holders who are responsible for the day-to-day managerial and operational decisions within the Council and provide support to all Members in their several roles. The generic role of Chief Officers is to:
- (i) to support and advise the Council and its Committees on policy and service delivery in order that Members' decisions are based on appropriate advice and information that is both legally and financially sound;
  - (ii) to ensure that the policies and decisions of the Council are formulated and implemented effectively and efficiently;
  - (iii) to provide strong managerial leadership and direction, foster cross directorate working and implement organisational improvement;
  - (iv) to set high standards and drive up the performance, effectiveness and reputation of the Council;
  - (v) to work with outside bodies and access additional funds and resources in order to support the Council's programmes of work;
  - (vi) to recruit, develop, motivate and inspire staff; and
  - (vii) to ensure that the Council's staff work in an ethical environment in accordance with the Council's Officer Code of Conduct and the principles of public life (sometimes referred to as the Nolan principles).

### 12.3 Governance Chief Officers

- (a) The Council will designate the following posts as shown:

<i>Post</i>	<i>Designation</i>	<i>Legislation</i>
Chief Executive	Head of Paid Service	Section 4, Local Government and Housing Act 1989
Director of Law and Governance	Monitoring Officer	Section 5, Local Government and Housing Act 1989
Director of Finance	Chief Finance (s.151) Officer	Section 151, Local Government Act 1972 & s.114 Local Government Finance Act 1988

Such posts will have the functions described below

#### (b) Functions of the Head of Paid Service

- (i) **Discharge of functions by the Council** - The Head of Paid Service where he or she considers it appropriate to do so will report to the authority on:
  - (1) the manner in which the discharge of the Council's functions is co-ordinated;



- (2) the number and grade of officers required for the discharge of functions;
- (3) the organisation of officers; and
- (4) the appointment and proper management of the authority's staff.

in accordance with section 4 of the Local Government and Housing Act 1989

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

(c) **Functions of the Monitoring Officer**

- (i) **Maintaining the Constitution** - The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for inspection by Members, officers and the public.
- (ii) **Ensuring lawfulness and fairness of decision making** - After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council, or to any relevant committee, if he or she considers that any proposal, decision or omission would give, is likely to give, or has given, rise to a contravention of any enactment or rule of law, or any maladministration. Such a report has the effect of stopping the proposal or decision being implemented until the report has been considered.
- (iii) **Supporting the authority's duty to promote and maintain high standards of conduct** - The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Committee with responsibility for standards. The Monitoring Officer will establish and maintain the Register of Members' Interests and ensure it is kept up to date and made publicly available.
- (iv) **Conducting Investigations** - The Monitoring Officer will conduct, or arrange to have conducted, investigations in relation to allegations that member or co-opted member of the authority has failed to comply with the Members' Code of Conduct and in relation to public interest disclosures (whistleblowing) complaints in accordance with the authority's adopted procedures, policies and protocols.
- (v) **Proper Officer for Access to Information** - The Monitoring Officer will ensure that the decisions of Council and its committees, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (v) **Contributing to corporate management** - The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional administrative and legal advice.

- (vi) **Providing advice** - The Monitoring Officer will provide advice on issues concerning the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and whether decisions made under delegated authority are in accordance with the terms of delegation established by the Council (the Budget and Policy Framework) to all Members and will support and advise Members and officers in their respective roles.
- (vii) **Personal duty** - The duties of the Monitoring Officer under Section 5 of the Local Government and Housing Act 1989 shall be performed by him or her personally or, where he or she is unable to act owing to absence or illness, personally by such member of his or her staff as have for the time being been nominated by the monitoring officer as his or her deputy for the purposes of this legislation.
- (viii) **Restrictions on functions** - The Monitoring Officer may not hold the post of Head of Paid Service nor the post of Chief Finance Officer.
- (ix) **Monitoring Officer Protocol** - Set out at Part 5(9) of this Constitution is a protocol which explains the role and function of the Monitoring Officer and the arrangements established for ensuring the role is effectively carried out.

(d) **Functions of the Chief Finance (Section 151) Officer**

- (i) **Ensuring lawfulness and financial prudence of decision making** - After consulting with the Head of Paid Service and Monitoring Officer, the Chief Finance Officer will report to the Full Council, or to any relevant committee, and to the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.
- (ii) **Administration of financial affairs** - The Chief Finance Officer will have responsibility for the proper administration of the financial affairs of the Council.
- (iii) **Public financial information** - The Chief Finance Officer will provide financial information about the Council to Members of the Council, the media, members of the public and the community.
- (iv) **Internal Audit** - The Chief Finance Officer will ensure there is maintained an adequate and effective internal audit function.
- (v) **Contributing to corporate management** - The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (vi) **Providing advice** - The Chief Finance Officer will provide advice on issues concerning the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and whether decisions

made under delegated authority are in accordance with the terms of delegation established by the Council (the Budget and Policy Framework) to all Members and will support and advise Members and officers in their respective roles.

- (vii) **Personal duty** - The duties of the Chief Finance Officer under Section 114 of the Local Government Finance Act 1988 shall be performed by him or her personally or, where he or she is unable to act owing to absence or illness, personally by such member of his or her staff as have for the time being been nominated by the chief finance officer for these purposes under sub-section 114(6) of that Act.
- (viii) **Restrictions on functions** - The Chief Finance Officer may not hold the post of Monitoring officer and should not hold the post of Head of Paid Service.

(e) **Duty to provide sufficient resources**

The Council is under a duty to provide the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer with such staff, accommodation and other resources as are, in that officer's opinion, sufficient to allow their respective legal duties (as described above) to be performed.

## 12.4 **Conduct**

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

## 12.5 **Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 4(7) of this Constitution.



# CONSTITUTION OF THE COUNCIL

## Part 2 Article 13

### ARTICLE 13 – DECISION MAKING

#### 13.1 Responsibility for Decision Making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

#### 13.2 Principles of Decision Making

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

- (i) Actions should be proportionate to the desired outcome.
- (ii) Appropriate consultation will be carried out and decisions will take account of its results
- (iii) Decisions will be taken following receipt of due professional advice from officers.
- (iii) Decisions will reflect the spirit and requirements of Human Rights legislation.
- (iv) A presumption in favour of openness.
- (v) Decisions will be clear about what they aim to achieve and the results that can be expected
- (vi) Decisions will seek to be sound in terms of Wednesbury reasonableness (i.e. the decision shall not be so unreasonable that no reasonable Council could have reached it, having taken into account all relevant considerations, and having ignored irrelevant considerations).

#### 13.3 Key Decisions

The Council has adopted the concept of a Key Decision for the purposes of meetings and access to information in order to differentiate those decisions that require a greater degree of openness and rigour. Where Full Council, a Committee or Sub-Committee of Council or an officer takes a Key Decision, or intends to take a Key Decision, they shall normally adhere to the following.

- (a) **Meaning of a Key Decision** - A key decision is currently defined in Regulations (Statutory Instruments 2012/2089) as one which:
- (i) results, or is likely to result, in the Council incurring expenditure which is, or the making of savings which are, in excess of 10% of the relevant budget head or £500,000, whichever is the smaller; or
  - (ii) is significant in terms of its effect on communities living or working in an area comprising two or more wards (where the meaning of 'significant' is subject to any guidance to be issued by the Secretary of State and, in the absence of any such guidance, is to be interpreted as a decision which, in the view of the Leader, will have a significant effect on a significant number of people).
- (b) **Requirements of a Key Decision** - A key decision may only be taken:
- (i) following notice being given (the Forward Plan) as may be required by the Council's Access to Information Procedure Rules set out at Part 4(2) of this Constitution;
  - (ii) on consideration of a full report by the relevant officer(s), published as may be required by the Council's Access to Information Procedure Rules set out at Part 4(2) of this Constitution, and which shall contain as a minimum:
    - (1) a recommended decision;
    - (2) an explanation of the reasons for the recommendation being put forward;
    - (3) details of any alternative options, if any, considered and rejected for recommendation;
    - (4) details of any consultation undertaken or proposed including, in respect of consultation undertaken, the nature and extent of the consultation undertaken with stakeholders and the overview and scrutiny committees and the outcome of that consultation;
    - (5) a consideration of the financial and legal issues pertaining to the matter, and such other matters as governance chief officers (the Head of Paid Service, Chief Finance Officer or Monitoring Officer) may require, which may include risk, staffing, equalities, crime and disorder and climate change implications; plus
    - (6) a list compiled of any Background Papers to the report, which are those documents other than published works that, in the opinion of the proper officer, relate to the subject matter of the report or, as the case may be, the part of the report and:
      - (aa) disclose any facts or matters on which the report or an important part of the report is based; and

- (bb) were relied on to a material extent in preparing the report; and
- (iii) subject to delayed implementation to permit a request for the decision to be reviewed in circumstances set out in Article 7 and Part 4(4) of this Constitution.

### 13.4 Decision Making

Subject to Article 13.5 below, the procedure for decision making will follow at or by:

- (a) **Full Council.** Meetings of the Full Council are to follow the Council Standing Orders set out at part 4(1) of this Constitution, except where non-mandatory standing orders are waived by resolution, and will follow the applicable procedure rules contained elsewhere within Part 4 of this Constitution.
- (b) **Other Council Committees** - The Policy and Services Committees, Statutory Committees and the Regulatory and Other Committees will follow those parts of the Council Standing Orders and rules of procedure that apply to them set out at Part 4 of this Constitution
- (c) **Officers** – Decisions made by officers shall adhere to the principles set out at 13.2 above and, in relation to the taking of either a Key Decision or a decision that, if it would otherwise have been taken by the Full Council, a committee or sub-committee of the Council, but has been delegated to an officer either—
  - (i) under a specific express authorisation; or
  - (ii) under a general authorisation to officers to take such decisions and, the effect of the decision is to:
    - (1) grant a permission or licence;
    - (2) affect the rights of an individual; or
    - (3) award a contract or incur expenditure which, in either case, materially affects that relevant local government body’s financial position, which is taken to mean expenditure in excess of **£100,000** (excluding social care packages or placements).

a written record must be produced as soon as reasonably practicable after the decision-making officer has made the decision (called an officer decision notice) detailed in the relevant parts of the Access to information Procedure Rules set out at Part 4(2) of this Constitution

### 13.5 Decision Making by Council Bodies Acting as Tribunals

- (a) **Fair Hearing** - The Council, a Councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person shall follow a proper procedure which accords with the requirements of

natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

- (b) **Decision making in private** - Subject to any statutory rules or procedures detailed elsewhere in the Constitution, a body acting as a tribunal is permitted, when all evidence has been submitted and speakers (if any) have finished, will hold discussion in the presence of the speakers and, as appropriate and in compliance with the Access to Information Procedure Rules (Part 4(2)), the public and press, and the decision making may thereafter be taken in private adjournment. Decisions will then normally be announced to those present and remaining post-adjournment, at least in summary form, before a decision is issued in writing.



# CONSTITUTION OF THE COUNCIL

## Part 2 Article 14

### ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS

#### 14.1 Financial management

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Part 4(6) of this Constitution.

#### 14.2 Contracts

Every contract made by the Council will comply with the Contracts Standing Orders set out in Part 4(7) of this Constitution.

#### 14.3 Legal proceedings

The Monitoring Officer, or in their absence or acting under delegated authority, the Deputy Monitoring Officer, is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where he or she considers that such action is necessary to protect the Council's interests.

#### 14.4 Authentication of documents

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

Any contract with a value exceeding the amount as specified in the Contract Standing Orders is entered into on behalf of the local authority shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the council attested by at least one officer.

#### 14.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by the Monitoring Officer or some other person authorised by him/her.





# CONSTITUTION OF THE COUNCIL

## Part 2 Article 15

### ARTICLE 15 – REVIEW AND REVISION OF THE CONSTITUTION

#### 15.1 Duty to Monitor and Review the Constitution

The Standards and Constitution Committee of the Council and the Monitoring Officer shall monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

#### 15.2 Protocol for Monitoring and Review of Constitution by Monitoring Officer

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

- (a) Observe meetings of different parts of the member and officer structure;
- (b) Undertake an audit trail of a sample of decisions;
- (c) Record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and
- (d) Compare practices in this authority with those in other comparable authorities, or national examples of best practice.

#### 15.3 Changes to the Constitution

- (a) **Approval.** Changes to this Constitution will only be approved by the Full Council after consideration of the proposal by the Standards and Constitution Committee following receipt of a written report of the Monitoring Officer, except that:
  - (i) changes to the Articles of this Constitution will only take effect from the meeting of Council following the meeting that determines the approval (unless legal advice is received from the Monitoring Officer requiring earlier implementation); and
  - (ii) minor and consequential changes, such as those:
    - (1) to factual references;
    - (2) as are required by legislative or legal changes and developments;
    - (3) to reflect changes in procedures and protocols adopted by Committees; and

- (4) to reflect revised arrangements for the distribution of responsibilities and the delegation of powers to officers in accordance with decisions taken by the appropriate committee or chief officer authorised to take such action

may be made by the Monitoring Officer.

- (b) **Change from a Committee form of governance to an executive or alternative form of governance, or vice versa.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.



# CONSTITUTION OF THE COUNCIL

## Part 2 Article 16

### ARTICLE 16 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

#### 16.1 Suspension of the Constitution

- (a) **Limit to Suspension** - The Articles of this Constitution may not be suspended. The rules of the Council contained in Parts 2 to 5 may be suspended by the Full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to Suspend** - A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of serving Councillors is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

#### 16.2 Interpretation

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

#### 16.3 Publication

- (a) **Members** - The Monitoring Officer will ensure that the Constitution is brought to the attention of each Member upon delivery to him/her of their individual's declaration of acceptance of office on first being elected to the Council and shall also provide a printed copy to that Member upon request.
- (b) **Public and press** - The Monitoring Officer will ensure that the Constitution will be available electronically on the Council's website and that copies can be purchased by members of the local press and the public on payment of a reasonable fee.

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# CONSTITUTION OF THE COUNCIL

## Part 3 Section A

### RESPONSIBILITY FOR FUNCTIONS - (A) THE COUNCIL

#### 1. Introduction

This Part of the Constitution deals with the allocation of responsibility for undertaking the functions of the Council. Full Council is the primary decision-making body of the Council and, as such, is responsible for the exercise of all of the functions that are held by the local authority.

Whilst decisions in relation to these functions could be made by the Council, and indeed some functions can only be carried out by the Full Council, in order to operate more effectively as an organisation, most of the Council's functions are exercised through delegation to a committee, sub-committee or an officer, or to another local authority.

This part of the Constitution contains the remits of the Council, Committees, Sub-Committees and Panels and also contains the Scheme of Delegation to Officers.

#### 2. Council Functions

The Council reserves to itself the following functions (in accordance with the rules and procedures contained in this Constitution):

- (a) All non-delegable functions as defined by the Local Authorities (Committee System) (England) Regulations 2012 including: -
  - (i) **The Budget** – The approval or adoption of a plan or strategy for the control of the local authority's borrowing, investments or capital expenditure or for determining the authority's minimum revenue provision, which includes the overarching annual:-
    - (1) Capital programme
    - (2) Capital investment strategy
    - (3) Medium term financial plan
    - (4) Treasury management strategy,except for any amendment, modification, variation or revocation which—
    - (aa) is required for giving effect to requirements of the Secretary of State or a Minister of the Crown in relation to a plan or strategy submitted for approval, or to any part submitted; or
    - (bb) is authorised by a determination made by the local authority—

- in pursuance of arrangements made for the discharge of functions as set out in the Budget and Policy Framework Procedure Rules set out at Part 4(3) of this Constitution (including virements); and
  - at the time when the local authority approves or adopts the plan or strategy, as the case may be.
- (ii) **Policy Framework (Required)** – The making or revoking or amending the following policies, plans and strategies required to form a part of the Council’s Policy Framework:
- (1) Annual Library Plan;
  - (2) Crime and Disorder Reduction Strategy;
  - (3) Development Plan Documents;
  - (4) Licensing Authority Policy Statement;
  - (5) Policies made under the Gambling Act (including any resolution relating to casinos);
  - (6) Local Transport Plan;
  - (7) Plans and alterations which together comprise the Development Plan;
  - (8) Sustainable Community Strategy; and
  - (9) Youth Justice Plan;
- except for any amendment, modification, variation or revocation which—
- (aa) is required for giving effect to requirements of the Secretary of State or a Minister of the Crown in relation to a plan or strategy submitted for approval, or to any part submitted; or
- (bb) is authorised by a determination made by the local authority—
- in pursuance of arrangements made for the discharge of functions as set out in the Budget and Policy Framework Procedure Rules set out at Part 4(3) of this Constitution; and
  - at the time when the local authority approves or adopts the plan or strategy, as the case may be.
- (iii) Making of a Members Allowance Scheme and amending the same.
- (iv) Determination of Mayor’s and deputy Mayor’s allowances.
- (v) Making a request for single member electoral wards to the Local Government Boundary Commission.
- (vi) Resolution to change a scheme for elections.
- (vii) Making an order giving effect to the recommendations made in a Community Governance Review.

- (viii) Conferring voting rights on co-opted members of Overview and Scrutiny Committees (if any).
- (b) **Policy Framework (Choice)** - The making or revoking or amending the following policies, plans and strategies reserved by Council to form a part of the Council's Policy Framework
  - (i) [The Council Plan](#).
- (c) Setting the Council's Council Tax requirement
- (d) Electing the Mayor and Deputy Mayor
- (e) Appointing the Leader and Deputy Leader of the Council (Chair and Vice-Chair of Policy & Resources Committee)
- (f) Agreeing or amending the committee structure, the remit/terms of reference of committees, their size and membership
- (g) Confirming the appointment (or dismissal) of the Head of Paid Service, Monitoring Officer and Chief Finance (Section 151) Officer.
- (h) Confirming the appointment of the Independent Persons.
- (i) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation including bylaws or personal bills.
- (j) Appointment of the Returning Officer and Electoral Registration Officer.
- (k) Significant changes to the Council's Constitution, including adopting and amending standing orders, Rules of Procedure, Contract Procedure Rules, Financial Regulations, Codes and Protocols that make up the Constitution.
- (l) All other matters which by law are reserved to the Council including: -
  - (i) Ombudsman reports where there has been a finding of maladministration with injustice and the report has been rejected
  - (ii) Statutory officer reports of the Monitoring Officer, Chief Financial Officer and Head of Paid Service and External Auditor's public interest reports.
- (m) Conferring the title of Honorary Freeman and Honorary Alderman.
- (n) Approving the Annual Senior Officer Pay Policy Statement.
- (o) Changing the name of the Borough.
- (p) Appointment of representatives of the local authority not otherwise delegated to a Committee.
- (q) Nomination of councillors and other persons to outside bodies
- (r) Consideration of reports from committees or any other body constituted by the Council.

- (s) To receive the minutes of committees and sub-committees acting under delegated powers for question and comment.
- (t) Making recommendations to the Secretary of State on the Borough boundaries, ward boundaries, electoral divisions, ward or polling districts.
- (u) Appointment of the Council's External Auditor; and
- (v) any other function which must by law be reserved to full Council.

#### Note

For the avoidance of doubt, the Full Council retains ultimate responsibility for the actions and decisions of all its Committees and also retains the ability to exercise all its powers whether or not they have also been delegated to a Committee or Officer. Full Council shall not, however, exercise a power that has been delegated without first ensuring that such a step is in the best interests of the Council and in accordance with the rules set out in the Articles of this Constitution. The Council's ability to exercise its powers will not override or supersede any decision or action already taken and implemented by a Committee or Officer acting under delegated authority.





# CONSTITUTION OF THE COUNCIL

## Part 3 Section B

### RESPONSIBILITY FOR FUNCTIONS - (B) COMMITTEES

#### 1. Composition, Terms of Reference and Business of Committees

Full Council is responsible for the exercise of all the functions that are the responsibility of the local authority. A number of decisions have been expressly reserved to a meeting of full Council. Beyond this, in order to operate more effectively as an organisation, the Council has arranged for the discharge of all other of its functions to be conducted by a committee, a sub-committee or an officer of the authority or, in certain cases, by another local authority or public body.

This Section deals with the allocation of responsibility for undertaking those functions of the Council that are not reserved to the full Council itself and have been delegated to a committee. In some cases, the law requires the Council to establish a committee and dictates the way it operates. In most cases, however, the Council decides on the size, terms of reference and membership of its committees and are established pursuant to sections 101 and 102 of the Local Government Act 1972.

Articles 6,7 and 8 of this Constitution list the standing committees and sub-committees of the Council, which are grouped as Policy and Service Committees from Article 6, which includes the re-consideration of decisions and overview scrutiny matters referred to at Article 7, and the Regulatory Committees and other Committees from Article 8. Each of these has a different set of functions ascribed to it as set out below. The Committees in turn will reserve a number of decisions to themselves or to a sub-committee that might be established but will otherwise delegate their functions to a relevant officer. Committees shall only establish further sub-committees where there is a compelling reason to do so to facilitate the conduct of the Committee's business and only as may be approved by Council or the Policy and Resources Committee.

The business of Committees and Sub-Committees shall be conducted in accordance with those Council Standing Orders at Part 4(1) of this Constitution. The agenda of any Committee or Sub-Committee shall only include those items of business that require a decision, relate to budget or performance monitoring or which are necessary to discharge their overview and scrutiny function.

Some Committees have statutory or standing advisory or partnership groups associated with them to assist them to carry out their functions, either alone or as part of a formal partnership with other public, community or business bodies.

Described below are the Committees that the Council has established, their terms of reference and details of their membership and approach. The powers and duties that are delegated, listed under the various committees' terms of reference, are across

broad functional descriptions and include powers and duties under all legislation, present and future, within those descriptions and all powers and duties including any statutory re-enactment or modification of the legislation referred to or associated with those functions.

The Leader, Deputy Leader and the Political Group Leaders on the Council, if not members of a Committee, shall be permitted to attend meetings of the Committees and Sub-Committees, but with the right to speak only at the Chair's invitation.

## 2. **Working Groups Involving Members**

Working groups, review teams and advisory groups may be established by a Committee from time to time to develop recommendations or investigate issues of interest or concern alongside formal Sub-Committees. They shall be for specific purposes and shall be time limited. They will only be established when the matter cannot be undertaken by a relevant Committee and each committee is limited to establishing [two] such committees at any one time.

They usually fall into one of the following categories:

### (a) **Panels or groups relating to policy development or service functions**

Usually established to advise about an issue or subject area. The relevant Committee shall specify terms of reference and membership, which may include invited persons holding relevant expertise or knowledge and Members who are not members of the parent Committee.

### (b) **Task & Finish Groups**

Small groups of Members appointed by a Committee or Sub-Committee for the purpose of advising the parent committee about either:

- (i) an in-depth policy review;
- (ii) performance monitoring; or
- (iii) responding to a major policy consultation.

The terms of reference and purpose are to be specified by the relevant Committee. A specific standing order is set out at Part 4(4)B of this Constitution in respect of a Policy and Services Committee establishing a panel or working group to undertake its overview and scrutiny review functions.

## 3. **Member Champions**

The Council and Committees may approach individual Members to take on a specific role to highlight and enhance an area of that Committee or the Council's terms of reference.

### (a) **Role**

The role of a Member Champion is to become a focus for the Council and Committee, partners, stakeholders and communities in order to:

- (i) Raise the profile of that highlighted area of the Council and Committee's functions, and in conjunction with the relevant Member(s), officers and partner(s), support community engagement activities and other related publicity campaigns;
- (ii) Liaise with members, public sector partners and other stakeholders to promote key initiatives (as appropriate and required);
- (iii) Act as an advocate for that highlighted area of the Council and Committee's functions and be required to familiarise themselves with related matters;
- (iv) Seek out and share best practice from other areas of the UK;
- (v) Periodically present reports to the members of their Committee or other committees (as necessary and requested) setting out the actions taken and how those actions have contributed to the success and promotion of that highlighted area of the Council and Committee's functions;
- (vi) Present, as appropriate, research papers and suggest new initiatives and ideas relating to highlighted area of the Council and Committee's functions for consideration by the Committee(s) or Council.

(b) Appointment

- (i) The Council or Committee holding the corresponding functions within its terms of reference may appoint a Member Champion from one of their number. This may be the Chair or any other member of the Committee.
- (ii) Where the subject of a Member Champion covers functions across the terms of reference of more than one Committee, the Committees may jointly appoint the Member Champion from either of their Committees' number.

(c) Standing Member Champions

The Council and relevant Committees shall appoint Member Champions to the following roles

- (i) Armed Forces Member Champion –The Mayor shall be the standing member Champion in relation to the Armed Forces and the Armed Forces Covenant as part of his/her civic role;
- (ii) Heritage Member Champion – The Tourism, Communities, Culture & Leisure Committee is to appoint a Member Champion in relation to matters concerning the Borough's heritage; and
- (iii) Domestic Violence Member Champion – The Adult Social Care and Health is to jointly appoint a Member Champion in relation to matters concerning domestic violence

(d) Decision making and powers

For the avoidance of doubt, a Member Champion fulfils their role as a member of the relevant Committee and have no individual decision making powers or authority.

(e) Working Arrangements:

- (i) Member Champions will liaise as required with the relevant officer lead and the Committee Chair and Spokespersons in relation to their role and activities.
- (ii) The Member Champion will follow all appropriate and applicable Council working protocols for engaging with officers, stakeholders and the public.
- (iii) The Member Champions shall not do anything that is contrary to or inconsistent with any decision or approach taken by the Committee(s) or the Council.
- (iv) Where there is any confusion or difference between the Member Champion views/proposed actions and that of the Committee, the Committee's view/position shall prevail.
- (v) Member Champions shall seek advice and guidance from the Council's Senior Leadership Team if they are in doubt or confusion on any issue or matter.

(f) Remuneration:

- (i) No allowance or other remuneration shall be paid to Member Champions for performing the role.
- (ii) Expenses may be met for engagements with outside bodies or public occasions as approved by the relevant lead officer or the Committee.

## **POLICY AND SERVICES COMMITTEES (Articles 6 and 7)**

- 1. Policy and Resources Committee**
- 2. Adult Social Care and Public Health Committee**
- 3. Children, Young People and Education Committee**
- 4. Economy, Regeneration and Housing Committee**
- 5. Environment, Climate Emergency and Transport Committee**
- 6. Tourism, Communities, Culture & Leisure Committee**

## **STATUTORY, REGULATORY AND OTHER COMMITTEES (Article 8)**

- 7. Planning Committee**
- 8. Regulatory and General Purposes Committee**
- 9. Licensing Act Committee**
  
- 10. Audit & Risk Management Committee**
- 11. Constitution and Standards Committee**
- 12. Pensions Committee**
  
- 13. Health and Well Being Board**
  
- 14. Joint Merseyside Police and Crime Panel**

## POLICY AND SERVICE COMMITTEES (Articles 6 and 7)

### 1. POLICY AND RESOURCES COMMITTEE

#### 1.1 Composition:

To be determined each year by the Annual Meeting of Council and subject to the overall political balance calculation. The membership shall include:

- (a) the Leader of the Council, who shall be the Chair;
- (b) the Deputy Leader of the Council, who shall be Vice-Chair; and
- (c) the chairs of each of the other Policy and Services Committees.

#### 1.2 Terms of Reference

The Policy and Resources Committee has two main areas of responsibility, which is to provide strategic direction to the operation of the Council, including making decisions on policies and co-ordinating spend not reserved to full Council, and to maintain a strategic overview of outcomes, performance, risk management and budgets.

The Committee is charged by full Council to:-

- (a) formulate, co-ordinate and implement corporate policies and strategies and the medium term financial plan (budget), which includes responsibility for any decision:
  - (i) that relates to such matters to the extent that they are not reserved to full Council;
  - (ii) on any cross-cutting policies that impact on other committee areas;
  - (iii) on policy matters not otherwise allocated to any other committee; and
  - (iv) to determine any dispute or difference between committees;
- (b) provide a co-ordinating role across all other service committees and retain a 'whole-council' view of performance, budget monitoring and risk management, which includes responsibility for a decision:
  - (i) that has a major impact on a number of Council services or on the Council as a whole;
  - (ii) on any virement between Budget funds (revenue) requested by a Committee or officer in excess of **£500,000**;
  - (iii) on any virement between Budget funds (capital) or any amendment to the Capital Programme requested by a Committee or officer in excess of **£500,000**
  - (iv) regarding land and property including major acquisition and disposals, which includes reserved decision making concerning any purchase, sale or transfer of a value in excess of, or likely to exceed, **£500,000**, unless

the Committee has delegated this function in relation to a specified area or business plan as the Committee may determine

- (v) regarding companies or limited liability partnerships including acquisition and disposals; and
  - (vi) which is deemed significant in terms of impact on the Council's revenue or capital (to be determined by the Head of Paid Service and/or Section 151 Officer in consultation with the Leader);
- (c) without limiting the generality of responsibility for cross-cutting policies (at (a) above), lead on behalf of the Council:
- (i) in matters concerning relationships with HM Government, the Liverpool City Region Combined Authority and other major public and non-public bodies;
- (d) appoint Council representatives as required;
- (e) nominate councillors and other persons to outside bodies; and
- (f) undertake responsibility for developing and monitoring the enabling corporate services, including, finance and investment, project support and risk management, strategic procurement and commercial strategies, ICT, property and asset management, human resources and organisational development, law and governance, communications and public affairs, emergency planning and business continuity.

### 1.3 Re-consideration

The Committee additionally holds responsibility for the removal of delegation and reconsideration of decisions made by policy and services committees, or of key decisions made by an officer acting under delegation of those committees, as set out at Article 7 and Part 4(4)(A) of this Constitution.

### 1.4 Overview and Scrutiny

The Committee's role includes an overview scrutiny approach to its responsibilities which shall be conducted in accordance with Part 4(4)(B) of this Constitution. As part of its work programming the Committee shall consider:

- (a) **Overview and Policy Development** -The Committee may undertake enquiries and investigate the available options for future direction in policy development and may appoint advisors 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.
- (b) **Overview and Scrutiny** – The Committee holds responsibility:

- (i) for scrutinising and reviewing decisions made or actions taken by the Authority in so far as they have an impact on the role or functions of the Committee, its policies, budget and service delivery; and
  - (ii) for the overview and scrutiny of external organisations whose services or activities affect the Borough of Wirral or any of its inhabitants where this does not fall within the role or remit of another service Committee or where it relates to cross cutting issues
- (c) **Stakeholder Engagement** - The Committee may invite stakeholders to address the committee on issues of local concern and/or answer questions in so far as it impacts directly or indirectly on the role of functions of the committee.

### 1.5 Senior Officer Appointments & Staffing Sub-Committee

- (a) A Sub-Committee of members of the Policy and Resources, with delegated authority to recommend or make appointments and related matters in respect of chief officers, as set out at Part 4(7) of the Constitution, together with oversight of employment policies, terms and conditions.
- (b) The Sub-Committee will not be appointed in accordance with the political balance rules (minute 8(1) of 2020/21 refers) but will consist of:
  - (i) the Leader (Chair of Policy & Resources Committee), or in their absence the Deputy Leader (Vice-Chair), who shall chair the Sub-Committee;
  - (ii) a member from each of the other Political Groups represented on the Policy & Resources Committee; and
  - (iii) the Chair, or in their absence the Vice-Chair, of the Policy & Services Committee with terms of reference most closely associated with the post concerned (or if that committee concerned is deemed to be the Policy & Resources Committee then the Deputy Leader (Vice-Chair).

### 1.6 Other staffing sub-committees

A sub-committee or panel may be required from time to time to act in relation to Standing Order 7 or 8 of the Employment procedure Rules (disciplinary matters and appeals) set out at Part 4(7) of this Constitution. The membership of any such sub-committee or panel shall be as per 1.5(b) above but may differ or be altered in order to meet with any statutory, contractual or any other legal requirements relating to the post or postholder concerned.

### 1.7 Finance Sub-Committee

A Sub-Committee of five (5) or more members of the Policy and Resources, subject to political balance, with responsibility for development of the Council's budget and for oversight of the Council's procurement framework

### 1.8 Shareholder Board



A Sub-Committee of three (3) to five (5) members of the Policy and Resources Committee, subject to political balance, with delegated authority to exercise responsibility for the Council's functions as corporate shareholder of a company, or group of companies, or a limited liability partnership. The Sub-Committee will be organised, and will also meet as a working group, alongside officers and advisors in accordance with the Council's adopted Code of Practice for the Governance of Council Interests in Companies at Part 5(7) of this Constitution.

## **2. ADULT SOCIAL CARE AND PUBLIC HEALTH COMMITTEE**

### **2.1 Composition:**

To be determined each year by the Annual Meeting of Council and subject to the overall political balance calculation.

### **2.2 Terms of Reference**

The Adult Social Care and Public Health Committee is responsible for the Council's adult social care and preventative and community based services. This includes the commissioning and quality standards of adult social care services, incorporating responsibility for all of the services, from protection to residential care, that help people live fulfilling lives and stay as independent as possible as well as overseeing the protection of vulnerable adults. The Adult Social Care and Public Health Committee is also responsible for the promotion of the health and wellbeing of the people in the Borough. This includes, in respect of the Health and Social Care Act 2006, the functions to investigate major health issues identified by, or of concern to, the local population.

The Committee is charged by full Council to undertake responsibility for:-

- a) adult social care matters (e.g., people aged 18 or over with eligible social care needs and their carers);
- b) promoting choice and independence in the provision of all adult social care
- c) all Public Health functions (in co-ordination with those functions reserved to the Health and Wellbeing Board and the Overview and Scrutiny Committee's statutory health functions);
- d) providing a view of performance, budget monitoring and risk management in relation to the Committee's functions; and
- e) undertaking the development and implementation of policy in relation to the Committee's functions, incorporating the assessment of outcomes, review of effectiveness and formulation of recommendations to the Council, partners and other bodies, which shall include any decision relating to:
  - (i) furthering public health objectives through the development of partnerships with other public bodies, community, voluntary and charitable groups and through the improvement and integration of health and social care services;
  - (ii) functions under or in connection with partnership arrangements made between the Council and health bodies pursuant to Section 75 of the National Health Service Act 2006 ("the section 75 Agreements")
  - (iii) adult social care support for carers;
  - (iv) protection for vulnerable adults;
  - (v) supporting people;
  - (vi) drug and alcohol commissioning;

- (vii) mental health services; and
  - (viii) preventative and response services, including those concerning domestic violence.
- f) a shared responsibility with the Children, Young People and Education Committee for ensuring the well-being and support of vulnerable young people and those at risk of harm as they make the transition into adulthood
- g) in respect of the Health and Social Care Act 2006, the functions to:
- (iii) investigate major health issues identified by, or of concern to, the local population.
  - (iv) consult, be consulted on and respond to substantial changes to local health service provision, including assessing the impact on the local community and health service users.
  - (v) scrutinise the impact of interventions on the health of local inhabitants, particularly socially excluded and other minority groups, with the aim of reducing health inequalities.
  - (vi) maintain an overview of health service delivery against national and local targets, particularly those that improve the public's health.
  - (vii) receive and consider referrals from local Healthwatch on health matters which are to include the establishment and functioning of joint arrangements as set out at paragraph 14 of this Section.

### 2.3 Overview and Scrutiny

The Committee's role includes an overview scrutiny approach to its responsibilities which shall be conducted in accordance with the overview and scrutiny means of working set out at Part 4(4)(B) of this Constitution. As part of its work programming the Committee shall consider:

- (a) **Overview and Policy Development** -The Committee may undertake enquiries and investigate the available options for future direction in policy development and may appoint advisors 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.
- (b) **Overview and Scrutiny** – The Committee holds responsibility:
- (i) for scrutinising and reviewing decisions made or actions taken by the Authority in so far as they have an impact on the role or functions of the Committee, its policies, budget and service delivery;
  - (ii) for the overview and scrutiny of external organisations whose services or activities affect the Borough of Wirral or any of its inhabitants where this does

not fall within the role or remit of another service Committee or where it relates to cross cutting issues; and

(iii) for those overview and scrutiny functions in respect of the Health and Social Care Act 2006 as set out in paragraph g) above which may be conducted by the Joint Committee referred to at paragraphs 14 below.

(c) **Stakeholder Engagement** - The Committee may invite stakeholders to address the committee on issues of local concern and/or answer questions in so far as it impacts directly or indirectly on the role of functions of the committee.

## 2.4 **Joint Strategic Commissioning Board Sub-Committee**

A Sub-Committee of three (3) or more members of the Adult Social Care and Public Health Committee, subject to politically balance, to sit in common or jointly with representatives of the National Health Service and to exercise delegated authority on behalf of the Council in respect of:

- (a) pooled funding arrangements with the NHS or other governmental bodies;
- (b) the place based health and care arrangements as may be provided for by legislation; and
- (c) such other commissioning, strategic design quality and performance of health and care services across the Borough of Wirral, including the outcomes and quality of those services,

within the terms of reference of the Adult Social Care and Public Health Committee, that the Committee may from time to time determine shall be the responsibility of the Sub-Committee.

## 2.5 **Joint Health and Integrated Care System Scrutiny Committees**

Joint health scrutiny arrangements and protocol are to be agreed between the local authorities of Cheshire and Merseyside being:

- Cheshire East Council
- Cheshire West and Chester Council
- Halton Borough Council
- Knowsley Council
- Liverpool City Council
- St. Helens Metropolitan Borough Council
- Sefton Council
- Warrington Borough Council
- Wirral Borough Council

The Adult Social Care and Public Health Committee is responsible for the Council's functions under the Joint Health Scrutiny Arrangements and Protocol, which provide for the establishment, membership and procedures in respect of the following

### (a) **Joint Health Scrutiny Committees Protocol**

Where a substantial development or variation to health services is deemed to affect more than one of the constituent authorities, a Joint Health Overview and Scrutiny Committee comprising of representatives of the authorities in the area affected will be called to meet under the terms of the Protocol. This joint committee will be formally consulted on the health proposal and have the opportunity to comment. Health Overview Scrutiny Committees can write to request that the Secretary of State consider calling in a health proposal. Requests should only be used in exceptional situations where local resolution has not been reached.

(b) **Cheshire and Merseyside Integrated Care System Joint Health Scrutiny Committee Arrangements**

The Arrangements establish a joint committee of all nine constituent authorities. The Cheshire and Merseyside Integrated Care System Joint Health Scrutiny Committee is charged with exercising its functions with a view to supporting the effective planning, provision, and operation of health services at Cheshire and Merseyside level. This will include promoting transparency in how the Integrated Care System (ICS) fulfils its responsibilities within Cheshire and Merseyside.

The overarching role of the Joint Committee is to scrutinise the work of the ICS in the discharge of its statutory responsibilities and functions at Cheshire and Merseyside level in order to support their effective exercise and, where appropriate to make reports or recommendations to the ICS.

### **3 CHILDREN, YOUNG PEOPLE AND EDUCATION COMMITTEE**

#### **3.1 Composition:**

To be determined each year by the Annual Meeting of Council and subject to the overall political balance calculation, to include:

- (i) one representative of the Church of England Diocesan Board and one representative of the Roman Catholic Diocesan Board, who may only vote on education matters;
- (ii) two Co-opted Parent Governor Representatives (non-voting)

#### **3.2 Terms of Reference**

The Children, Young People and Education Committee is responsible for services which help keep children and young people safe and fulfil their potential. It incorporates schools and attainment, and social care for children and families. It has a particular focus on those children who are in care, and for whom the Council has corporate parenting responsibility.

The Committee is charged by full Council to undertake responsibility for:-

- (a) exercising management, oversight and delivery of services to children and young people in relation to their care, wellbeing, education or health, with the exception of any powers reserved to full Council;
- (b) the functions and powers conferred on or exercisable by the Council as Local Authority in relation to the provision of education and Schools Forum;
- (c) working with all schools (including academies) in relation to raising standards of attainment and developing opportunities;
- (d) leading for the Council and its partners in the discharge the Council's functions as Corporate Parent for its children in care and care leavers;
- (e) any other functions comprised in partnership arrangements with other bodies connected with the delivery of services for children, young people and families;
- (f) providing a view of performance, budget monitoring and risk management in relation to the Committee's functions;
- (g) undertaking the development and implementation of policy in relation to the Committee's functions, incorporating the assessment of outcomes, review of effectiveness and formulation of recommendations to the Council, partners and other bodies, which shall include any decision relating to:
  - o child protection;
  - o children's centres;
  - o education, schools and settings;

- looked after children;
- mental health services;
- safeguarding;
- special educational needs and disability (SEND);
- youth offending services;
- youth services; and
- social and education transport

### 3.3 Overview and Scrutiny

The Committee's role includes an overview scrutiny approach to its responsibilities which shall be conducted in accordance with the overview and scrutiny means of working set out at Part 4(4)(B) of this Constitution. As part of its work programming the Committee shall consider:

- (a) **Overview and Policy Development** -The Committee may undertake enquiries and investigate the available options for future direction in policy development and may appoint advisors 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.
- (c) **Overview and Scrutiny** – The Committee holds responsibility
  - (iv) for scrutinising and reviewing decisions made or actions taken by the Authority in so far as they have an impact on the role or functions of the Committee, its policies, budget and service delivery; and
  - (v) for the overview and scrutiny of external organisations whose services or activities affect the Borough of Wirral or any of its inhabitants where this does not fall within the role or remit of another service Committee or where it relates to cross cutting issues
- (c) **Stakeholder Engagement** - The Committee may invite stakeholders to address the committee on issues of local concern and/or answer questions in so far as it impacts directly or indirectly on the role of functions of the committee.

### 3.4 Corporate Parenting Panel

A Sub-Committee and Working Group of five (5) or more members of the Children, Young People and Education Committee, politically balanced, together with [two] non-voting co-opted young people with recent (within the last five years) direct experience of being looked after by or receiving services as a care leaver from the Council, with delegated authority to exercise responsibility for the Council's functions relating to the delivery by or on behalf of the Council, of Corporate Parenting

functions with the exception of policy decisions which will remain with the Children and Young People's Committee.



## **4. ECONOMY, REGENERATION AND HOUSING COMMITTEE**

### **4.1 Composition:**

To be determined each year by the Annual Meeting of Council and subject to the overall political balance calculation.

### **4.2 Terms of Reference**

The Economy, Regeneration and Housing Committee has responsibility for developing and delivering a vision for Wirral as a place. It is responsible for developing and determining or recommending all planning policies, including the Local Plan, and infrastructure planning. It is also responsible for promoting regeneration, economic development and associated activities, including the tourism, culture and visitor economy, and for removing barriers to growth. It is also responsible for taking a strategic approach to the Council's various housing functions, including issues concerning social rented and affordable housing, homelessness, allocations and standards of housing.

The Committee is charged by full Council to undertake responsibility for:

- (a) formulation and delivery of the Council's strategic development objectives for planning, sustainability and transportation;
- (b) developing and recommending those plans and strategies which together comprise the Local Plan;
- (c) developing and adopting or recommending (if reserved to Council) other spatial planning documents, including but not limited to
  - (i) supplementary planning documents (SPD) and planning policy advice notes;
  - (ii) Master Plans and development briefs;
  - (iii) The Infrastructure Delivery Plan; and
  - (iv) [The Community Infrastructure Levy (CIL) when applicable];
- (d) economic development, including but not limited to infrastructure, enterprise, skills and seeking, securing and managing external funds to achieve that, directly or in partnership with joint ventures and external companies or bodies as well as with the Combined Authority and government bodies;
- (e) the Council's functions and partnerships regarding the promotion of economic growth and the establishment and development of business;
- (f) the promotion and development of the economic factors in the area, such as seeking to ensure sufficient and appropriate employment sites, investment, adult skills, apprenticeship schemes, productivity, development sites and so forth;
- (g) overseeing the progress of major projects (including major building, infrastructure or other projects involving the erection or significant alteration of major permanent structures or landmarks) undertaken by the Council directly or as

enabler, funder or joint enterprise partner, including but not limited to the Wirral Growth Company LLP;

- (h) the Authority's role and functions in relation to strategic and private sector housing policies and as the housing authority, including but not limited to
  - (i) the Council's Housing Strategy;
  - (ii) homelessness and the allocation of housing;
  - (iii) private sector housing, including taking action to remedy overcrowding, disrepair, unfitness and statutory nuisances; to promote fire safety in private sector housing and the Council's functions in relation to houses in multiple occupation;
  - (iv) licensing schemes;
  - (v) tenancy relations and the provision of housing advice;
  - (vi) relationship with Registered Providers of housing;
  - (vii) housing loans and grants;
  - (viii) housing related support services;
  - (ix) policies and actions with a view to reducing and eliminating street homelessness to ensure that appropriate action is taken; and
  - (x) analysis, development and overview of housing policies in terms of spatial planning to inform the Local Plan and planning policies;
- (i) reviewing major projects and any project boards having regard to capacity to deliver, corporate priorities and resources, and advise the Policy and Resources Committee as appropriate;
- (j) providing a view of performance, budget monitoring and risk management in relation to the Committee's functions; and
- (k) undertaking the development and implementation of policy in relation to the Committee's functions, incorporating the assessment of outcomes, review of effectiveness and formulation of recommendations to the Council, partners and other bodies, which shall include any decision relating to the above functions.

### 6.3 Overview and Scrutiny

The Committee's role includes an overview scrutiny approach to its responsibilities which shall be conducted in accordance with the overview and scrutiny means of working set out at Part 4(4)(B) of this Constitution. As part of its work programming the Committee shall consider:

- (a) **Overview and Policy Development** -The Committee may undertake enquiries and investigate the available options for future direction in policy development and may appoint advisors 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.

(b) **Overview and Scrutiny** – The Committee holds responsibility:

- (i) for scrutinising and reviewing decisions made or actions taken by the Authority in so far as they have an impact on the role or functions of the Committee, its policies, budget and service delivery; and
- (ii) for the overview and scrutiny of external organisations whose services or activities affect the Borough of Wirral or any of its inhabitants where this does not fall within the role or remit of another service Committee or where it relates to cross cutting issues

(c) **Stakeholder Engagement** - The Committee may invite stakeholders to address the committee on issues of local concern and/or answer questions in so far as it impacts directly or indirectly on the role of functions of the committee.

## 5. ENVIRONMENT, CLIMATE EMERGENCY AND TRANSPORT COMMITTEE

### 5.1 Composition:

To be determined each year by the Annual Meeting of Council and subject to the overall political balance calculation.

### 5.2 Terms of Reference

The Environment, Climate Emergency and Transport Committee has responsibility for parks and open spaces, highways management and infrastructure, coastal protection and flood defence and environment and waste matters. It is the Committee that leads on behalf of the Council in responding to and matters concerning the Climate Emergency. The Committee is also responsible for the overview and scrutiny of flood risk management and coastal erosion management functions.

The Committee is charged by full Council to undertake responsibility for the Council's role and functions:-

- (a) in co-ordinating the response to cross-cutting sustainability issues such as reducing carbon emissions, air quality issues, climate change response, improving resource efficiency and developing sustainable energy;
- (b) in relation to all highways matters and as highway authority, street authority, bridge authority, including but not limited to public open spaces, street furniture on the highway and open spaces or parts of open spaces immediately adjacent to the highway;
- (c) in relation to traffic management and transport and as traffic authority, including but not limited to public passenger transport and the co-ordination of transport for service users, traffic orders and rights of way issues;
- (d) in relation to parking, including on and off-street parking and civil parking enforcement;
- (e) in respect of parks, open spaces, countryside management, allotments, playgrounds and cemeteries, including arboricultural, gardening and warden services;
- (f) in relation to the management of authorised and unauthorised sites and encampments, this to include all activities necessary or incidental to the Council's performance of its responsibilities in relation to Gypsies, Roma and Travellers;
- (g) in relation to waste and as waste collection authority, litter authority, including but not limited to dealing with litter, street cleansing, abandoned vehicles and dog fouling, and the Council's relationship with Merseyside Recycling & Waste Authority (MRWA) as the joint waste disposal authority;
- (h) as coast protection authority and lead local flood authority;
- (i) in respect of emergency planning and community resilience (infrastructure and contract services);

- (j) providing a view of performance, budget monitoring and risk management in relation to the Committee's functions; and
  - (k) undertaking the development and implementation of policy in relation to the Committee's functions, incorporating the assessment of outcomes, review of effectiveness and formulation of recommendations to the Council, partners and other bodies, which shall include any decision relating to the above functions.
- (l) in respect of Section 9JB of the Local Government Act 2000, the functions to review and scrutinise the exercise by risk management authorities of flood risk management and of coastal erosion management functions which may affect the local authority's area.

### 5.3 Overview and Scrutiny

The Committee's role includes an overview scrutiny approach to its responsibilities which shall be conducted in accordance with the overview and scrutiny means of working set out at Part 4(4)(B) of this Constitution. As part of its work programming the Committee shall consider:

- (a) **Overview and Policy Development** -The Committee may undertake enquiries and investigate the available options for future direction in policy development and may appoint advisors 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.
- (b) **Overview and Scrutiny** – The Committee holds responsibility:
  - (i) for scrutinising and reviewing decisions made or actions taken by the Authority in so far as they have an impact on the role or functions of the Committee, its policies, budget and service delivery;
  - (ii) for the overview and scrutiny of external organisations whose services or activities affect the Borough of Wirral or any of its inhabitants where this does not fall within the role or remit of another service Committee or where it relates to cross cutting issues; and
  - (iii) for those overview and scrutiny functions in respect of flood and coastal protection as set out in paragraph 5.4(l) above.
- (c) **Stakeholder Engagement** - The Committee may invite stakeholders to address the committee on issues of local concern and/or answer questions in so far as it impacts directly or indirectly on the role of functions of the committee.

## 6. TOURISM, COMMUNITIES, CULTURE AND LEISURE COMMITTEE

### 6.1 Composition:

To be determined annually by the Annual Meeting of Council and subject to the overall political balance calculation.

### 6.2 Terms of Reference

The Tourism, Communities, Culture and Leisure Committee has responsibility for customer contact, community development and community services, including all of those functions related to community safety and also those regarding the promotion of community engagement.

The Committee is charged by full Council to undertake responsibility for the Council's role and functions:-

- (a) for customer and community contact services, including various offices and meeting points, customer contact centres and advice and transaction services
- (b) community engagement, incorporating the Council's approach to equalities, inclusion communities, neighbourhoods and the voluntary and charitable sector, community wealth building and social value;
- (c) in considering options and develop proposals for neighbourhood arrangements, including capacity building, use of assets and devolving powers and services to neighbourhoods;
- (d) for the provision and management of leisure, sports and recreation facilities;
- (e) for delivery of the authority's library and museums services, including but not limited to art galleries, historic buildings and their gardens and the functions of the Council regarding public records, and the Council's
- (f) concerning tourism, the arts, culture and heritage, including provision of theatre, entertainments, conferences and events;
- (g) in relation to bereavement services and support to the Coroner's service;
- (h) regarding community safety, crime and disorder and all associated matters;
- (i) for trading standards and environmental health, including but not limited to:
  - (i) consumer protection;
  - (ii) product safety;
  - (iii) fair trading;
  - (iv) metrology;
  - (v) food standards and animal health;
  - (vi) air pollution control;
  - (vii) health and safety at work (except in so far as it relates to the Council as an employer);
  - (viii) public conveniences;

- (ix) food safety; and
- (x) control of nuisances;
- (j) in respect of emergency planning and community resilience (community, regulatory and asset services);
- (k) providing a view of performance, budget monitoring and risk management in relation to the Committee's functions; and
- (l) undertaking the development and implementation of policy in relation to the Committee's functions, incorporating the assessment of outcomes, review of effectiveness and formulation of recommendations to the Council, partners and other bodies, which shall include any decision relating to the above functions.
- m) in respect of the Police and Justice Act 2006, the functions to:
  - (i) review or scrutinise decisions made or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions; and
  - (ii) make reports or recommendations to the local authority with respect to the discharge of those functions

### 6.3 Overview and Scrutiny

The Committee's role includes an overview scrutiny approach to its responsibilities which shall be conducted in accordance with the overview and scrutiny means of working set out at Part 4(4)(B) of this Constitution. As part of its work programming the Committee shall consider:

- (a) **Overview and Policy Development** -The Committee may undertake enquiries and investigate the available options for future direction in policy development and may appoint advisors 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.
- (d) **Overview and Scrutiny** – The Committee holds responsibility:
  - (i) for scrutinising and reviewing decisions made or actions taken by the Authority in so far as they have an impact on the role or functions of the Committee, its policies, budget and service delivery;
  - (ii) for the overview and scrutiny of external organisations whose services or activities affect the Borough of Wirral or any of its inhabitants where this does not fall within the role or remit of another service Committee or where it relates to cross cutting issues; and
  - (iii) for those overview and scrutiny functions in respect of crime and disorder as set out in paragraph 6.4(m) above which are to include the establishment and functioning of joint arrangements as set out at paragraph 15 of this Section.

- (c) **Stakeholder Engagement** - The Committee may invite stakeholders to address the committee on issues of local concern and/or answer questions in so far as it impacts directly or indirectly on the role of functions of the committee.



## **STATUTORY, REGULATORY AND OTHER COMMITTEES (Article 8)**

### **7. PLANNING COMMITTEE (DEVELOPMENT CONTROL)**

#### **7.1 Composition:**

To be determined each year by the Annual Meeting of Council and subject to the overall political balance calculation. There shall be no power to co-opt.

#### **7.2 Terms of Reference**

The principal role of the Planning Committee is to act as the administrative committee responsible for making decisions as local planning authority on planning applications, development control and similar regulatory matters, which are more particularly described as Functions relating to town and country planning and development control and related matters as set out at Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

The Committee is charged by full Council to fulfil those functions:

- (a) to consider and determine applications submitted under the Planning Acts for planning permission, listed building consent, and reserved matters pursuant to major planning applications;
- (b) to consider and determine applications for the display of advertisements submitted under the Town and Country Planning (Control of Advertisements) (England) Regulations;
- (c) to determine whether prior approval applications for the construction, installation, alteration or replacement of telecommunications masts submitted under Part 24 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 should be granted or refused;
- (d) related matters including but not limited to:
  - (i) applications for 'hedgerow removal' (Hedgerow Regulations 1997, as amended);
  - (ii) applications to undertake works to trees subject to a Tree Preservation Order or within a Conservation Area (Town and Country Planning Trees Regulations 1999, as amended);
  - (iii) applications for remedial notices in respect of high hedges (Anti Social Behaviour Act 2003, as amended);
  - (iv) applications for Hazardous Substances Consent (Planning Hazardous Substances Act, 1990, as amended);
  - (v) the obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976;

- (vi) powers related to Commons Registration;
  - (vii) functions relating to public rights of way;
  - (viii) the licensing and registration functions relating to the New Roads and Street Works Act 1991 and the Highways Act 1980; and
  - (ix) functions relating to Town and Village Greens;
- (e) to exercise any other function of the Council under the Planning Acts and related legislation, whether as a local planning authority or otherwise, which may be referred to it by the Director of Regeneration and Place or other officer authorised by him/her.

### 7.3 Methodology

The process and meetings of the Committee shall also be subject to:

- (a) the Members Planning Code;
- (b) the requirement that no member of the Committee may participate in the debate or vote in the meeting until or unless that member has attended the mandatory planning training prescribed by the Council;
- (c) the Planning Committee protocol for public engagement; and
- (d) the scheme of delegation for planning matters.

### 7.4 Strategic Applications Sub-Committee

A Sub-Committee of between six (6) and nine (9) members of the Planning Committee, politically balanced, with responsibility for making decisions regarding:

- (a) the implications of major developments outside of the Borough that could have an impact on local residents; and
- (b) the following categories of applications for planning permission:
  - (i) large-scale major developments (defined by the Ministry for Housing, Communities and Local Government (MHCLG) as those of 200 houses or more or 10,000 square metres of non-residential floor space) which, by their nature, (e.g. scale, location etc.) have wider strategic implications and raise issues of more than local importance;
  - (ii) planning applications for mineral extraction or waste disposal, other than small scale works which are ancillary to an existing mineral working or waste disposal facility;
  - (iii) significant applications by Wirral Borough Council to develop any land owned by the Council, or for development of any land by the Council or by the Council jointly with any other person (Regulation 3 applications)

- (iii) applications which, if approved, would represent a significant departure from the policies of the statutory development plan, where they are recommended for approval;
  - (iv) any application where the Director responsible for the planning service considers it inappropriate to exercise delegated powers having regard to the public representations received and consultee responses; and
- (c) consideration of documents relating to the Local Development Framework and advise the Economy, Regeneration and Development Committee (or Housing Committee) where appropriate

## 8 REGULATORY AND GENERAL PURPOSES COMMITTEE

### 8.1 Composition:

Fifteen (15) Members of the Council, which may be altered to accommodate the overall political balance calculation. There shall be no power to co-opt.

### 8.2 Terms of Reference

The principal role of the Regulatory and General Purposes Committee is as the administrative committee, established as an ordinary committee and acting under delegation pursuant to sections 101 and 102 of the Local Government Act 1972, and responsible for making decisions as licensing and registration authority on all regulatory matters not otherwise delegated to the Planning Committee or reserved to the Licensing Act Committee.

The Committee is charged by full Council to fulfil all of those functions, more particularly described as set out at Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended), and associated matters, including but not limited to:

- (a) functions relating to licensing, registration and ancillary matters other than those falling within the remit of the Licensing Act Committee, including but not limited to:
  - acupuncture, tattooing, ear-piercing and electrolysis;
  - caravan sites;
  - charity collections and street collections;
  - hackney carriage and private hire vehicle licences, drivers and operators;
  - entertainments;
  - market and street trading,
  - pleasure boats and pleasure vessels;
  - scrap yards;
  - sex shops and sex establishments;
  - solemnisation of marriages;
  - theatres and cinemas;
  - zoos, animal trainers and exhibitors and dangerous wild animals;
- (b) functions relating to health and safety at work, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer;
- (c) functions relating to sea fisheries;
- (d) functions relating to statutory nuisance and contaminated land;
- (e) the passing of a resolution that schedule 2 to The Noise and Statutory Nuisance Act 1993 should apply in the authority's area;
- (f) commons regulation and town and village greens, the power to apply for an enforcement order against unlawful works on registered common land, the power to protect unclaimed registered common land and unclaimed town or village

greens against unlawful interference and the power to institute proceedings for offences in respect of unclaimed land;

- (g) the power to make a closing order on a takeaway food shop;
- (h) the obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976;
- (i) functions relating to elections and electoral registration not otherwise reserved to Full Council, including the making of recommendations to the Council as to recommendations to the Secretary of State on ward boundaries;
- (j) Power to consider and make recommendations to the Council on matters relating to the name and status of the Borough and individuals; and
- (k) making recommendations to Council on the promotion or approval of local bill.

### 8.3 Charitable Trusts Sub-Committee

A Sub-Committee of five (5) members of the Regulatory and General Purposes Committee, politically balanced, with responsibility for the discharge of the Council's functions where it acts as corporate trustee, currently the:

- (a) E.F Callister Youth Club; and
- (b) Wirral Borough Council Mayor's Charity

### 8.4 Licensing Panels

Panels of between three (3) and five (5) members of the Regulatory and General Purposes Committee, which shall consist of members of more than one political group but shall otherwise not be subject to political balance (Council minute 30 of 2021/22 refers), with responsibility for the Council's functions to deal with applications, determinations and reviews of licences or registrations, and any related matter, in respect of any licensed activity that is the responsibility of the Authority (other than under the Licensing Act 2003 or the Gambling Act 2005). Up to two (2) further members of the Licensing Act Committee may attend as observers.

### 8.5 Methodology

The process and meetings of the Committee will be conducted in accordance with:

- (a) guidance on Licensing and Regulatory matters that may be issued;
- (b) the requirement that no member of the Committee may participate in the debate or vote in the meeting until or unless that member has attended the mandatory licensing and regulatory training prescribed by the Council;
- (c) any protocol adopted for public engagement; and
- (d) the scheme of delegation for licensing and regulatory matters

The Committee or a Sub-Committee may regulate, where necessary, its own procedures to deal with any matter arising in connection with its duties, provided that the procedures remain in accordance with the principles set out at Article 13 of this Constitution. This includes that, subject to any statutory rules or procedures detailed elsewhere in the Constitution, a Panel acting as a tribunal is permitted, when all evidence has been submitted and speakers (if any) have finished, will hold discussion in the presence of the speakers and, as appropriate and in compliance with the Access to Information Procedure Rules, the public and press, and the decision making may thereafter be taken in private adjournment.

It is expected that decisions will then normally be announced to those present and remaining post-adjournment, at least in summary form, before a decision is issued in writing.

## 9 LICENSING ACT COMMITTEE

### 9.1 Composition:

Fifteen (15) Members of the Council, who will be those same Members as are appointed to the Regulatory and General Purposes Committee (whose appointments must be in accordance with the proportionality rules). Substitute members are not permitted in respect of the Licensing Act Committee. There shall be no power to co-opt.

### 9.2 Terms of Reference

The principal role of the Licensing Act Committee is to act as the administrative committee, acting under statutory delegation pursuant to the Licensing Act 2003, and responsible for making decisions as licensing authority under the Licensing Act 2003 and Gambling Act 2005.

### 9.3 Licensing Act Sub-Committee

Sub-Committees of three (3) members of the Licensing Act Committee with responsibility for the Council's functions to deal with applications, determinations and reviews of licences, permissions and any related matter in respect of the Licensing Act 2003 or the Gambling Act 2005. Up to two (2) further members of the Licensing Act Committee may attend as observers.

### 9.4 Methodology

The process and meetings of the Committee will be conducted in accordance with such of the rules set out in Part 4(4) as apply to the Committee under the Licensing Act 2003 and related Regulations and to:

- (a) guidance on Licensing and Regulatory matters that may be issued;
- (b) no member of the Committee may participate in the debate or vote in the meeting until or unless that member has attended the mandatory licensing and regulatory training prescribed by the Council;
- (c) any protocol adopted for public engagement; and
- (d) the scheme of delegation for licensing and regulatory matters

The Committee or Sub-Committee may regulate, where necessary, its own procedures to deal with any matter arising in connection with its duties, provided that the procedures remain in accordance with the principles set out at Article 13 of this Constitution. This includes that, subject to any statutory rules or procedures detailed elsewhere, a Panel acting as a tribunal is permitted, when all evidence has been submitted and speakers (if any) have finished, will hold discussion in the presence of the speakers and, as appropriate and in compliance with the Access to information Procedure Rules, the public and press, and the decision making may thereafter be taken in private adjournment.

It is expected that decisions will then normally be announced to those present and remaining post-adjournment, at least in summary form, before a decision is issued in writing.



## 10 AUDIT AND RISK MANAGEMENT COMMITTEE

### 10.1 Composition:

To be determined each year by the Annual Meeting of Council and subject to the overall political balance calculation, in respect of which:

- (a) The membership of the Audit and Risk Management Committee may not include Leader or Deputy Leader of the Council, a Chair of a Policy and Services Committee or any other member of the Policy and Resources Committee
- (b) Members may not consider decisions as part of the of the Audit and Risk Management Committee that they have made as a member of another Committee. In this case, they should declare an interest and leave the meeting room. If a member feels that there is a particular reason why he or she should participate, a dispensation must be sought from the Constitution and Standards Committee or Monitoring Officer
- (c) The Committee will in addition include a person who is not a Member or officer of the Council who shall be a co-opted member of the Committee entitled to speak but not vote at meetings.

### 10.2 Terms of Reference

The Audit and Risk Management Committee is a key component of Wirral Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.

The Committee provides independent assurance on the adequacy of the risk management framework and the associated control environment, independent scrutiny of the Council's financial and non-financial performance to the extent that it affects the Council's exposure to risk and weakens the control environment, and to oversee the financial reporting process. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

The Audit and Risk Management Committee is charged by full Council to:-

- (a) Governance
  - (i) Consider the Annual Governance Statement, and be satisfied that this statement is comprehensive, properly reflects the risk and internal control environment, including the system of internal audit, taking into account internal audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control, and includes an agreed action plan for improvements where necessary.
- (b) Internal Audit and Internal Control

- (i) With Chief Officers, to provide proactive leadership and direction on audit governance issues and champion audit and internal control throughout the Council.
  - (ii) Consider annually the effectiveness of the system of internal audit including Internal Audit Charter, Strategy, Plan of work and performance and that those arrangements are compliant with all applicable statutes and regulations, including the Public Sector Internal Audit Standards and Local Government Application Note.
  - (iii) Consider the Head of Internal Audit's annual report and a summary of internal audit activity which include an opinion on the adequacy and effectiveness of the Council's internal controls including risk management, any corporately significant issues arising, and receive assurance that action has been taken as necessary.
  - (iv) Consider regular summary reports on the work of internal audit including key findings, issues of concern and actions in hand as a result of internal audit activity.
  - (v) Consider reports showing progress against the audit plan and proposed amendments to the audit plan.
  - (vi) Ensure there are effective relationships between internal audit and external audit, inspection agencies and other relevant bodies and that the value of the audit process is actively promoted.
- (c) Risk Management & Control
- (i) Provide proactive leadership and direction on risk management governance issues and champion risk management throughout the Council and ensure that the Full Council is kept sufficiently informed to enable it to approve the Council's Risk Management Policy and Framework and that proper insurance exists where appropriate.
  - (ii) Consider the effectiveness of the system of risk management arrangements.
  - (iii) Consider an annual report and quarterly reports with respect to risk management including, an opinion on the adequacy and effectiveness of the Council's risk management, any corporately significant issues arising, and receive assurance that action has been taken as necessary.
  - (iv) Receive assurances that action is being taken on risk related issues identified by both internal and external auditors and other inspectors.
  - (v) Independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk.
  - (vi) Report to full Council as appropriate.
- (d) Anti-Fraud and Corruption
- (i) Provide proactive leadership and direction on Anti-Fraud and Corruption and champion Anti-Fraud and Corruption throughout the Council.
  - (ii) Consider the effectiveness of the Council's anti-fraud and corruption arrangements.

- (iii) Consider an annual report and other such reports, including an annual plan on activity with respect to Anti-Fraud and Corruption performance and receive assurances that action is being taken where necessary.
  - (iv) To be appraised of any steps arising from Whistleblowing investigations and to ensure appropriate actions are being taken and reported.
- (e) Annual Statement of Accounts
- (i) Consider the external auditor's reports and opinions, relevant requirements of the International Standards on Auditing and any other reports to members with respect to the Accounts, including the Merseyside Pension Fund and approve the Accounts on behalf of the Council and report required actions to the Council. Monitor management action in response to issues raised by the external auditor.
  - (ii) Consider the External Auditors Annual Governance Report and approve the Letter of Representation with respect to the Accounts and endorse the action plan contained in this Report.
- (f) External Audit
- (i) Consider any other reports of external audit and other inspection agencies.
  - (ii) Ensure there are effective relationships between external audit and internal audit.
  - (iii) To liaise with the Public Sector Audit Appointments over the appointment of the Council's external auditors and make recommendations to Council.
- (g) Merseyside Pension Fund
- (i) Following presentation to the Pensions Committee and with due regard to any comments and observations made, consider the draft Accounts of the Merseyside Pension Fund and authorise the publication and release of these accounts to the external auditors for the audit by the statutory deadline.
- (h) Treasury Management
- (i) Consider the effectiveness of the governance, control and risk management arrangements for Treasury Management and ensure that they meet best practice.
- (i) Partnerships and other bodies
- (i) To deal with any audit or ethical standards issues which may arise in relation to partnership working, joint committees and other local authorities or bodies.
  - (ii) Ensure that there are effective governance arrangements in place for Wirral Borough Council's wholly owned limited companies and trading vehicles.
  - (iii) Receive and review the financial statements and dividend policies of any Wirral Borough Council limited companies and to consider recommending corrective action where appropriate
- (j) Administration

- (i) Review the Committee's own terms of reference no less frequently than annually and where appropriate make recommendations to the Council for changes.
- (ii) Ensure members of the committee have sufficient training to effectively undertake the duties of this committee.
- (iii) Consider the Annual Report of the Chair of the Committee.

## 11 CONSTITUTION AND STANDARDS COMMITTEE

### 11.1 Composition:

To be determined each year by the Annual Meeting of Council, which may not necessarily be appointed in accordance with the political balance rules (minute 8(1) of 2020/21 refers) but which shall include at least one member nominated by each of the all Political Groups and then otherwise endeavour to reflect political balance.

Four (4) or more persons who are not Members or officers of the Council (Independent Persons), who will not be entitled to vote at meetings.

### 11.2 Terms of Reference

The Constitution and Standards Committee is responsible for overseeing the operation of the Council's Constitution and for promoting and maintaining high standards of ethical conduct and probity within the Council, including the exercise of all functions of the Authority in relation to ethical standards and, in particular, those under Chapter 7 of the Localism Act 2011.

The Committee is charged by full Council to undertake responsibility for the Council's role and functions:-

- (a) to keep the Council's constitutional arrangements under review and to make recommendations as to amendments and improvements to the Council's Constitution, including the codes and protocols;
- (b) to oversee and agree such minor and consequential changes to the Council's constitutional arrangements as are recommended by the Monitoring officer from time to time;
- (c) to hear and determine complaints against members alleging breaches of the Members' Code of Conduct;
- (d) to take an action in respect of a member found to be in breach;
- (e) to oversee and approve the operation of the Council's functions relating to the promotion and maintenance of high standards of conduct amongst members and co-opted members of the Council including:
  - (i) approving and issuing guidance to Members
  - (ii) making recommendations to Full Council regarding the suggested amendment of the Members' Code of Conduct
  - (iii) approving training to be provided to members in the Code of Conduct
  - (iv) monitoring the operation of the Code of Conduct
- (f) to approve the granting, to any Council employee, of a dispensation in relation to disqualification from political activities Local Government and Housing Act 1989;

- (g) to select and recommend to Council persons for appointment as members of the Council's Independent Remuneration Panel;
- (h) to select and recommend to Council persons for appointment as an Independent Person;
- (i) to receive and approve proposals regarding the Council's exercise of powers covered by the Regulation of Investigatory Powers Act;
- (j) to issue dispensations to any member in respect of statutory and non-statutory disclosable interests;
- (k) to monitor and review as necessary the operation of whistleblowing procedures;
- (l) to consider reports arising from external inspections, audit investigations, Ombudsman investigations where maladministration is found, legal challenges and other sources which cast doubt on the honesty or integrity of the Council or its Members; and
- (m) to consider and make recommendations on such other matters as the Committee itself thinks appropriate or which are referred to it by Council, which further the aim of promoting and maintaining the highest standards of conduct within the Council.

### 11.3 Standards Panels

Sub-Committees of between three (3) and five (5) members of the Constitution and Standards Committee with responsibility for arrangements under which decisions can be made on an allegation that a Member of the Council or its committees has breached the Members' Code of Conduct

The Committee or a Panel may regulate, where necessary, its own procedures to deal with any matter arising in connection with its duties, provided that the procedures remain in accordance with the principles set out at Article 13 of this Constitution. This includes that, subject to any statutory rules or procedures detailed elsewhere, a Panel acting as a tribunal is permitted, when all evidence has been submitted and speakers (if any) have finished, will hold discussion in the presence of the speakers and, as appropriate and in compliance with the Access to information Procedure Rules, the public and press, and the decision making may thereafter be taken in private adjournment.

It is expected that decisions will then normally be announced to those present and remaining post-adjournment, at least in summary form, before a decision is issued in writing.

## 12 PENSIONS COMMITTEE

### 12.1 Composition:

To be determined each year by the Annual Meeting of Council and subject to the overall political balance calculation.

The Committee shall include co-opted members, being:

- (i) an elected Member of Knowsley Council
- (ii) an elected Member of Liverpool City Council
- (iii) an elected Member of St Helens Council
- (iv) an elected Member of Sefton Council
- (v) an appointed person.

### 12.2 Terms of Reference

The Pensions Committee is responsible for exercise on behalf of the Council all of the powers and duties of the Council in relation to its functions as Administering Authority of the Merseyside Pension Fund.

In particular, the Committee is charged by full Council:

- (a) To be responsible for the overall investment policy, strategy and principles of the Fund and its overall performance of the Fund.
- (b) To appoint and terminate the appointments of the professional advisers to, and external managers of, the Fund and agree the basis of their commission and remuneration.
- (c) To receive actuarial valuations of the Fund and determine the level of employers' contributions necessary to balance the Fund.
- (d) To monitor the Local Government Pension Scheme including the benefit regulations and payment of pensions and their day to day administration and to be responsible for any policy decisions relating to the administration of the scheme.
- (e) To consider any views expressed by employing organisations and staff representatives relating to the scheme.
- (f) To appoint members of the Investment Monitoring Working Party, which shall have responsibility for reviewing the performance of the Fund's investments and its asset allocation and regularly reporting their findings to the Pensions Committee.
- (g) To award contracts for goods and services relating to the Fund in accordance with the Contract Procedure Rules after taking into account the recommendations of officers and external professional advisers (where appropriate).

## 12.3 Joint Governance Committee of the Northern Local Government Pension Scheme Investment Pool

### 12.3.1 Establishment

- (a) Wirral Metropolitan Borough Council, Tameside Metropolitan Borough Council and City of Bradford Metropolitan Borough Council (together referred to as the "Pooling Partners" and individually as a "Pooling Partner") are all councils responsible for the administration of local government pensions within their areas as set out in the Local Government Act 1972 and the Superannuation Act 1972.
- (b) The Pooling Partners are each required by Regulation 7(1) of the Investment Regulations to have formulated an investment strategy in accordance with Statutory Guidance issued by the Secretary of State for Housing, Communities and Local Government as issued from time to time.
- (c) Regulation 7(2)(d) of the Investment Regulations requires in particular that each LGPS administering authority sets out its "approach to pooling investments, including the use of collective investment vehicles and shared services" in its investment strategy statement.
- (d) Having regard to their obligations under the Investment Regulations, the Pooling Partners have therefore agreed to establish and participate in a formal joint committee, known as the "Northern LGPS Joint Governance Committee", pursuant to section 101 and section 102 of the Local Government Act 1972. (Approved at Council 14<sup>th</sup> October 2019)

### 12.3.2 Composition

The membership of the Joint Governance Committee shall consist of the Chair and Vice-Chair of each of the Pooling Partners' pension committees or such alternative persons nominated by the Pooling Partners.

### 12.3.3 Joint Governance Committee Terms of Reference

#### Scope

- (a) Subject to the terms of the Agreement, the Joint Governance Committee shall undertake those matters which are not Matters Reserved to the Pooling Partners as set out in Schedule 1.

#### Purpose

- (b) The primary purposes of the Joint Committee are to:
  - (i) exercise oversight over the investment performance of the Pooling Partners' Funds;
  - (ii) deliver the Shared Objectives;
  - (iii) agree on any recommended changes to the Shared Objectives from time to time to refer to the Pooling Partners; and



- (iv) report to the Pooling Partners quarterly (and at any other time when the Joint Governance Committee considers it to be necessary) on the matters within their remit below.

Remit

- (c) Monitoring and benchmarking performance against key performance indicators and costs and reporting back to the Pooling Partners.
- (d) Making recommendations on the appointment, replacement or termination of the Pool Custodian to the Pooling Partners
- (e) Oversight of responsible investment activities (including ethical, social and governance matters and voting rights) of the Pooling Partners and making recommendations to the Pooling Partners as to any changes.
- (f) Engagement with the Pooling Partners to help drive efficiencies in investment management, research or administration.
- (g) Nominating representatives to national structures as appropriate (for example any LGPS cross-pool forum or national infrastructure board).
- (h) Overseeing staffing requirements of the Northern LGPS investment vehicles.
- (i) Delegation of tasks to the Officer Working Group, including the selection of external investment managers, preparation of reports and draft documents and the responding to Government or other consultations].
- (j) Oversight of Northern LGPS investment vehicles and reviewing opportunities for collaborative working with other investors (including other LGPS pools).
- (k) Appointing and replacing service providers and advisers to the Joint Governance Committee.
- (l) Liaison with Pension Boards as appropriate in line with CIPFA Guidance, and Statutory Guidance.
- (m) Reporting on the performance of the Northern LGPS, its costs and other activities, but not limited to the Ministry for Housing, Communities and Local Government, the Scheme Advisory Board and the general public.
- (n) Applying any processes or policies, for example in relation to conflicts of interest that are assigned to the Joint Governance Committee under this Agreement by the Pooling Partners.
- (o) Monitoring the implementation and effectiveness of the Northern LGPS policies and procedures and initiating reviews of these with the Host Council where required.
- (p) Seeking advice from officers and professional advisers where necessary.
- (q) Overseeing any shared costs of the Joint Governance Committee.

## 13 HEALTH AND WELL BEING BOARD

### 13.1 Establishment:

A Health and Well Being Board is a Committee of the Council established under s.102 of the Local Government Act 1972 as an ordinary committee but amended pursuant to 194 of the Health and Social Care Act 2012 (Establishment of Health and Wellbeing Boards) and The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

As a result, the voting members of the Board must as a minimum consist of:

- (a) at least one councillor of the local authority;
- (b) the Director of Care and Health for the local authority;
- (c) the Director of Children's, Families and Education for the local authority;
- (d) the director of public health for the local authority;
- (e) a representative of the Local Healthwatch organisation for the area of the local authority;
- (f) a representative of each relevant clinical commissioning group; and
- (g) such other persons, or representatives of such other persons, as the local authority thinks appropriate.

The political requirements set out in sections 15, 16 and Schedule 1 of the Local Government and Housing Act 1989 do not apply to the membership of the Board.

### 13.2 Composition:

The Wirral Health and Well Being Board will consist of the following

#### (a) Core Membership

- (i) Five (5) elected Members of Wirral Borough Council, being the
  - (1) Leader (or Deputy Leader) of the Council;
  - (2) The Chair (or Vice Chair) of Care and Health Committee;
  - (3) The Chair (or Vice Chair) of the Children, Young People and Education Committee; and
  - (4) The leaders (or nominee) of the two largest opposition Political Groups;
- (ii) the Chief Executive of Wirral Borough Council;
- (iii) the Director of Care and Health of Wirral Borough Council;
- (iv) the Director of Children's, Families and Education of Wirral Borough Council;
- (v) the Director of Public Health of Wirral Borough Council;
- (vi) the Chair of Wirral NHS Clinical Commissioning Group;

- (vii) the Accountable Officer of Wirral Clinical Commissioning Group;
- (viii) a representative of HealthWatch; and
- (ix) a Representative from the Local Area Team: Cheshire, Warrington and Wirral, NHS England

**(b) Appointed Membership**

- (i) A senior officer of Wirral Borough Council responsible for housing policy and services;
- (ii) Chief Executive, Voluntary & Community Action Wirral;
- (iii) Chief Executive, Wirral University Teaching Hospital NHS Foundation Trust;
- (iv) Chief Executive, Wirral Community NHS Foundation Trust;
- (v) Chief Executive, Cheshire & Wirral Partnership NHS Foundation Trust;
- (vi) Chief Executive, Clatterbridge Cancer Centre NHS Foundation Trust;
- (vii) Representatives from the three divisions of the NHS Clinical Commissioning Group to present annual commissioning plan;
- (viii) Representative from Merseyside Police;
- (ix) Representative from Merseyside Fire & Rescue Service; and
- (x) Representative from Jobcentre Plus

**(c) Co-options and engagement**

Representatives of other bodies may be invited to participate in Board discussions, or co-opted, to support effective decision-making. Such representatives should be invited bearing in mind the principles of fairness, equality and transparency.

**13.3 Terms of Reference**

The principal role of the Health and Wellbeing Board is to discharge functions pursuant to sections 195 and 196 of the Health and Social Care Act 2012.

The Health and Wellbeing Board will not be responsible for directly commissioning services, but will provide oversight, strategic direction and coordination of the following activities:

- (a) To develop a shared understanding of the needs of the local community through the development of an agreed Joint Strategic Needs Assessment
- (b) To seek to meet those needs through leading on the ongoing development of a Health & Wellbeing Strategy
- (c) To provide a local governance structure for local planning and accountability of health and wellbeing related outcomes

- (d) To work with HealthWatch in Wirral to ensure appropriate engagement and involvement within existing patient and service user involvement groups takes place
- (e) To drive a collaborative approach to commissioning of improved health and care services which improve the health and wellbeing of local people
- (f) To consider and take advantage of opportunities to more closely integrate health and social care services in commissioning and provision
- (g) To review the financial and organisational implications of joint and integrated working across health and social care services, ensuring that performance and quality standards of health and social care services are met, and represent value for money across the whole system
- (h) To establish a key forum for local democratic accountability relating to commissioning against agreed health outcomes
- (i) To develop and update the Pharmaceutical Needs Assessment (PNA)
- (j) To ensure the Better Care Fund plan is monitored regarding its progress and performance and ensure the health and social care partners effectively plan regarding the implications of this work.

#### 13.4 **Chairing the Board**

The Board will be chaired by the Leader of the Council (or another elected member as their nominee).

## 14 MERSEYSIDE POLICE AND CRIME PANEL

### 14.1 Establishment:

- 14.1.1 The Merseyside Police and Crime Panel is a joint committee of the local authorities (the 'Authorities') which the Merseyside Police area covers, being
- a) Knowsley Borough Council;
  - b) Liverpool City Council;
  - c) St. Helens Borough Council;
  - d) Sefton Borough Council; and
  - e) Wirral Borough Council;
- 14.1.2 The Authorities are required to establish and maintain the police and crime panel for the police area, and make the panel arrangements as required by the Police Reform and Social Responsibility Act 2011.

### 14.2. Functions of the Panel

- 14.2.1 The overarching role of the Panel is to scrutinise the work of the Police and Crime Commissioner (PCC) in the discharge of the PCC's functions in order to support the effective exercise of those functions and to make reports or recommendations to the PCC as appropriate.
- 14.2.2 In specific terms the Panel's role will involve the duties/ functions set out in sections 2.3 to 2.12 below.
- 14.2.3 The Panel is a statutory consultee on the development of the **PCC's Police and Crime Plan** and must:
- (a) review the draft Police and Crime Plan (or a variation to it); and
  - (b) make a report and/or make recommendations on the draft Plan (or a variation to it) to the PCC.
- 14.2.4 The Panel must review the **Annual Report** of the PCC, and for that purpose will:
- (a) question the PCC on the Annual Report at a public meeting of the Panel;
  - (b) make a report and/or recommendations on the Annual Report to the PCC.
- 14.2.5 The Panel must hold **confirmation hearings in respect of proposed senior appointments** made by the PCC. This includes the posts of the PCC's Chief Executive; the PCC's Chief Finance Officer and Deputy Police and Crime Commissioner in accordance with the requirements set out in Schedule 1 of the Act. At a hearing, the Panel will review a proposed appointment and make a report and recommendation to the PCC on it.
- 14.2.6 The Panel must hold a **confirmation hearing in respect of the appointment of the Chief Constable** by the PCC. At a hearing, the Panel will review a proposed appointment and make a report and recommendation to the PCC on it. The Panel also has the right of veto for the appointment of this post in accordance with Schedule 8 of the Act.

- 14.2.7 The Panel must review the **precept** proposed by the PCC in accordance with the requirements set out in Schedule 5 of the Act, and will have a right of veto in respect of the precept in accordance with the Act.
- 14.2.8 A right of veto will require that at least two-thirds of the persons who are Members of the Panel at the time when the decision is made vote in favour of making that decision.
- 14.2.9 The Panel must hold a **scrutiny hearing in respect of the proposed removal of the Chief Constable** by the PCC before it must make a recommendation to the PCC on the proposed removal in accordance with Schedule 8 to the Act. Before making a recommendation to the PCC, the Panel may also consult the Chief Inspector of Constabulary. At a scrutiny hearing, held in private, the Panel may consider representations from the Police and Crime Commissioner and the Chief Constable on the PCC's proposal.
- 14.2.10 The Panel has the power to **appoint an Acting PCC** where the incumbent PCC is incapacitated, resigns or is disqualified.
- 14.2.11 The Panel may **suspend the PCC** if he/she is charged with an offence carrying a maximum term of imprisonment exceeding two years.
- 14.2.12 The Panel is obliged to put in place **arrangements for recording and dealing with conduct matters relating to the PCC and Deputy PCC**, including reference, where appropriate, to the Independent Police Complaints Commission or informal resolution of matters at the local level.

### 14.3. **Operating Arrangements**

- 14.3.1 Knowsley Metropolitan Borough Council acts as the Host Authority and arrange for the necessary officer support in doing so. In this respect Knowsley Metropolitan Borough Council will be provide the Secretariat.
- 14.3.2 The Panel initially shall be made up of 10 councillors and 2 independent co-opted members. Further consideration may be given by the Panel to the addition of any further co-opted members, if it is deemed that this would assist the Panel in carrying out its duties.

### 14.4. **Council Membership**

- 14.4.1 All district councillors, and where appropriate elected mayors, on Merseyside will be eligible to be nominated as members of the Police and Crime Panel.
- 14.4.2 Under the provisions of the Act, each of the Authorities is entitled to nominate one elected member to serve on the Panel in accordance with these Panel Arrangements. The Act requires further extra places for appointed members to be allocated between the Authorities to make up the required total of 10 appointed members on the Panel.

14.4.3 In order to meet the geographical aspect of the Balanced Appointment Objective the 5 extra places for elected members on the Panel will be allocated between the five Authorities as follows to produce a total membership which is split in accordance with the Authorities’ respective population sizes:

<b>Authority</b>	<b>Minimum Allocation</b>	<b>Extra Members</b>	<b>Total</b>
Knowsley	1	-	1
Liverpool	1	2	3
St. Helens	1	1	2
Sefton	1	1	2
Wirral	1	1	2

14.4.4 In order to comply with the political aspect of the “balanced appointment objective”, the political balance on the Panel during 2020/ 2021, will reflect the political balance across Merseyside.

14.4.5 The allocation of elected member places on the Panel will be reviewed on an annual basis, ordinarily in the period following the date of the municipal elections. In years where municipal elections do not take place, the review will need to have taken place by 15 May in that year.

14.4.6 Taking into account the outcome of such a review, Elected Members will be appointed by their respective Authorities in accordance with the constitutional procedures applicable in those Authorities. In any event, each Authority will ordinarily be expected to appoint their representatives no later than 31 May in each year.

14.4.7 The term of office of each Authority representative appointed shall be a period of 1 year or until 31 May of the following year, whichever is the earlier. This term of office is however subject to the appointed Member remaining as an Elected Member during the term of office. In the event of a Panel Member ceasing to be an elected member during the course of their term of office as a Panel Member, their entitlement to serve on the Panel will also cease at that point.

#### 14.5. **Panel Arrangements**

14.5.1 Panel arrangements are arrangements for the establishment and maintenance of a police and crime panel. All of the Authorities must agree to the making or modification of the panel arrangements. The current panel arrangements may be obtained from the Host Authority or upon request and cover the additional matters of:

- Elected Members – Resignation or Removal from the Panel
- Independent Co-opted Members
- Independent Co-opted Members - Resignation and removal from the Panel
- Financial Arrangements
- Promotion and Support of the Panel
- Validity of Proceedings
- Review and Amendment of Panel Arrangements

## 15 CHESHIRE AND MERSEYSIDE INTEGRATED CARE PARTNERSHIP

### 15.1 Establishment:

15.1.1 The Cheshire and Merseyside Integrated Care Partnership (known as the Cheshire and Merseyside Health and Care Partnership) is a joint committee of the local authorities (the 'Authorities') which the Cheshire and Merseyside ICB covers as required by the insertion of a new Section 116ZA to the Local Government and Public Involvement in Health Act 2007, being

- a) Cheshire East Council
- b) Cheshire West and Chester Council
- c) Knowsley Borough Council;
- d) Liverpool City Council;
- e) St. Helens Borough Council;
- f) Sefton Borough Council; and
- g) Wirral Borough Council;

15.1.2 Its membership must have as a minimum one member appointed by the ICB, but will also encompass the voluntary, community, faith and social enterprise sector (VCFSE), NHS organisations and others, to be agreed by the Partnership.

15.1.3 It is a statutory joint committee that forms part of the overall structure of the Integrated Care System as required by the Health & Care Act 2022.

15.1.4 The Partnership has not been established under S65Z6 or S75 arrangements between the NHS and Local Authority member organisations of the HCP, and as such does not have the authority as a Committee to exercise joint functions or hold or make decisions on a pooled budget arrangements.

### 15.2. Functions of the Panel

15.2.1 The Cheshire and Merseyside HCP is a broad alliance of organisations and representatives concerned with improving the care, health and wellbeing of the population, jointly convened by local authorities and the NHS as equal partners in order to facilitate joint action to improve health and care outcomes and experiences, influence the wider determinants of health, and plan and deliver improved integrated health and care.

15.2.2 Its primary purpose will be to act in the best interests of residents across Cheshire & Merseyside, rather than representing the interests of any individual organisation.

15.2.3 The role and purpose of the HCP does not duplicate that of the nine Cheshire and Merseyside Health and Wellbeing Boards. The HCP will work in conjunction where appropriate to help achieve common objectives and aims to benefit local populations.



- 15.2.4 The HCP provides the opportunity for a Cheshire & Merseyside forum to support and enhance work programmes to improve population health outcomes and reduce health inequalities by addressing complex, long term issues which need an integrated approach across Cheshire & Merseyside.
- 15.2.5 The HCP, as an Integrated Care Partnership, has a statutory responsibility to prepare, approve and publish an Integrated Care Strategy for the Cheshire and Merseyside ICS, setting out how the assessed needs in relation to Cheshire & Merseyside are to be met by the exercise of functions of:
- the Integrated Care Board
  - NHS England
  - the nine local authorities whose areas coincide with the ICB area
- 15.2.6 In preparing this strategy the HCP must involve:
- the Local Healthwatch organisations whose areas coincide with or fall wholly or partly within its area
  - the people who live and work in Cheshire & Merseyside
- 15.2.7 The strategy will have due regard to and respond to the Health and Wellbeing Strategies and Joint Strategic Needs Assessments of each of the nine local authority areas.

### 15.3 **Membership**

- 15.3.1 Membership of the Health and Care Partnership (as an Integrated Care Partnership) is set out in legislation and must have as a minimum:
- one member appointed by the Integrated Care Board
  - one member appointed by each of the nine local authorities.

Legislation also allows for members to be appointed by the HCP itself.

- 15.3.2 In all cases, the membership will be renewable on an annual basis. Each participant organisation or body will be expected to have formally nominated or confirmed their nominated member by 1st August of each year. Changes in membership during the year are allowed and must be notified to the HCP promptly and before attendance at the next meeting.
- 15.3.3 Where members are not available to attend meetings, a substitute nominated by organisation may attend on their behalf.
- 15.3.4 The Chair of the HCP will be drawn from one of the nominated HCP members from the nine local authorities. The Chair will be appointed on an annual basis at the first meeting of the year (in September) by the local authority members of the HCP present at the meeting. Individuals wanting to be considered for the Chair role will need to be nominated and seconded by one other local authority member of the Board and agreed by way of a majority vote.

15.3.5 The Chair of the HCP will discuss attendance with any member who fails to attend three consecutive HCP Meetings. The Chair of the HCP will refer any ongoing concerns regarding non-attendance of a member to their organisation with a recommendation that consideration be given to whether it is appropriate for the individual to continue as a member of the HCP.



# CONSTITUTION OF THE COUNCIL

## Part 3 Section B(a)

### ANNEXE - OUTSIDE BODIES

The following are listed those positions which are filled by councillors as representatives of the Council, appointees of the Council or are responses to requests for nominations to outside bodies (grouped by position or Committee)

**Note:** Where appointments are to be made to prescribed bodies (as defined by Para 2, Sched 1 of the Local Government & Housing Act 1989), and there are at least three seats to be filled from time to time by the Authority, those appointments are subject to the rules on political balance.

### LEADER

(i). **Liverpool City Region Combined Authority**

Leader of the Council  
Deputy Leader of the Council (substitute member)

(ii). **Liverpool City Region Local Enterprise Partnership - Director**

Leader of the Council

(iii). **SIGOMA (LGA Special Interest Group of Metropolitan Authorities)**

Leader of the Council or nominee

Other Group Leaders or their nominees have been authorised to attend as observers.

## **(A) POLICY & RESOURCES**

### **(i) Local Government Association: General Assembly**

– 4 Members

### **(ii) Liverpool City Region Combined Authority Scrutiny Committee**

- 3 Members, subject to political balance rules of the Combined Authority

### **(iii) Liverpool City Region Boards**

Relevant Committee Chair

- **Business Support Portfolio Board**  
Economy, Regeneration and Housing Committee
- **Climate Emergency and Renewable Energy Portfolio Board**  
Environment, Climate Emergency and Transport Committee
- **Culture, Tourism & the Visitor Economy Portfolio Board**  
Tourism, Communities, Culture & Leisure Committee
- **Digital Connectivity and Inclusion Portfolio Board**  
Policy and Resources Committee
- **Education and Skills Portfolio Board**  
Economy, Regeneration and Housing Committee
- **Equality and Diversity Portfolio Board**  
Policy & Resources Committee
- **Housing and Spatial Planning Advisory Board**  
Economy, Regeneration and Housing Committee
- **Transport and Air Quality Portfolio Board**  
Environment, Climate Emergency and Transport Committee
- **Inclusive Economy and Third Sector Portfolio Board**  
Policy & Resources Committee
- **Climate Partnership**  
Environment, Climate Emergency and Transport Committee

### **(iv) North Western Local Authorities Employers' Organisation**

- 1 Member and Deputy

**(B) ADULT SOCIAL CARE AND PUBLIC HEALTH**

**(i). Cheshire and Wirral NHS Partnership Trust: Appointed Governor**

- 1 Councillor (Appointed for 3 years until 17 October 2025)

**(ii). Clatterbridge Cancer Centre NHS Foundation Trust**

- 1 Councillor (Appointed for 4 years)

**(iii). Health and Care Partnership**

- 1 Councillor

**(iv). Merseyside Society for the Deaf**

- 2 Councillors

**(v). Wirral University Teaching Hospital Foundation Trust - Governors**

- 2 Councillors (Appointed for 3 years until 17 October 2025)

**(C) CHILDREN, YOUNG PEOPLE AND EDUCATION**

**(i) Birkenhead Sixth Form College Governing Body**

- 1 Councillor (4 year appointment until 31 Aug 2021)

**(ii) C E Gourley VC Endowment Fund**

- 2 Councillors

**(iii) Lower Bebington and Poulton Lancelyn Lands Foundation**

- 2 Councillors

**(iv) St Bridget's Educational Trust**

- 1 Councillor

**(v) Wirral Play Council Executive Committee**

- 2 Councillors

**(vi) Edsential Community Interest Company**

Appointments as per Articles of Association

**(vii) Maritime and Engineering College North West**

- 2 Councillors

## **(D) ECONOMY, REGENERATION AND HOUSING COMMITTEE**

### **(i) Conservation Area Advisory Committees**

#### Conservation Area

Barnston  
Bidston  
Bromborough Pool  
Bromborough Society  
Caldy  
Clifton Park  
Eastham  
Frankby  
Gayton and Heswall  
Hoylake Meols Drive/King's Gap  
Mount Wood  
Oxton  
Port Sunlight  
Rock Park  
Saughall Massie  
Thornton Hough  
Thurstaston  
Wellington Road, New Brighton  
West Kirby Society

### **(ii) Wirral Growth Company LLP**

- 2 Councillors (and 2 Officers) as per terms of Partnership Agreements

### **(iii) Mersey Maritime Ltd**

- 1 Councillor as per Articles of Association

### **(iv) Magenta Living: Governance and Membership Committee**

- 1 Councillor

### **(v) North West Housing Consortium/NW Housing Forum**

- 1 Councillor

## **(E) ENVIRONMENT, CLIMATE EMERGENCY AND TRANSPORT COMMITTEE**

### **(i). Liverpool Airport Consultative Committee**

- 1 Councillor and 1 deputy

### **(ii). Local Government Association Coastal Issues Special Interest Group**

- 1 Councillor

**(iii). Manchester Port Health Authority**

- 1 Councillor and 1 deputy

**(v) Mersey Forest Steering Group**

- 1 Councillor

**(vi). Mersey Port Health Committee**

- 6 Councillor and deputies

**(vii). Merseyside Flood and Coastal Risk Management Strategic Partnership**

- 1 Councillor

**(viii). Merseyside Recycling and Waste Authority**

- 2 Councillors

*Nomination for the purposes of Section 41, Local Government Act 1985*

**(ix). Transport Committee of the Liverpool City Region Combined Authority**

- 4 Councillors

**(iv). Parking and Traffic Regulations Outside London (PATROL) Joint Committee**

- 1 Councillor and 2 deputies



**(F) TOURISM, COMMUNITIES, CULTURE AND LEISURE**

**(i) Charing Cross Play, Youth and Community Centre Joint Management Committee**

- 4 Councillors

**(ii) Gautby Road Play & Community Centre Joint Management Committee**

- 3 Councillors

**(iii) Leasowe Play, Youth & Community Association Joint Management Committee**

- 3 Councillors

**(iv) West Kirby Charity**

- The Council is able to nominate up to 8 trustees:  
(appointed until 8 December 2023)  
(appointed until 16 October 2021)  
(appointed until 30 October 2022)  
(appointed until 18 October 2020)  
(appointed until 8 December 2023)  
(appointed until 8 December 2023)  
(appointed until 18 April 2023)  
(appointed until 30 January 2021)

**(v) Wirral Multicultural Organisation**

- 4 Councillors

**(vi) Wirral Community Safety Partnership**

- 3 Councillors

**(vii) Merseyside Fire and Rescue Authority (Not an Approved Duty)**

- 4 Councillors

*Nominated for the purposes of Section 41 of the Local Government Act 1985*

**(viii) Merseyside Police and Crime Panel  
PROPORTIONATE IN LCR CONTEXT**

- 2 Councillors

**(ix) North Birkenhead Development Trust (Director)**

- 1 Councillors

**(G) REGULATORY AND GENERAL PURPOSES COMMITTEE**

**(i). North Western Inshore Fisheries and Conservation Authority**

- 1 Councillors

## **STATUTORY AND ADVISORY COMMITTEES, WORKING PARTIES AND PANELS – MEMBERSHIP FOR 2020/21**

### **(1) STATUTORY COMMITTEES AND PANELS**

(listed under relevant Committee)

#### **(a) ADULT SOCIAL CARE AND PUBLIC HEALTH**

##### **(i). Discharge from Guardianship by Wirral Council under the Mental Health Act 1983 Panel**

(Members appointed from membership of the Adult Care and Health Overview and Scrutiny Committee)

- 4 Councillors

##### **(ii) Joint Health Scrutiny Committee**

- 3 Councillors

##### **(iii) Integrated Care System Joint Health Scrutiny Committee**

- 2 Councillors

#### **(b) CHILDREN, YOUNG PEOPLE AND EDUCATION**

##### **(i). School Appeals Panel**

As appointed by the Children, Young People and Education Committee

##### **(ii). Standing Advisory Committee on Religious Education (SACRE)**

- 6 Councillors and 3 Deputies

##### **(iii). Wirral Schools Forum (Funding Consultative Group)**

Observers

- 3 Councillors and 3 Deputies

### **(2) ADVISORY COMMITTEES AND WORKING PARTIES**

#### **(a) CHILDREN, YOUNG PEOPLE AND EDUCATION**

##### **(i). Young People's Advisory Group**

- 8 Councillors and 5 Deputies (3:2:1:1:1)

##### **(ii). Corporate Parenting Board**

- 7 Councillors

- (iii). **Schools' Joint Consultative Committee**  
- 7 Council Members and 5 Deputies

**(b) ENVIRONMENT, CLIMATE EMERGENCY AND TRANSPORT**

- (i). **Wirral Climate Change Group**

- Councillors

- (ii) **Hilbre Island Nature Reserve Management Committee**

- 8 Councillors

- (iii) **Active Travel Working Group**

- 8 Councillors

**(c) POLICY AND RESOURCES**

- (i). **Member Support Steering Group**

- 7 Councillors

- (iii) **Freedom of the Borough Panel** (To consider nominations in respect of the awarding of the Freedom of the Borough)

Political Group Leaders

Deputy Group Leaders as deputies.

**(d) TOURISM, COMMUNITIES, CULTURE AND LEISURE**

- (i). **Birkenhead Park Advisory Committee**

- 5 Councillors



# CONSTITUTION OF THE COUNCIL

## Part 3 Section C

### OVERVIEW AND SCHEME OF DELEGATIONS OF AUTHORITY TO OFFICERS

1. All matters which have not been reserved to Council or a Committee are delegated to Officers. Each Chief Officer, in consultation with Committees of the Council as may be required, must develop and maintain a **Scheme of Authorisation** for their Directorate, which will be published on the Council's website as required by Section 100G of the Local Government Act 1972. Delegated decisions are to be taken in accordance with the relevant internal Scheme of Authorisation. Officers may take decisions within the responsibilities of their Directorate as determined by the Head of Paid Service.
2. Decisions not reserved to or by a Committee or Sub-Committee are expected to be taken by an officer only where:
  - (a) the proposed decision concerns the award of contract or otherwise materially affects the Council's financial position, by a financial saving or expenditure, of no more than **£1,500,000** (unless the decision has specifically been delegated to the Officer by a Committee or Sub-Committee);
  - (b) the item of business has not been previously requested by a Committee or Sub-Committee or the Chair or Group Spokesperson of a Committee to be referred to a Committee or Sub-Committee; or
  - (c) the officer concerned is not of the opinion that, due to its sensitive or high profile nature, the item of business is to be referred to a Committee or Sub-Committee for determination (but shall not do so if any third party rights would be adversely affected solely as a result of the officer declining to exercise their delegated power).
  - (d) In respect to the receipt of grant funding, express delegation is given to the Section 151 Officer. Relevant Chief Officers will subsequently report the acceptance of the grant funding to the appropriate Committee. Spend of grant funding will be dealt with in accordance with sections 2(a) to 2(c) above.
3. It is noted that statutory chief officers have specific powers and functions allocated to them as recorded within Article 12 of this Constitution and in relevant legislation.
4. Chief Officers are otherwise authorised to take the necessary action to implement decisions taken by Committees of the Council
5. Under this scheme Officers must keep Members properly informed of action arising within the scope of these delegations. Officers must liaise closely with the relevant Chair and Vice-Chair when the matter falls within the remit of that Committee. Officers

should inform the local Ward Members when they exercise delegated powers specifically affecting their ward and when the matter is likely to be politically sensitive or contentious unless legal reasons prevent this.

6. The Council may use provisions of the Local Government Act 1972 and the Localism Act 2011 to commission and monitor work for and on behalf of the Council. When services remain the responsibility of the Council but are delivered by people who are not officers of the authority, Chief Officers may authorise non-Council employees to take delegated decisions. Such people will be bound by the Constitution, this scheme, and the obligations contained in it, at all times when engaged on Council business. All such authorisations by Chief Officers must be recorded in the relevant internal scheme of authorisation.
7. Any formal decision by or on behalf of a Chief Officer that falls under the definition of a Key Decision will be required to be published on the Council's Forward Plan and then recorded using a Delegated Decision Notice that will be published on the Council's website. Chief Officers and Deputy Chief Officers are responsible for ensuring that items are included on the Forward Plan and that Committee Chairs and Group Spokespersons are appropriately consulted prior to decisions by Chief Officers.
8. Officers must comply with requirements of Article 13 (Decision Making) and Part 4(2) (The Access to Information Procedure Rules) of this Constitution when making relevant decisions. It is noted that these comply with The Openness of Local Government Bodies Regulations 2014, which require every local authority to publish details of certain decisions taken by officers under delegated authority as soon as practicable. Chief Officers are responsible for ensuring that decisions taken within their areas of responsibility are recorded in accordance with these regulations.
9. In exercising their delegated powers, Chief Officers and Deputy Chief Officers must act within the law, comply with the Council's Standing Orders and Financial Regulations and follow Council policy and the instructions of Council Committees. If, exceptionally, it is necessary to depart from Council policy or a Committee's instructions, a full report must be submitted to the relevant Committee as soon as is practicable.
10. Chief Officers, subject to consultation with the Chair or, in their absence, the Vice-Chair of the relevant Committee, and that of both the Head of Paid Service and the Monitoring Officer, may perform all functions within the Powers and Duties of that Committee in any case of urgency in which the prompt performance of any of the Council's functions is desirable and necessary, having regard to the process set out in Article 6.5 but in accordance with Part 4(2) (The Access to Information Procedure Rules) of this Constitution
11. The Head of Paid Service, or in his or her absence, Chief Officers who are members of the Strategic Leadership Team, have the authority to perform any functions of the Authority in an emergency.
12. Where an officer has delegated powers, the Council or relevant Committee can still exercise that power in a particular case if it considers it appropriate to do so. Equally it

is always open to an Officer not to exercise delegated powers but to refer the matter up as appropriate.

13. The Council's list of proper officer functions is annexed to this Scheme.
14. The Head of Paid Service's nominated Deputy at the time and the Deputy Monitoring Officer may exercise any of the functions of the Chief Executive or the Monitoring Officer respectively in the absence of those Officers.
15. The Monitoring Officer is responsible for interpretation of all aspects of the Scheme of Delegation where there is doubt or dispute.

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# CONSTITUTION OF THE COUNCIL

## Part 3 Section C(a)

### STATUTORY AND PROPER OFFICERS

#### 1. Statutory Chief Officers

Legislation requires local authorities to appoint certain officers with statutory responsibilities. These officers form the Authority's statutory chief officers (as defined by s.43 Localism Act 2011). The appointments and the officer to whom the council has allocated responsibility are listed below.

<b><i>Title/Description (and statutory derivation)</i></b>	<b><i>Officer appointed</i></b>
Head of Paid Service <sup>1</sup> (Section 4 – Local Government & Housing Act 1989)	Chief Executive
Officer responsible for financial administration <sup>1</sup> (Section 151 – Local Government Act 1972)	Director of Finance
Monitoring Officer <sup>1</sup> (Section 5 – Local Government & Housing Act 1989)	Director of Law & Governance
Director of Children's, Families and Education (Section 18 – Children Act 2004)	Director of Children's, Families and Education
Director of Care and Health (Section 6 – Local Authority Social Services and Adults' Services Act 1970)	Director of Care and Health
Director of Public Health <sup>2</sup> (Section 73A National Health Service Act 2006)	Director of Public Health

<sup>1</sup> Appointments of individuals to these positions are made by full Council (See Officer Employment Rules and Pay Policy Statement)

<sup>2</sup> Director of Public Health is appointed jointly with the Secretary of State

Electoral Registration Officer and Returning Officer (Sections 8, 28 and 35 – Representation Governance of the People Act 1983)	Chief Executive
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## 2. Proper Officer Functions

The following officers are appointed proper officers and will carry out functions in relation to the statutory provisions specified. This list is not necessarily exhaustive and any omission shall not affect the validity of any action or decision taken by the proper officer.

Any enactment, instrument or local statutory provision passed prior to the Local Government Act 1972		
	Purpose	Officer
	Any reference to the Clerk of a council which, by virtue of the Local Government Act 1972, is to be construed as a reference to the proper officer of the Council	Director of Law & Governance
	Any reference to the Treasurer of a council which, by virtue of the Local Government Act 1972, is to be construed as a reference to the proper officer of the Council	Director of Finance

Local Authority Social Services Act 1970		
Section	Purpose	Officer
6(A1)	Appointment as Director of Care and Health	Director of Care and Health

Agriculture Act 1970		
Section	Purpose	Officer
67(3)	Appointment as Agricultural Analyst	Head of Trading Standards

Local Government Act 1972		
Section	Purpose	Officer
83	Witness and receive declarations of Members' acceptance of office	Director of Law & Governance
84	Receive written notice of Members' resignation from office	Director of Law & Governance

88(2)	Convene Council meeting for election to vacant office of Chairman	Director of Law & Governance
89(1)(b)	Receive notice of casual vacancy from two local government electors	Director of Law & Governance
100B(2)	Decide on the exclusion of reports and agendas from public inspection	Director of Law & Governance
100B(7)(c)	Decide whether copy documents supplied to Members should also be supplied to the press	Director of Law & Governance
100C(2)	Produce a written summary of proceedings taken by a committee in private	Director of Law & Governance
100D(1)	Compile a list of background papers to a committee report	Director responsible for preparing report
100D(5)(a)	Identify background papers that disclose facts or matters on which a report is based	Director responsible for preparing report
100F(2)	Identify which documents contain exempt information that are not available for Members	Director of Law & Governance
115(2)	Receive from officers any money and property committed to their charge in connection with their office	Director of Finance
146(1)	Sign statutory declaration to enable transfer of securities in the event of a change of name of the Council	Director of Finance
151	Responsibility for the administration of the Council's financial affairs (Chief Finance Officer)	Director of Finance
191(2)	Receive applications from Ordnance Survey for assistance in surveying disputed boundaries	Assistant Director, Highways & Infrastructure
210(6)-(7)	Exercise residual functions in relation to charities	Director of Law & Governance
222	Prosecute or defend legal proceedings	Director of Law & Governance (and/or Head of Legal Services)
225(1)	Receive and retain deposited documents	Director of Law & Governance

229(5)	Certify photographic copy documents	Director of Law & Governance
234(1)	Sign public notices, orders and other documents on behalf of the Council	Relevant Chief Officer
238	Certification of copy byelaws	Director of Law & Governance
Sch.12 Pt.I Para.4(2)(b)	Sign summonses to attend meetings	Director of Law & Governance
Sch.12 Pt.I Para.4(3)	Receive written notice that a Member wants a summons sent to an alternative address	Director of Law & Governance
Sch.29 Pt.II Para.41(3)(5)	<p>Appoint interim superintendent registrars or interim registrars of births and deaths pursuant to the Registration Service Act 1953</p> <p>Exercise powers provided by the local scheme of organisation of the Registration Service pursuant to the 1953 Act</p> <p>Prescription by the Registrar General of duties of proper officers under the Registration and Marriage Acts. In relation to the Registration of Births, Deaths and Marriages, to exercise the functions under the Marriage Act 1949. Director, Education, Lifelong Learning and Culture Part 3 Scheme of Delegation July 2019 5 In relation to the approval of premises for the solemnisation of marriages under Section 26(1)(bb) and Section 46A of the Marriage Act 1949 (as amended by the Marriage Act 1994) and the Marriages and Civil Partnerships Act (Approved Premises) Regulations 2005.</p>	Director of Law & Governance

Local Government Act 1974		
Section	Purpose	Officer
30(5)	Give public notice of Local Government Ombudsman's report	Director of Law & Governance

Local Government (Miscellaneous Provisions) Act 1976		
Section	Purpose	Officer
41	Certifying copy resolutions and minutes of proceedings	Director of Law & Governance

Highways Act 1980		
Section	Purpose	Officer
59(1)	Certify that extraordinary expenses have been incurred in maintaining the highway by reason of damage caused by excessive weight	Assistant Director, Highways & Infrastructure
193(3)	Certify that additional expenses have been incurred in the execution of wider than normal street works	Assistant Director, Highways & Infrastructure
205(3)-(5)	Undertake duties as specified in the schedules in relation to private street works	Assistant Director, Highways & Infrastructure
210(2)	Certify amendments to estimated costs and provisional apportionment of costs under the private street works code	Assistant Director, Highways & Infrastructure
211(1) 212(4) 216(2)-(3)	Make final apportionment of costs as detailed in the schedules under the private street works code	Assistant Director, Highways & Infrastructure
295(1)	Issue notice requiring removal of materials from non-maintainable streets in which works are due to take place	Assistant Director, Highways & Infrastructure
321	Authenticate notices and other documents	Director of Law & Governance

Sch.9 Para.4	Sign plans showing proposed prescribed improvement or building lines	Assistant Director, Highways & Infrastructure
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Representation of the People Act 1983		
Section	Purpose	Officer
35	Appointment as Returning Officer for local elections	Chief Executive
67(7)(b)	Receive declarations and giving public notice of election agents' appointments	Director of Law & Governance
82(4)	Receive declarations and giving public notice of election agents' or candidates' election expenses	Director of Law & Governance
131(1)	Provide accommodation for holding election court	Director of Law & Governance

Building Act 1984		
Section	Purpose	Officer
78	Taking immediate action in relation to dangerous structures.	Relevant Director and/or Chief Officer

Public Health Control of Disease Act 1984		
Section	Purpose	Officer
48	Certifying to a justice of the peace that the retention of a dead body in any premises would endanger the health of inmates of that building or an adjoining or neighbouring property	Director of Public Health
60	Accepting service on behalf of the local authority of notices, orders and other documents	Director of Public Health

Weights and Measures Act 1985		
Section	Purpose	Officer
72(1)	Appointment as Chief Inspector of Weights and Measures	Head of Trading Standards

Local Government Finance Act 1988		
Section	Purpose	Officer
114, 115 and 115B	Responsibility for Chief Financial Officer Reports.	Director of Finance
116(1)	Notify external auditor of meeting under the Act to consider a report from the Chief Finance Officer	Director of Finance

Local Government and Housing Act 1989		
Section	Purpose	Officer
2(4)	Hold the Council's list of politically restricted posts	Director of Law & Governance
3A	In consultation with the Monitoring Officer, determine applications for exemption from political restriction or for designation of posts as politically restricted.	Chief Executive
4	Designation as Head of Paid Service	Director Resources
5(1)	Designation as Monitoring Officer	Director of Law & Governance
5(7)	Nomination to act as deputy in the absence of the Monitoring Officer	Head of Legal Services
15-17	Receive notification of the formation of a political group, changes in membership, names of group leaders and deputies, and group nominations to sit on committees	Director of Law & Governance

Food Safety Act 1990		
Section	Purpose	Officer
27(1)	Appointment as Public Analysts	Head of Environmental Health
49(3)	Sign any document authorised or required to be given, made or issued by the Food Authority	Head of Environmental Health

The Local Government (Committees and Political Groups) Regulations 1990		
Regulation	Purpose	Officer
	Notifications to and by the Proper Officer	Director of Law & Governance

Education Act 1996		
Section	Purpose	Officer
532	Appointment as Chief Education Officer	Director of Children's, Families and Education

Local Government Act 2000, section 34 Local Authorities (Referendums) (Petitions and Directions) Regulations 2000		
Regulation	Purpose	Officer
34	Publish the verification number of electors for the purpose of petitions under the 2000 Act	Director of Law & Governance



Regulation of Investigatory Powers Act 2000, section 30

The Regulation of Investigatory Powers (Prescription of Offices, Ranks and Positions) Order 2000

Regulation	Purpose	Officer
2	Authorise the carrying out of directed surveillance or the conduct or use of a covert human intelligence source	Director of Neighbourhood Services, Chief Internal Auditor, Director of Law & Governance, Head of Planning Applications Unit, Principal Planning Officer (Enforcement), Head of Public Rights of Way, Public Rights of Way Officer (Enforcement), Head of Trading Standards (TS), TS Area Managers, TS Operational Manager

Freedom of Information Act 2000

Section	Purpose	Officer
36	Qualified person to confirm or deny whether disclosure of information is likely to prejudice the effective conduct of public affairs	Director of Law & Governance

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012/2089

Regulation	Purpose	Officer
7(2)	Exclusion of information in any report which relates only to matters during which, in the proper officer's opinion, the meeting is likely to be a private meeting.	All Directors
7(7)(c)	Copy of any other document supplied to members of the executive in connection with the item considered at a meeting as the proper officer thinks fit.	All Directors
7(12)	To ensure that a written statement is produced for every executive decision as required.	Director of Law & Governance

20	Determining whether to disclose a document containing confidential, exempt information or advice provided by a political advisor or assistant.	All Directors
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The Local Authorities (Standing Orders) (England) Regulations 2001		
Regulation	Purpose	Officer
Sch. 1, Part IV,	Functions in relation to notifying Executive of appointments, dismissals, etc.	Director of Law & Governance

Children Act 2004		
Section	Purpose	Officer
18	Director of Children's, Families and Education	Director of Children's, Families and Education

Local Democracy, Economic Development and Construction Act 2009		
Section	Purpose	Officer
31	Designation of Statutory Scrutiny Officer	Head of Democratic & Member Services

Public Health Control Of Disease Act 1984 Health Protection (Notification) Regulations 2010		
Regulation	Purpose	Officer
2	Officer to be notified of suspected disease, infection or contamination in patients	Director of Public Health
3	Officer to be notified of suspected disease, infection or contamination in dead persons	Director of Public Health
6	Duty to disclose notification to others eg. Health Protection Agency	Director of Public Health

Localism Act 2011		
Section	Purpose	Officer
29	Establish, maintain and publish a Register of Interests.	Director of Law & Governance
31	Receipt of notice of members' disclosable pecuniary interests and entering such interests in the Authority's register	Director of Law & Governance
32	Consideration whether a member's interest is a sensitive interest	Director of Law & Governance
33	Determination of written requests from members for dispensations where they have a pecuniary interest	Director of Law & Governance

Data Protection Act 2018		
Section	Purpose	Officer
69, 70 and 71	To be the Council's designated Data Protection Officer and discharge the functions associated with the Data Protection Act 2018.	Data Protection Officer

- In the event of the Chief Executive (Head of the Paid Service) not being available to deal with matters for which s/he has been designated the proper officer, the Director of Law & Governance be authorised to act as proper officer in his/her absence.
- In the event of any other designated officer being unable to fulfil his/her duties as proper officer, his/her deputy be authorised to undertake such duties instead.
- Notwithstanding the above, a proper officer may at any time delegate or authorise other officers to perform the designated duties on his/her behalf.

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# CONSTITUTION OF THE COUNCIL

## Part 4 Section 1

### COUNCIL STANDING ORDERS

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## 1. ANNUAL MEETING OF THE COUNCIL

### 1.1. Timing and business

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place on the second Monday in May, or such other day in the month of March, April or May that year as the Council may fix.

### 1.2 Part 1: The Ceremonial Meeting (Mayor Making)

The Meeting will:

- (i) elect a person to preside if the Mayor is not present;
- (ii) elect the Mayor;
- (iii) elect the Deputy Mayor;
- (iv) receive the retiring Mayor's report; and
- (v) adjourn the meeting.

### 1.3 Part 2: The Business Meeting

The Meeting will:

- (i) approve the minutes of the last meeting;
- (ii) receive any announcements from the Mayor and/or the Head of Paid Service;
- (iii) receive a report from the Returning Officer on the outcome of Borough Elections;
- (iv) appoint to committees, in that the annual meeting will:
  - (1) appoint such committees as are required or the Council considers appropriate for the municipal year (noting that Council may decide at subsequent meetings to dissolve committees, alter their terms of reference or to appoint new committees);
  - (2) decide the size and terms of reference for those committees;
  - (3) decide the allocation of seats to political groups in accordance with the rules on political balance;
  - (4) receive nominations of Members to serve on each committee;
  - (5) appoint to those committees (except where appointment to those bodies has been delegated by the Council);

- (v) appoint:
  - (1) the Leader of the Council (Chair of Policy & Resources Committee);
  - (2) the Deputy Leader of the Council (Vice-Chair of Policy & Resources Committee); and
  - (3) the Chairs and Vice-Chairs of all other Council committees, at (iv)(1) above, other than those which the Council has decided should be appointed by the committee itself
- (vi) approve a programme of ordinary meetings of the Council for the year;
- (vii) appoint Members to panels, advisory committees, working parties and miscellaneous other bodies and appoint Members (and/or other individuals) to outside bodies and organisations, unless otherwise delegated; and
- (viii) consider any business set out in the notice convening the meeting.

Unless otherwise determined by statute, the Mayor may vary the order of the agenda at his/her absolute discretion and may allocate or reallocate an appropriate time for the transaction of each item.

## 2. **ORDINARY MEETINGS**

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

- (i) elect a person to preside if the Mayor and Deputy-Mayor are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from Members;
- (iv) receive any announcements from the Mayor, Leader of the Council or the Head of Paid Service (which, with the exception of the Mayor, will normally be limited to 5 minutes);
- (v) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting in accordance with Standing Order 10 below  
(limited to 30 minutes);
- (vi) receive representations from electors of the Borough in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting in accordance with Standing Order 11.1 below;  
(limited to 20 minutes);
- (vii) receive petitions from Members or the public in accordance with Standing Order 11.2 below;

- (viii) receive questions on notice from, and provide answers to, Members in accordance with Standing Order 12.2 below;
- (ix) deal with any business from the last Council meeting;
- (x) receive recommendations and reports from the Council's committees for consideration, including consideration of proposals from the Policy and Resources Committee in relation to the Council's Budget and Policy Framework and receive questions and answers on any of those reports;
- (xi) receive any reports from the Council's Committees for consideration and receive questions and answers on any of those reports;
- (xii) receive reports about and receive questions and answers on decisions made by Committees since the last meeting of Council;  
(limited to 45 minutes);
- (xiii) receive any reports about and receive questions and answers on the business of joint arrangements and external organisations, including the Combined Authority;
- (xiv) consider motions on notice; and
- (xv) consider any other business specified in the summons to the meeting.

### 3. EXTRAORDINARY MEETINGS

#### 3.1. Calling extraordinary meetings

Those listed below may request the proper officer to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Mayor (or the Deputy Mayor if the Mayor is unable to act);
- (iii) the Monitoring Officer or the Chief Finance (s.151) Officer in exercise of their statutory powers; or
- (iv) any five members of the Council if they have signed a requisition presented to the Mayor and he or she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

#### 3.2. Business

The business to be conducted at an extraordinary meeting shall be restricted to the item of business contained in the request for the extraordinary meeting and there shall be no consideration of previous minutes or reports from committees etc. except that the Mayor (or person presiding) may at his or her absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business.



## **4. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES**

### **4.1 Allocation**

As well as allocating seats on committees and sub-committees, the Council will allocate seats in the same manner for substitute members.

### **4.2 Number**

For each Committee or Sub-Committee, the Council may appoint up to a maximum of half (50%) the number of substitutes in respect of each political group as that group holds ordinary seats on that committee or sub-committee.

### **4.3 Powers and duties**

Substitute members will have all the powers and duties of any ordinary member of the committee when attending a meeting but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

### **4.4 Substitution**

Substitute members may attend meetings in that capacity only:

- (i) to take the place of the ordinary member for whom they are the designated substitute;
- (ii) where the ordinary member will be absent for the whole of the meeting; and
- (iii) after notifying the Monitoring Officer by noon on the day of the meeting of the intended substitution.

### **4.5 Absence**

When the ordinary member and a designated substitute are unable to attend a meeting, a nominated substitute member of the same group may attend the meeting after notifying the Monitoring Officer by 12 noon.

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

The time and place of meeting will be determined by the proper officer and notified in the summons.

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

The proper officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the proper officer will send a summons signed by him or her to every member of the Council. The summons will normally be sent via electronic means. The summons will give the date, time and place of each meeting and specify the business to be transacted at the meeting (the agenda) together with accompanying reports.

## 7. CHAIR OF MEETING

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

## 8. QUORUM

The quorum of a meeting will be one quarter of the whole number of members. If, at the end of 15 minutes after the time at which any meeting of the Council is scheduled to start, or at any later point during any meeting, the Mayor counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## 9. DURATION OF MEETING

### 9.1 Interruption of the meeting

The Mayor will adjourn the meeting for a period of ten minutes at a convenient time after one and a half hours.

Where three and a half hours have elapsed after the commencement of any meeting (and in the case of an extraordinary meeting of Council when two hours have elapsed since commencement of the meeting) the Mayor shall interrupt the meeting and the Member speaking must immediately cease doing so and sit down. The meeting shall then dispose of the item then under consideration as if the motion '*That the question be now put*' had been carried (i.e. the debate shall be concluded by the seconder and by the Member who has the right of reply and the vote will then be taken without any further discussion). This rule will not apply to meetings of a quasi-judicial or regulatory nature.

### 9.2 Motions and recommendations not dealt with

If there are other motions or recommendations on the agenda that have not been dealt with within that period, they are deemed formally moved and seconded (together with any amendments). No speeches will be allowed on these items and the vote will be taken in the usual way.

### 9.3 Recorded vote

If a recorded vote is called for during this process it will be taken immediately.

### 9.4 Motions which may be moved

During the process set out in standing orders 9.1- 9.3 above, the only other motions which may be moved are that a matter be withdrawn or that a matter be delegated or referred to an appropriate body or individual for decision or report.

### 9.5 Close of the meeting

When all motions and recommendations have been dealt with, the Mayor will declare the meeting closed.

## 10. QUESTIONS BY THE PUBLIC AT MEETINGS OF COUNCIL

### 10.1 General

Members of the public who are residents of the Borough, or are a representative of a local firm or organisation, may ask questions of the Leader or Deputy Leader of the Council or the Chair of any Policy and Services Committee or a leader of a political group at ordinary meetings and, at the discretion of the Mayor, extraordinary meetings of the Council. If the question relates to any matter within the terms of reference of the Pensions Committee, any member of the public who is a member of the Local Government Pension Scheme in Merseyside or who ordinarily resides within the boundaries of the local authorities which are Scheme Employers, may put the question to the Chair of the Pensions Committee.

### 10.2 Order of questions

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

If the questioner has asked a question at a previous meeting, or the local firm or organisation of whom they are a representative has had a question asked on its behalf, the Mayor shall have the right to change the order of questions or to reject questions which are repetitious.

### 10.3 Notice of questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Monitoring Officer no later than midday three working days before the day of the meeting. Each question must give the name and address of the questioner and must name the member of the Council to whom it is to be put. Notice must be provided at this time of any accompanying preamble to be given when putting the question to Council. Questions may be edited as necessary by Monitoring Officer, in consultation with the Mayor, to bring them into proper form and to ensure brevity.

### 10.4 Number of questions

A person may submit only one question at any one meeting and no more than two such questions may be asked on behalf of one organisation.

### 10.5 Scope of questions

If the Monitoring Officer considers a question:

- is not about a matter for which the local authority has a responsibility, or which affects the Borough;
- is illegal, improper, defamatory, frivolous or offensive;

- is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- requires the disclosure of confidential or exempt information

he or she will inform the Mayor who will then decide whether or not to reject the question.

## 10.6 Record of questions

The Monitoring Officer will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection.

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

## 10.7 Asking the question at the meeting

The Mayor will invite the questioner to put the question to the Member named in the notice. Two minutes are allowed for putting the question. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the question on their behalf. The Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with. A total of 30 minutes is allocated to public questions.

## 10.8 Supplemental question

A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in Standing Order 10.5 above. One minute is allowed for putting the supplementary question.

## 10.9 Answers

Every question shall be put and answered without discussion, but the person to whom the question has been put may decline to answer. An answer may take the form of:

- (a) a direct oral answer, for which two minutes are allowed for answering a question and two minutes are allowed for answering a supplementary question;
- (b) where the information requested is contained in a publication of the Council, a reference to that publication; or
- (c) a written answer to be provided later to the questioner, where the reply cannot conveniently be given orally, in which circumstance the councillor questioned will arrange for the written response to be provided to the questioner and circulated to all members within 10 working days thereafter and included as an addendum to the Minutes.

## 10.10 Reference of question to a Committee

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

### **10.11 Regulatory Committees**

Separate arrangements are in place for the public to ask questions and make representations at meetings of the Planning, Licensing and Regulatory Committees, which are set out in specific schemes applicable to the proceedings of those meetings.

## **11. STATEMENTS AND PETITIONS**

### **11.1 Representations**

A member of the public may speak on up to two non-procedural items on any Agenda if notice has been given no later than midday three working days before the day of the meeting. The Mayor may, at his or her discretion, limit the number of speakers and the time each speaker may speak for. No speech should exceed three minutes. Each member of the public may only speak once. Public speaking on any one item shall not exceed 10 minutes, subject to the Mayor's discretion to extend the time if he or she considers it appropriate.

### **11.2 Petitions**

Petitions may be presented to the Council if provided to Democratic and Member Services no later than 12 noon, 3 working days before the meeting, at the discretion of the Mayor. The person presenting the petition will be allowed to address the meeting briefly (not exceeding three minute) to outline the aims of the petition. The Mayor will refer the matter to another appropriate body of the Council within whose terms of reference it falls without discussion, unless a relevant item appears elsewhere on the Agenda. If a petition contains more than 5,000 signatures, it will be debated at a subsequent meeting of Council.

## **12. QUESTIONS BY MEMBERS AT COUNCIL**

### **12.1 On reports of Committees**

A Member of the Council may ask the Leader or the Chair of a Committee any question without notice upon an item of the report of a committee when that item is being received or under consideration by the Council.

### **12.2 Questions on notice at full Council**

Subject to Standing Order 12.4, at an Ordinary Meeting of the Council a Member may ask the Leader or Deputy Leader of the Council, the Chair of any of the Council's Committees or a Leader of a Political Group on the Council, or representatives on Joint Authorities questions on matters which the Council has powers or duties or which affects the area of the Council and which fall within their responsibility, or which fall within the responsibility of the relevant Joint Authority.

### 12.3 Questions on notice at committees and sub-committees

Subject to Standing Order 12.4, a member of a Committee or Sub-Committee may ask the Chair of it a question on any matter in relation to which the Council has powers or duties or which affect the Borough and which falls within the terms of reference of that committee or subcommittee.

### 12.4 Notice of questions

A Member may only ask a question under Standing Order 12.2 or 12.3 if:

- a) notice of the question has been given by delivering it in writing or by electronic mail to the Monitoring Officer no later than midday three working days before the day of the meeting; or
- b) the question relates to urgent matters, in which event they have the consent of the Mayor (or the Chair of the Committee to whom the question is to be put) and the content of the question is given to the Monitoring Officer by noon on the day of the meeting.

### 12.5 Scope of questions

If the Monitoring Officer considers any question:

- is not about a matter for which the local authority has a responsibility, or which affects the Borough;
- is illegal, improper, defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months; or

requires the disclosure of confidential or exempt information;

he or she will inform the Mayor who will then decide whether or not to reject the question.

### 12.6 Response

An answer may take the form of:

- a) a direct oral answer, which response should be brief, succinct and to the point.;
- b) by reference to published material of the Council which is readily available to Members; or
- c) a written answer circulated to Members of the Council either during the meeting at which the question is asked or subsequently, in which circumstance the Member questioned will arrange for the written response to be sent to all Members within 10 working days thereafter and included as an addendum to the Minutes.

### 12.7 Supplementary question

Every question, which will be limited to one part, will be asked and answered without discussion. Upon receiving the answer, the Member who put the question shall be

allowed one supplementary question, provided that it arises directly out of the original question or the reply and does not introduce any new subject matter.

The supplementary question will be asked and answered orally, but the person to whom the supplementary question has been asked may decline to answer.

## 12.8 Time limits for questions and responses

No question will exceed one minute and no answer will exceed two minutes.

## 13. MOTIONS ON NOTICE

### 13.1 Notice

Except for motions which can be moved without notice under Standing Order 14, written notice of every motion, must be delivered to the Monitoring Officer in its initial form by nine clear working days before the date of the meeting (the Monday of the second week before each ordinary meeting of the Council where held on a Monday) and in final form noon seven clear working days before the date of the meeting (the Wednesday of the second week before each ordinary meeting of the Council where held on a Monday). Each political group can submit a maximum of one motion on notice at a Council meeting. In the event of a motion being submitted from a Member who is not a member of a political group, the Director of Law and Governance will consult the Mayor in respect to the inclusion of the motion on the agenda.

### 13.2 Motion set out in agenda

Motions for which notice has been given will be listed on the agenda, unless the member giving notice states, in writing, that they propose to move it to a later meeting. The first motion listed on the agenda will be rotated at each Council meeting to enable the opportunity for any political Group or motion submitted by a Member who is not a member of a political group to be the debated first. Motions listed on the agenda thereafter will be in political group size order. This process will be managed by the Director of Law and Governance, in consultation with the Mayor.

### 13.3 Amendments to Motions on Notice

All amendments to motions on notice must be delivered to the Monitoring Officer in their initial form by 10.00am three working days before the date of the meeting (the Wednesday of the week the meeting of the Council where held on a Monday) and must comply with the requirements of Standing Order 15.6.

The Member submitting the amendment must then confirm in writing to the Monitoring Officer by 12 noon one working day before the meeting whether the amendment is to go forward, or notify the Monitoring Officer of any changes to the amendment. If no withdrawal, confirmation or change is received by the Monitoring Officer, it will be assumed that the amendment is to be considered in its initial form. The Mayor may allow amendments without notice, or alterations to amendments, in exceptional circumstances where the Mayor considers it conducive or necessary to the business of the Council to do so.

### 13.4 Scope

If the Monitoring Officer considers a motion or an amendment to a motion:

- is not about a matter for which the local authority has a responsibility, or which affects the Borough;
- is illegal, improper, defamatory, frivolous or offensive;
- is substantially the same as a motion which has been put at a meeting of the Council in the past six months; or
- requires the disclosure of confidential or exempt information

he or she will inform the Mayor who will then decide whether or not to reject the motion.

## 14 MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- a) to appoint a chair of the meeting at which the motion is moved;
- b) in relation to the accuracy of the minutes;
- c) to change the order of business in the agenda;
- d) to refer something to an appropriate body or individual;
- e) to appoint a committee or member arising from an item on the summons for the meeting;
- f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- g) to withdraw a motion;
- h) to amend a motion (members are strongly encouraged, where possible, to share motions and amendments with fellow Committee Members in advance of the meeting);
- i) to proceed to the next business;
- j) that the question be now put'
- k) to adjourn a debate;
- l) that the meeting continues beyond 3.5 hours in duration (2 in the case of an extraordinary meeting);
- m) to suspend a particular Council Standing Order;
- n) to exclude the public and press in accordance with the Access to Information Rules;
- o) to not hear further a member named under Standing Order 20.3 or to exclude them from the meeting under Standing Order 20.4; and
- p) to give the consent of the Council where its consent is required by this Constitution.

## 15. RULES OF DEBATE

### 15.1 No speeches until motion seconded



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

### **15.2 Right to require motion in writing**

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

### **15.3 Secunder's speech**

When seconding a motion or amendment, a Member shall reserve their speech until immediately before the reply made by either the Mayor or the mover of the original motion under Standing Order 15.9. No further ordinary speeches shall be made after the seconder has spoken.

### **15.4 Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. The proposer of a motion may speak for up to 5 minutes when introducing the motion. No other speech may exceed 3 minutes without the consent of the Mayor.

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

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

- a) to speak once on an amendment moved by another Member;
- b) to move a further amendment if the motion has been amended since he or she last spoke;
- c) if his or her first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he or she spoke was carried);
- d) in exercise of a right of reply (as per 15.9 below);
- e) on a point of order (as per 15.12 below); and
- f) by way of personal explanation (as per 15.13 below).

### **15.6 Amendments**

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

iv. to insert or add words.

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

- b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- c) If an amendment is not carried, other amendments to the original motion may be moved.
- d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- e) After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### 15.7 **Alteration of motion**

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

#### 15.8 **Withdrawal of motion**

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

#### 15.9 **Right of reply**

- a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- c) The mover of the amendment has no right of reply to the debate on his or her amendment.

#### 15.10 **Motions which may be moved during debate**

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

- a) to withdraw a motion;
- b) to amend a motion;
- c) to proceed to the next business;
- d) that the question be now put;
- e) to adjourn a debate;
- f) that the meeting continues beyond 3.5 hours in duration (2 in the case of an extraordinary meeting);
- g) to exclude the public and press in accordance with the Access to Information Rules; and
- h) to not hear further a member named under Standing Order 20.3 or to exclude them from the meeting under Standing Order 20.4.

#### 15.11 Closure motions

- a) A Member may move, without comment, the following motions at the end of a speech of another member;
  - i. to proceed to the next business;
  - ii. that the question be now put;
  - iii. to adjourn a debate; or
  - iv. to adjourn a meeting.
- b) If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- c) If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### 15.12 Point of order

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

### **15.13 Personal explanation**

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the Mayor on the admissibility of a personal explanation will be final.

### **15.14 Motions affecting persons employed by the Council**

If any question arises at a meeting of the Council as to the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct, of any person employed by the Council, that question shall not be discussed until the Council, committee or sub-committee has decided whether or not the power of exclusion of the public under the Access to Information Rules should be exercised.

### **15.15 Joint Debates**

The Mayor or Council can agree to deal with the two or more related motions or amendments in one debate. Each mover and seconder of a motion should have the right to speak in accordance with Standing Order 15.3, 15.2 and 15.9. Separate votes shall be taken on each motion and amendment as if the debate had otherwise taken place in accordance with this Standing Order 15.

## **16. PREVIOUS DECISIONS AND MOTIONS**

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

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 17 members.

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

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 17 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

### **16.3 Reconsideration during the meeting**

No resolution or recommendation (other than a procedural resolution) made by a committee or panel during the course of a meeting shall be rescinded or amended by the committee or panel during the same meeting or any adjournment of it unless there are reasonable grounds for believing that all of the material information was not available at the time that the resolution or recommendation was passed.

## **17. VOTING**

### **17.1 Majority**

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

## 17.2 **Casting Vote**

If there are equal numbers of votes for and against, the Mayor will have the right to exercise a second or casting vote. There will be no restriction on how the Mayor chooses to exercise a casting vote, including the choice not to use such vote.

## 17.3 **Method of Voting**

Unless a recorded vote is demanded under 17.4 below, the Mayor will take the vote by use of the electronic voting system or, if there is no dissent, by the affirmation of the meeting.

The Mayor may decide at any time to discontinue use of the electronic voting system if satisfied that it is not working correctly. If the Mayor considers that there has been any malfunction of the equipment or any incorrect use of it, the Mayor may require or allow the vote to be retaken, either electronically or by show of hands.

Where the electronic voting system is not working correctly or unavailable, the Mayor will take the vote by show of hands.

## 17.4 **Recorded Vote**

If a Member of the Council makes a request before a vote is taken and is supported by five other members rising in their places, the voting on any question shall be by roll-call and the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

This Standing Order will apply automatically in respect of a vote taken at a Budget Decision Meeting of the Council in accordance with the Budget and Procedure Rules at Part 4(3) of this Constitution.

## 17.5 **Right to Require Individual Vote to be Recorded**

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

## 17.6 **Voting on Appointments**

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

## 18. **MINUTES**

### 18.1 **Signing the minutes**

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

## **18.2 No requirement to sign minutes of previous meeting at extraordinary meeting**

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

## **18.3 Form of minutes**

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

## **19. EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4(2) of this Constitution or Standing Order 21 (Disturbance by Public).

## **20. MEMBERS' CONDUCT**

### **20.1 Standing to speak**

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

### **20.2 Mayor standing**

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

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

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

### **20.4 Member to leave the meeting**

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

## 20.5 **General disturbance**

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

## 21. **DISTURBANCE BY PUBLIC**

### 21.1 **Removal of member of the public**

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

### 21.2 **Clearance of part of meeting room**

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

## 22. **PHOTOGRAPHY AND AUDIO/VISUAL RECORDING OF MEETINGS**

Any member of the public may film, audio record, take photographs and use social media to report the proceedings of any meeting that is open to the public in accordance with the published notices.

## 23. **SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

### 23.1 **Suspension**

All of these Council Standing Orders, except 17.4, 17.5 and 18.2 (which are amongst the mandatory standing orders), may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

### 23.2 **Amendment**

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

## 24. **APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

All of the Council Standing Orders apply to meetings of Full Council.

These Council Standing Orders also apply to all Committee and Sub-Committee meetings, except:

- 1-3 (meetings of Full Council);
- 4 (appointment of substitute committee members by Council); and
- 20.1 (standing to speak).

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# CONSTITUTION OF THE COUNCIL

## Part 4 Section 1(a)

### PETITIONS SCHEME

#### 1. Petitions

- 1.1 The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. You can send us a paper petition and/or set up an e-petition online.
- 1.2 We expect all petitioners and signatories – who may be of any age – to live in the area the area covered by Wirral Council. For this reason, we require all petitioners and signatories to provide the full postcode of their home address when submitting a paper petition or signing an e-petition via the Council's website.
- 1.3 There is an expectation that supporters of a petition which is presented via a website external to the Council also live in Wirral and supporters of such petitions are encouraged to include their postcode.

#### 2. The subject of a petition

- 2.1 Petitions submitted to the Council must include –
  - a clear and concise statement covering the subject of the petition;
  - what action the petitioners wish the Council to take;
  - the name, contact details and postcode of the petition organiser so that we can contact them to explain how we will respond to the petition;
  - the name and signature of any person supporting the petition and, when submitting a paper petition or signing an e-petition via the Council's website, the full postcode of either their home address or the address of the organisation they work or study at.
- 2.2 Petitions must relate to what the Council does or relate to an improvement in the economic, social or environmental well-being of the area covered by Wirral Council. The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

#### 3. Where to send a petition

- 3.1 **Paper petitions** should be sent to Democratic and Member Services, Wirral Borough Council, Birkenhead Town Hall, Mortimer Street, Birkenhead. This

should be submitted by 12 noon, **3 working days before** the meeting at which you would like the petition to be presented at which the Mayor (or Chair of the meeting) will exercise final discretion.

- 3.2 **E-petitions** - follow [this link](https://www.wirral.gov.uk/about-council/have-your-say/petitions) (https://www.wirral.gov.uk/about-council/have-your-say/petitions) to create, sign and submit an e-petition.

#### **4 What the Council will do when it receives a petition**

- 4.1 The Council will send an **acknowledgement** of all petitions to the petition organiser within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition and when they can expect to hear from us again. The petition will also be published on our website. Whenever possible, we will also publish all correspondence relating to the petition (all personal details will be removed).
- 4.2 We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.
- 4.3 Once submitted, the petition organiser will be offered the choice as to whether they wish the petition to be:-
- i) presented at the next full Council meeting to decide how we will respond; or
  - ii) referred directly to the appropriate committee or sub-committee of the Council to decide how we will respond; or
  - iii) responded to by the relevant officer of the Council.
- 4.4 If the petition organiser wishes to refer the petition to a full Council meeting or directly to the relevant decision-making meeting, they will be invited to attend the meeting and will be offered the opportunity to either present the petition themselves or for a Councillor or someone else to present it on their behalf. Dates and times of all Council meetings and the relevant contact details can be found on the Council's webpage for the [Council Committee Calendar](https://democracy.wirral.gov.uk/mgCalendarMonthView.aspx?GL=1&bcr=1) (https://democracy.wirral.gov.uk/mgCalendarMonthView.aspx?GL=1&bcr=1)
- 4.5 If the petition organiser would like to present their petition to the Council or would like their Councillor or someone else to present it on their behalf, they need to contact Democratic & Member Services by 12 noon, **3 working days before the meeting** and we will talk you through the process. If the petition organiser prefers to receive a response from the relevant officer without the petition being presented at a meeting, a response will be sent to them within 21 working days of the closure of the petition and will be posted on the Council's website.

#### **5 Full Council debates**

- 5.1 If a petition contains more than **5,000 signatures**, it will be debated by the full Council. This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend before a decision is made about how

we will respond. The Council will try to consider the petition at its next meeting. This may not always be possible and the petition will then be considered at the next meeting.

- 5.2 The petition organiser will be given **3 minutes** to present the petition at the meeting and the petition will then be discussed by Councillors. This will usually be for a maximum of 30 minutes, however this may be extended at the discretion of the Mayor. The Council will then decide how to respond to it at this meeting and may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee.
- 5.3 The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

## **6 Exceptions**

- 6.1 If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having a directly elected mayor), or on a matter where there is already an existing right of appeal, such as Council tax banding and non-domestic rates, other procedures apply. Further information on this is available on the Council's website, while general information on how you can express your views is available here: [Wirral Council Have Your Say](https://www.wirral.gov.uk/about-council/have-your-say) (<https://www.wirral.gov.uk/about-council/have-your-say>)
- 6.2 We will not take action on any petition which is considered by the Council's Monitoring Officer to be vexatious, abusive or otherwise inappropriate and, if this is the case, we will explain our reasons in our acknowledgement of the petition.
- 6.3 A petition will not have any action taken upon it, other than to be published, if it is substantially the same or asks for the same or substantially similar outcome as a petition that has been responded to by the Council within the previous six months. Where more than one petition is received in the same period that seeks a similar outcome or is otherwise substantially the same, then we will respond to them as one combined petition and request that the petition organisers co-ordinate their approach.
- 6.4 In the period immediately before an election or referendum we may need to deal with a petition differently – if this is the case then we will discuss with the petition organiser the revised timescale which will apply.
- 6.5 If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to the petition organiser to explain the reasons. To ensure that people know what we are doing in response to the petitions we receive, we will publish the details of all the petitions submitted to us on our website. However, there may be cases where this would be inappropriate.

## **7 How the Council will respond to a petition**

- 7.1 The Council's response to a petition will depend on what it asks for and how many people have signed it. Among the options that we may consider are –
- taking the action requested in the petition;
  - not to take the action requested for reasons explained;
  - considering the petition at a Council meeting;
  - holding an inquiry into the matter;
  - undertaking research into the matter;
  - holding a public meeting;
  - holding a consultation;
  - holding a meeting with petitioners;
  - calling a referendum (poll); or
  - writing to the petition organiser setting out our views about the request in the petition.
- 7.2 In addition to these steps, the council will consider all the specific actions it can potentially take on the issues highlighted in a petition. If a petition is about something over which the Council has no direct control (for example the railway or hospital) we will either direct the petitioner to that body where it has its own petition scheme, consider making representations on behalf of the community to the relevant body or in exceptional circumstances it may choose to do both. The Council works with a large number of local partners and where possible will work with these partners to respond to a petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then we will tell the petition organiser the reasons for this.
- 7.3 Because a petition could be signed by thousands of people, we will respond to the petition organiser and we would invite them to share the response with those signing the petition. We will also place the response on the internet for all to see.
- 7.4 Where the person providing a response does not think that they will be able to take the action requested in the petition they will share their response with all of the Councillors for your ward. The Councillors will have the opportunity to explore other possible actions before the response is finalised.
- 7.5 Where your petition has enough signatures to trigger a full Council debate, the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

## **8 E-petitions**

- 8.1 The Council welcomes e-petitions which are created and submitted through our website. E-petitions must follow the same guidelines as paper petitions. The petition organiser will need to provide us with their name, contact details and postcode. They will also need to decide how long they would like their

petition to be open for signatures. Most petitions run for 4 months, but they can choose a shorter or longer time, up to a maximum of 6 months. When creating an e-petition, it may take five working days before it is published online. This is because we have to check that the content of a petition is suitable before it is made available for signature.

- 8.2 If we feel we cannot publish a petition for some reason, we will contact the petition organiser within this time to explain. They will be able to change and resubmit their petition if they wish. If they do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published on the Council's website.
- 8.3 When an e-petition has closed for signature, it will automatically be submitted to the Council. In the same way as a paper petition, we will send the petition organiser acknowledgement of receipt within 10 working days confirming what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website. If the petition organiser would like to present their e-petition to a meeting of the Council, or would like a Councillor to present it, they should contact the Council's Democratic and Member Services team by 12 noon, 3 working days before the meeting to find out more about the process.

## **FREQUENTLY ASKED QUESTIONS**

### **How do I start an e-petition?**

On the Council's e-petitions homepage, select the 'submit a new e-petition' option. Enter your petition title which the system will automatically check against existing e-petitions to allow you to see if a similar one has been considered recently.

There is also a drop down box which allows you to associate your e-petition with any existing issue in the Council's Committee Work Programme. The Committee Work Programme details all of the decisions to be taken by the Council in the coming months. You will then need to fill in the online form. This will be submitted to the Council's Democratic and Member Services team who may contact you to discuss your e-petition before it goes live.

### **How do I 'sign' an e-petition?**

You can see all the e-petitions currently available for signature on the current email petitions page of our website.

- You can only sign an e-petition once.
- When you sign an e-petition you will be asked to provide your name and your postcode.
- When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your 'signature' will be added to the petition.

- People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.
- From time to time, the Council may also submit an e-petition itself to gauge public feeling on a particular issue.

### **Can I still submit a paper petition?**

You can submit petitions in both forms – you can have a paper version and an online version, although repeat names will be removed. Both forms should run for the same period of time and must be submitted together. When submitting an e-petition request, please let us know if you are running a paper petition as well and this can be highlighted on the website.



# CONSTITUTION OF THE COUNCIL

## Part 4 Section 2

### ACCESS TO INFORMATION PROCEDURE RULES

#### 1. SCOPE

These rules apply to all meetings of the Council, to regulatory committees and to any other formal committees and sub-committees established by the Council (together called meetings).

#### 2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law; for example, the Freedom of Information Act and the Data Protection Act.

Previously exempt information may subsequently be made available if the reason for exemption no longer applies.

#### 3. RIGHTS TO ATTEND MEETINGS

Members of the public may attend all meetings subject only to the exceptions in these rules.

#### 4. NOTICES OF MEETINGS

The Council will give at least five clear days' notice of any meeting by publishing details on its website and making copies of such a notice available at its offices at Birkenhead Town Hall, Mortimer Street, Birkenhead.

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

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting.

Where a report was not open to inspection by members of the public for five clear days before the meeting, it can only be considered at the meeting if the Chair of the meeting is of the opinion that it should be considered as a matter of urgency by reason of special circumstances, which shall be specified in the minutes.

#### 6. SUPPLY OF COPIES

The Council will supply copies of the following:

- (a) any agenda and reports which are open to public inspection;
  - (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
  - (c) if the Proper Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item
- to any person on payment of a charge for postage and any other costs.

## 7. ACCESS TO RECORDS OF DECISIONS AND MINUTES, ETC.

The Council will make available

- (a) as soon as reasonably practicable after the record is made:
  - (i) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of formal committees;
  - (ii) written records of decisions taken by officers (in accordance with paragraph 8 below);
  - (iii) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
  - (iv) the agenda for the meeting; and
  - (v) reports relating to items,excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information (as defined in paragraph 11),
- (b) for inspection by members of the public:
  - (i) at all reasonable hours, at the offices of Birkenhead Town Hall, Mortimer Street, Birkenhead; and
  - (ii) on the Council's website; and
- (c) the written record will be retained by the Council and made available for inspection by the public for a period of six years beginning with the date on which the decision, to which the record relates, was made.

## 8. RECORD OF DECISIONS TAKEN BY OFFICERS

- (a) **Decision** - A decision-making officer must produce a written record of any decision which is:
  - (i) a Key Decision or
  - (ii) a decision that would otherwise have been taken by the full Council, a committee or sub-committee of the Council but has been delegated to an officer either—
    - (1) under a specific express authorisation; or



- (2) under a general authorisation to officers to take such decisions and, the effect of the decision is to:
  - (aa) grant a permission or licence;
  - (bb) affect the rights of an individual; or
  - (cc) award a contract or incur expenditure which, in either case, materially affects that relevant local government body's financial position, which is taken to mean expenditure in excess of **£100,000** (excluding social care packages or placements).
- (iii) For clarity, these rules shall not apply to:-
  - (1) routine administrative and operational decisions, including a contract or expenditure concerning individual social care packages or placements;
  - (2) decisions on operational matters such as day to day variations in services;
  - (3) decisions if the whole or part of the record contains confidential or exempt information; and
  - (4) decisions that are already required to be published by other legislation, provided the record published includes the date the decision was taken and the reasons for the decision.
- (b) **Record** - The written record (referred to as an Officer Decision Notice) must be produced as soon as reasonably practicable after the decision-making officer has made the decision and must contain the following information—
  - (i) the date the decision was taken;
  - (ii) a record of the decision taken along with reasons for the decision;
  - (iii) details of alternative options, if any, considered and rejected; and
  - (iv) where the decision falls under paragraph 8.1(a), the names of any Member who has declared a conflict of interest in relation to the decision.
- (c) **Publication** - The decision-making officer shall provide the proper officer as soon as reasonably practicable with:
  - (i) the written record produced in accordance with paragraph (b) above
  - (ii) in the case of a Key Decision, a copy of the report provided to the decision-making officer containing:
    - (1) the recommended decision;
    - (2) an explanation of the reasons for the recommendation being put forward;
    - (3) details of any alternative options, if any, considered and rejected for recommendation;

- (4) details of any consultation undertaken or proposed including, in respect of consultation undertaken, the nature and extent of the consultation undertaken with stakeholders and the overview and scrutiny committees and the outcome of that consultation;
  - (5) a consideration of the financial and legal issues pertaining to the matter, and such other matters as governance chief officers (the head of paid service, s.151 officer or monitoring officer) may require, which may include risk, staffing, equalities, crime and disorder and climate change implications; and
- (iii) any background papers considered by the officer and relevant to the decision,

for publication in accordance with paragraph 7 above.

## 9. **BACKGROUND PAPERS**

- (a) **List of Background Papers** - The proper officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:
- (i) disclose any facts or matters on which the report or an important part of the report is based; and
  - (ii) which have been relied on to a material extent in preparing the report;
- but does not include published works or those which disclose exempt or confidential information (as defined in paragraph 11).
- (b) **Public Inspection of Background Papers** – Any background papers will be retained by the Council and made available for inspection by the public for a period of four years beginning with the date of the meeting or the date on which the decision, to which the background papers relate, was made.

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

A written summary of the public's rights to attend meetings, including the right to record meetings, and to inspect and copy documents shall be kept at and available to the public at the Birkenhead Town Hall, Mortimer Street, Birkenhead.

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

- (a) **Confidential Information: requirement to exclude public** - The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.
- (b) **Exempt Information: discretion to exclude public** - The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Information is only exempt if and so long as in all the

circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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

**(c) Meaning of confidential information**

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

**(d) Meaning of exempt information**

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

CATEGORY	CONDITION
1. Information relating to an individual	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular living individual in the roles indicated.</p> <p>Information is only exempt:</p> <ul style="list-style-type: none"> <li>(a) where disclosure is prohibited by statute; or</li> <li>(b) where disclosure might involve providing personal information about individuals; or</li> <li>(c) where disclosure might breach a duty of confidentiality; and</li> <li>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</li> </ul>
2. Information which is likely to reveal the identity of an individual	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a</p>

	<p>particular living individual in the roles indicated.</p> <p>Information is only exempt:</p> <ul style="list-style-type: none"> <li>(a) where disclosure is prohibited by statute; or</li> <li>(b) where disclosure might involve providing personal information about individuals; or</li> <li>(c) where disclosure might breach a duty of confidentiality; and</li> <li>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</li> </ul>
<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding the information)</p> <p><i>‘financial or business affairs’ includes contemplated, as well as past or current, activities</i></p> <p><i>This category will include commercial and contractual interests</i></p>	<p>Information is not exempt information if it is required to be registered by law e.g. Companies Act 1985, the Charities Act 1993 etc</p> <p>Information is only exempt if and for so long as:</p> <ul style="list-style-type: none"> <li>(a) disclosure of the amount involved would be likely to give advantage to a person entering into or seeking to enter into a contract with the Council in respect of property, goods or services whether the advantage would arise as against the Council or as against other persons; or</li> <li>(b) disclosure would prejudice the efficiency and effectiveness of the use of Council resources; or</li> <li>(c) disclosure of trade secrets and other information would, or would likely, prejudice the commercial interests of any person, including the Council; and</li> <li>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</li> </ul>
<p>4. Information relating to any</p>	<p>Information is only exempt if and for</p>

<p>consultations or negotiations or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a minister of the crown and employees of, or office-holders under, the authority</p> <p><i>‘Labour relations matters’ are as specified in paragraphs (a) to (g) of Section 29(1) of the Trade Unions and Labour Relations Act 1974</i></p> <p><i>i.e. matters which may be the subject of a trade dispute</i></p> <p><i>‘employee’ means a person employed under a contract of service</i></p> <p><i>‘office-holder’ means the holder of any paid office appointments which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority</i></p>	<p>so long as its disclosure to the public:</p> <p>(a) would prejudice the Council in those or any other consultations or negotiations in connection with a labour relations matter; and</p> <p>(b) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p>	<p>Information is only exempt:</p> <p>(a) where a claim of legal professional privilege could be maintained in legal proceedings e.g. correspondence such as legal advice and assistance between the Council’s Legal Services and its client;</p> <p>(b) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>6. Information which reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of</p>	<p>Information is exempt only if and so long as:</p> <p>(a) disclosure to the public might afford an opportunity to a person affected by the notice,</p>

<p>which requirements are imposed on a person, or (b) to make an order or direction under any enactment</p>	<p>order or direction to defeat the purpose or one of the purposes for which the notice order or direction is to be given or made; and (b) in all circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>	<p>Information is only exempt if its disclosure would, or would be likely to, prejudice-</p> <ul style="list-style-type: none"> <li>(a) criminal investigations and proceedings; or</li> <li>(b) the apprehension or prosecution of offenders; or</li> <li>(c) the administration of justice; or</li> <li>(d) the assessment or collection of any tax or duty or of any imposition of a similar nature; or</li> <li>(e) regulatory enforcement; or</li> <li>(f) any civil proceedings; or</li> <li>(g) Health and safety; or</li> <li>(h) information obtained from confidential sources; and</li> <li>(i) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</li> </ul>

Information falling within any of paragraphs 1-7 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

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

If the proper officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 9, the meeting is likely not to be open to the public.

Such reports will be marked “Not for publication” together with the category of information likely to be disclosed. The report will explain why it is being treated as exempt.

**13. PROCEDURE BEFORE TAKING A KEY DECISION**



- (a) **The Forward Plan** - Every month the Council will publish a document that sets out, in respect of each Key Decision that will be taken on behalf of the Council:
- (i) that a Key Decision is to be made on behalf of the Council.
  - (ii) the matter in respect of which a decision is to be made.
  - (iii) where the decision maker is an individual, his/her name and title, if any, and where the decision maker is a body, its name and details of membership.
  - (iv) the date on which, or the period within which, the decision is to be made.
  - (v) where the decision relates to confidential or exempt information, as defined above, a statement that the decision will be made in private
  - (vi) a list of the documents submitted to the decision maker for consideration in relation to the matter.
  - (vii) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available.
  - (viii) that other documents relevant to those matters may be submitted to the decision taker.
  - (ix) the procedure for requesting details of those documents (if any) as they become available.
- (b) **Publication** - This document will be known as the 'Forward Plan' and it will be published on the Council's website and will be updated from time to time as required. The Forward Plan will also be available for inspection by the public at Birkenhead Town Hall, Brighton Street, Birkenhead.
- (c) **Notice of a Key Decision** - A key decision will not normally be taken unless:-
- (i) notice has been published in connection with the matter in question on the Forward Plan; and
  - (ii) at least 28 clear days have elapsed since the publication of the Forward Plan;
- (d) **General exception** - If 28 days' notice of a matter which is likely to be a Key Decision has not been provided (via the Forward Plan) because the decision must be taken by such a date that it would be impracticable to defer it, then, subject to paragraph (e) below (special urgency), and to the requirements of Article 6.5 of this Constitution (Urgent Business), the decision may still be taken if:
- (i) the Monitoring Officer has been informed of the reasons for urgency, and is satisfied that the reasons satisfy the criteria for urgent decisions, and that the decision must be taken with less than 28 days' notice;

- (ii) the Monitoring Officer has placed notification of the date and nature of the forthcoming decision and the reasons for urgency on the Council’s website; and
- (iii) at least five clear days have elapsed since the Monitoring Officer complied with conditions (i) and (ii).

If the Monitoring Officer, or if absent the Deputy Monitoring Officer, is not available to act, then the Chief Executive or S.151 officer shall act in his/her place.

- (e) **Special urgency** - If by virtue of the date by which a decision must be taken paragraph (d) above (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Mayor of the Council, or in their absence the Deputy Mayor will suffice.

## 14. MEMBERS’ ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

- 14.1 Members are free to approach any Council Directorate to provide them with such information, explanation and advice (about the Directorate’s functions) as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Directorate’s activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Director or Deputy Chief Officer concerned.
- 14.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 14.3 Members have a statutory right to inspect any Council document *which contains material relating to any business which is to be transacted at a Council, Committee or Sub-Committee meeting*. This right applies irrespective of whether the Member is a member of the Committee or Sub-Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items which may appear in Part II (exempt) of the Agenda for meetings. Further details are contained in the Access to Information Procedure Rules of the at Part 4(2) of the Council’s Constitution. Examples are documents that contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, contract and industrial relations negotiations, advice from Counsel and criminal investigations.
- 14.4 The common law right of Members is much broader and is based on the principle that any member has a prima facie right to inspect Council documents *so far as his or her access to the documents is reasonably necessary to enable the member properly to perform his/her duties as a member of the Council*. This principle is commonly referred to as the “need to know” principle.
- 14.5 The exercise of this common law right depends therefore upon the Member’s ability to demonstrate that he/she has the necessary “need to know”. In this respect a



member has no right to “a roving commission” to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the “need to know”. This question must be determined by the particular Director or Deputy Chief Officer who holds the document in question (with advice from the Monitoring Officer).

- 14.6 In some circumstances (e.g. a Committee Member wishing to inspect documents relating to the functions of that Committee) a Member’s “need to know” will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms.
- 14.7 Whilst the term “Council document” is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a Member of one party group will not have a “need to know”, and therefore a right to inspect, a document which forms part of the internal workings of another party group.
- 14.8 Further and more detailed advice regarding Members’ rights to inspect Council documents may be obtained from the Monitoring Officer.
- 14.9 Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided i.e. in connection with the proper performance of the Member’s duties as a Member of the Council.
- 14.10 For completeness, Members do, of course, have the same right as any other member of the public to make requests for information under the Freedom of Information Act 2000.

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# CONSTITUTION OF THE COUNCIL

## Part 4 Section 3

### BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

#### 1. The Framework for Decisions

The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Article 4 and detailed in Part 3A.

Once the Authority's Annual Budget or a Plan or Strategy included in the Policy Framework has been agreed by Full Council, it will be the responsibility of the Policy and Resources Committee or other relevant Policy Committee to secure and monitor implementation.

#### 2. Process for Agreeing the Annual Budget

This process will be completed within the time scale set by the Policy and Resources Committee and will include the following steps:-

##### (a) Timetable

The Policy and Resources Committee will draw up a budget timetable to reflect the timing of Government Funding Announcements and the statutory requirements for determining the Annual Budget and Council Tax level.

##### (b) Policy and Resources Committee develops proposals for the Annual Budget

Policy and Resources Committee will consult stakeholders in the manner appropriate for the matter under consideration and will then draw up initial proposals for the Annual Budget.

##### (c) Individual Policy Committees develop detailed budget proposals

Individual Policy Committees will consider and prepare detailed budget proposals within the parameters set or defined by the Policy and Resources Committee.

##### (d) Policy and Resources Committee finalises proposals for submission to Full Council

The Policy and Resources Committee will finalise the proposals for the Annual Budget for the Full Council to consider.

**(e) Initial Full Council Meeting**

Full Council will consider the Policy and Resources Committee's proposals for the Annual Budget and proposed level of Council Tax and may approve them on the basis of a simple majority of Elected Members present and voting.

The proposed Annual Budget (and Council Tax level) becomes the Council's decision and is effective immediately.

If the Annual Budget (and Council Tax level) proposed is not approved by Full Council it is referred back to the Policy and Resources Committee.

Full Council must identify the issue(s) that it wishes the Policy and Resources Committee to reconsider and the reasons for seeking such reconsideration.

**(f) Further Informal Meeting of the Policy and Resources Committee**

A further informal meeting of Policy and Resources Committee to consider the referral from Full Council will take place. The Committee will consider and respond to the referral from Full Council.

**(g) Final Meeting of the Council**

The final meeting of Full Council will take place no later than 11 March in any year to enable the Authority's Council Tax Requirement to be determined by the requisite statutory deadlines.

**3. Process for developing all Plans and Strategies within the Policy Framework**

**(a) Outline proposal developed**

The appropriate Policy and Services Committee (or proper officer) will publicise the need and process for the development of the Plan or Strategy, including key dates for decisions, by inclusion in the Forward Plan.

**(b) Consultation on initial draft of Plan or Strategy**

The initial draft of any plan or strategy to be presented to the relevant Policy Committee for discussion, that is intended to form part of the Policy Framework, will include approval arrangements for consultation after publication of those initial proposals and a timetable for making proposals to the Council. The Committee will ensure that the consultation process is adequate and allows for meaningful dialogue with those involved.

**(c) Consideration by Policy and Resources Committee**

At the end of that period, the Policy and Resources Committee will then draw up firm proposals having regard to the initial recommendations, the responses to that consultation and, if felt required by the appropriate Policy and Services Committee (if a different Committee to the Policy and Resources Committee),

further comment from the initial Policy and Services Committee. The Policy and Resources Committee will take any response into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made to it.

**(d) Initial Full Council Meeting**

Full Council will consider the final draft Plan or Strategy and may adopt the Plan or Strategy on the basis of a simple majority of those Elected Members present and voting.

If the final draft Policy or Strategy is not approved by Full Council it is referred back to the Policy and Resources Committee. Full Council must identify the issue(s) that it wishes the Policy and Resources Committee to reconsider and the reasons for seeking such reconsideration.

**(e) Further Meeting of the Policy and Resources Committee**

A further meeting of the Policy and Resources Committee to consider the referral from Full Council will take place. The Policy and Resources Committee will consider and respond to the referral from Full Council.

**(f) Meeting of Full Council**

A further meeting of Full Council will be convened to consider the response of the Policy and Resources Committee to the referral from Full Council. The Full Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public and shall be implemented immediately.

**4. Decisions Outside the Budget or Policy Framework**

(a) Subject to the to the provisions of paragraph 6 (virement), Committees of the Council and any officers, area committees or joint arrangements discharging Council functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by Full Council, then that decision may only be taken by the Council, subject to paragraph 5 below.

(b) If the Committee and any officers, area committees or joint arrangements discharging Council functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 5 (urgent decisions outside the Budget and Policy Framework) shall apply.

## 5. Urgent decisions outside the Budget and/or Policy Framework

- (a) A Committee or officer of the Council may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
- (i) if it is not practical to convene a quorate meeting of the Full Council; and
  - (ii) if the Mayor, acting as Chair of the Council, in consultation with the Head of Paid Service, Monitoring Officer and/or Chief Finance Officer agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of Full Council and the Mayor's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Mayor the consent of the Deputy Mayor, or in the absence of both, the Leader or the Deputy Leader, will be sufficient.

- (b) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## 6. Virements

Steps taken by Committees, officers or joint arrangements discharging functions to implement Council policy, shall not exceed those budgets allocated to each budget head. However, such Committee, officer or bodies shall be entitled to vire money across budget heads on the following basis:

- (a) **Revenue budget** – Policy and Services Committees and Chief Officers may approve virement of revenue budget up to £500,000 (cumulatively up to £1,000,000 over the financial year) provided that there is no virement of revenue budget transfer between 'Directorates' (Budget Heads);
- (b) **Capital budget** - Policy and Services Committees and Chief Officers may approve virement of capital budget up to £500,000.
- (c) **Policy and Resources Committee** (or sub-committee) may vire:
- (i) **Revenue** - an amount over £500,000 where it considers that virement across budget heads or budgets has become necessary or desirable, is consistent with approved Council policy and there would be no consequential revenue effects in later years; and
  - (ii) **Capital** – subject to reporting decisions to full Council, an amount over £500,000 where it considers virement across budget heads or amendment of the Council's Capital programme has become necessary or desirable.

Proposed virement of any resources in excess of the above limits will require the approval of Full Council.

## 7. **In-Year Changes to Policy Framework**

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by a Committee or an officer of the Council or under joint arrangements in discharging Council functions must be in line with it. No changes to any policy and strategy which make up the Policy Framework may be made by those bodies or individuals except those changes:

- (a) Which will result in the closure, discontinuance or restriction of a service or part of service to meet a budgetary constraint;
- (b) Necessary to ensure compliance with the law, Ministerial Direction or Government Guidance; or
- (c) In relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

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# CONSTITUTION OF THE COUNCIL

## Part 4 Section 4

### RECONSIDERATION AND SCRUTINY PROCEDURE RULES

#### A. REMOVAL OF DELEGATION FOR RECONSIDERATION (Policy and Resources Committee to re-consider a decision)

##### 1. Overview

As set out in Article 7.3 (Removal of delegation) at Part 2 of this Constitution, a majority of the members of the Policy and Resources Committee may request that a decision taken by one of the other Policy and Service Committees, or of a Key Decision taken by an officer acting under delegated authority from a Committee, is re-considered by the Policy and Resources Committee.

The effect of this process is to remove delegated authority from the Committee or officer in respect of that item of business, so that the decision is nullified, allowing the Policy and Resources Committee to confirm, refer back or make the decision afresh under this procedure.

Due to the costs and delay caused by reconsidering a decision, it is intended that it should only be used in exceptional circumstances. It is therefore subject to safeguards concerning:

- (i) the number of members required to make a valid request;
- (ii) the timescale in which a request must be made; and
- (iii) criteria for acceptable reasons to make a valid request

before the delegated authority is removed and the item of business referred to the next meeting of the Policy and Resources Committee

##### 2. Process

Members of the Policy and Resources Committee may initiate a reconsideration of a decision taken by another Policy and Services Committee, or of a Key Decision taken by an officer acting under delegated authority from one of those committees, by a meeting of the Policy and Resources Committee. This process will not apply to decisions made in the circumstances set out at paragraph 6 below.

A request for a reconsideration of an item of business must be made in writing (which may be by email) to the Monitoring Officer or Chief Executive and be made:

- (i) before the expiry of three full working days from the date on which the decision notice was published;
- (ii) supported or signed by half or more of the appointed (not substitute) members of the Policy and Resources Committee; and
- (iii) setting out why the request meets the criteria for reconsideration.

### 3. **Criteria**

Such a request must be received by the Monitoring Officer or Chief Executive and must set out at least one of the following grounds in support, explaining why the decision is or might reasonably be felt to be:

- (a) a key decision but not treated as such;
- (b) inadequate consultation with stakeholders prior to the decision;
- (c) inadequate evidence on which to base a decision;
- (d) contrary to the budget or policy framework;
- (e) the action is not proportionate to the desired outcome;
- (f) a potential human rights or equalities challenge; or
- (g) insufficient consideration of legal and financial advice.

### 4. **Effect**

Where the Monitoring Officer or Chief Executive consider these criteria have been met, delegated authority for that matter shall be withdrawn from the Committee or officer concerned and the decision shall be accordingly nullified and made subject to referral to the next meeting of the Policy and Resources Committee, or if necessary to an extraordinary meeting, for the matter to be considered afresh.

### 5. **Decision**

Upon re-considering the referred item of business, the Policy and Resources Committee may:

- (a) Uphold the previous decision, following which the original decision shall take effect by 9.30am the next working day following the day of the Policy and Resources Committee meeting which considered the request.
- (b) Refer the matter back to the relevant Committee or officer with a recommendation from the Policy and Resources Committee. The relevant Committee or officer shall reconsider the matter, taking into account any concerns and recommendations of the Policy and Resources Committee, before reaching a final decision. The decision may not be the subject of a further request for reconsideration and will take from the date on which the new decision notice is published.

- (c) Determine the matter itself, whereby the Policy and Resources Committee may determine the matter as it sees fit. The Policy and Resources Committee will set out its reasons for coming to a different conclusion from the originating Committee or officer whose decision has been superseded. The decision may not be further reconsidered and will take effect from the date on which the new decision notice is published.

## 6. Exclusion from removal of delegation

- (a) A decision making Committee, Sub-Committee or officer may determine that a decision being taken by them is not to be subject to removal of delegation and reconsideration in the circumstances where:
  - (i) in the opinion of the decision-maker, any delay likely to be caused by the process for removal of delegation and reconsideration would seriously prejudice the Council's or the public's interest;
  - (ii) the Chief Executive (or in his or her absence their nominee) agrees both that the decision proposed is reasonable in all the circumstances and that it should be treated in this manner; and
  - (iii) the decision maker causes a record to be made and notice published that the decision is not to be subject to removal of delegation and reconsideration and of the reasons for that determination
- (b) The Chief Executive (or in his or her absence their nominee) may otherwise decline to act on a request made under paragraph 2 above in those circumstances where he or she considers that it would be likely that the implementation of the process for removal of delegation in respect of a decision taken and its then reconsideration by the Policy and Resources Committee would cause serious prejudice to the Council's or the public's interest.
- (c) Application of this exclusion to the removal of delegation and reconsideration procedure must be reported to the next available meeting of the Council, together with the reasons for doing so.



# CONSTITUTION OF THE COUNCIL

## Part 4 Section 4

### RECONSIDERATION AND SCRUTINY PROCEDURE RULES

#### B. OVERVIEW AND SCRUTINY WAYS OF WORKING

##### 1 Policy and Services Committee Terms of Reference

As set out at Section 3(B) of this Constitution, the overview and scrutiny methods of working and conducting reviews is an important part of the Policy and Services Committees' terms of reference as part of a 'doing and reviewing' approach. In conducting a review, the Committees may hold enquiries and investigate the available options for future direction in policy development and will act in accordance with the procedure rules.

##### 2 Overview and Scrutiny Approach

The Policy and Services Committees are to adopt overview and scrutiny working practices when undertaking their functions to review the Council's actions or to review or otherwise scrutinise outside bodies and processes, In doing so, the Committee shall have regard to the relevant Regulations, statutory and non-statutory guidance issued by the Secretary of State and best practice as issued by the Centre for Governance and Scrutiny (CfGS). This may include adopting innovative ways of working for these functions. In this context, the Policy and Services Committees will operate more like select committees and may take oral evidence through select committee style witness hearings in order to produce a report and recommendations as a result of the review.

##### 3 Internally Focussed Reviews

The Policy and Services Committees may scrutinise and review decisions made or actions taken by the Authority in so far as they have a direct impact on the role or functions of the Committee and the Committee can make recommendations to the relevant Committee on policies, budget and service delivery.

##### 4 Externally Focussed Reviews

The Policy and Services Committees are also responsible for the overview and scrutiny of external organisations. The Committee may therefore undertake reviews and make recommendations on services or activities carried out by external organisations which affect the Borough of Wirral or any of its inhabitants where this does not fall within the role or remit of another service committee or where it relates

to cross cutting issues, including the review and monitoring of contractual and operational performance of shared service partnerships, joint ventures and outside organisations to which the Council makes a resource contribution, focusing on examination of the benefits of the Council's contribution and the extent to which the body concerned makes a contribution to the achievement of the Council's priorities.

## **5 Review Process**

To undertake an overview and scrutiny style review, the Committees may hold inquiries 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.

In conducting a review the Committee will act in the manner set out at paragraphs (B)7 below and further consider and implement mechanisms to encourage and enhance community participation in the development of policy options and to investigate, take evidence and consult upon issues within their remit.

## **6 Review Outcome**

The intention of a review is that, upon its conclusion, the Committee or Working Group will produce a report containing recommendations for decision by the Policy and Resources Committee or other Committee (including their or their parent committee), an officer or external governmental or non-governmental body as may be relevant.

## **7 Conduct of Reviews**

7.1 Before starting any overview and scrutiny style review or enquiry, the Committee will consider the resources available to conduct the review and:

- (a) Define the issue(s) it wishes to look at and the Committee's purpose in undertaking the review;
- (b) Indicate the type of background information and any performance or other data the Committee requires;
- (c) Indicate the individuals to be invited to be interviewed as part of their review (e.g., Members, staff, representatives from other organisations, local residents and outside experts. etc);
- (d) Set a realistic timescale including meeting dates if there are to be additional meetings to those in the calendar; and
- (e) Decide whether the review is to be undertaken by the Committee itself or by a Panel (working group) of members of the Committee reporting to the main Committee.

with the intention at all times to maximise the efficiency of the investigation or analysis of the review.

7.2 The terms of reference will be sent to all members of the Committee.

7.3. The Group Whip shall not apply to the overview and scrutiny method of working

## 8 **Review Panel Standing Order**

Where the review is to be undertaken by a Panel (working group) of members of the Committee it shall comply with the following rules

### (a) Chair of meeting

Either the Chair or Vice-Chair of the Committee will normally be appointed "Lead Councillor" for the Review and will Chair meetings of the Panel unless the Committee determine otherwise. If he/ she is not present the Members present shall appoint a Chair from amongst their number for that meeting only.

### (b) Appointment of substitute members

Due to a need for consistency and it is suggested that substitutes should not be permitted unless designated by the parent committee.

### (c) Business

At each meeting, the following business will be conducted

- (i) to consider the accuracy of the minutes of the last meeting
- (ii) to declare interests
- (iii) to consider the matters set out in the agenda for the meeting

### (d) Quorum

The membership of the Panel will be at least 3 members and the quorum shall be a minimum of 2.

### (e) Appointment of Co-opted/ Advisers

The Panel may appoint non-voting co-optees/ advisers to assist during the Review.

### (f) Time and place of meetings

The dates and times of meetings will be agreed at the first meeting of the Panel in accordance with the project plan. Meetings will be held at such place as the Panel considers most appropriate or remotely. The Chair may call additional meetings.

(g) Form of minutes

An officer from Democratic Services will be responsible for taking minutes at meetings of the Panel.

(h) Voting

Voting will be by show of hands or by means of a roll-call if held remotely and it will not normally be the practice to record how individual members have voted unless specifically requested to do so.

(i) Attendance at meetings by members of the public

Meetings of the Panel will not normally be open to the press and public. Where the Committee or Panel determines that a meeting should be held in public, the meet shall comply with the Access to Information Rules set out at Part 4(2) of this Constitution

(j) Notice and agendas for meetings

Agenda and reports for meetings should ordinarily be available 5 clear days prior to the meeting. Reports should only be marked to follow in exceptional circumstances and this should be agreed with the Lead Councillor prior to the item being included on the agenda. Any member of the Panel may request Democratic Services to make sure that an item is placed on the agenda for the next available meeting for consideration.

(k) Consideration of Final Report

Following completion of the Review, the Panel's Final Report will be submitted to the parent Committee for consideration and approval prior to being submitted to the any other Committee, body or person . The Lead Councillor for the Review will normally present the final report of the Panel to the Committee.

## 9 Submission of Evidence to Reviews

Where the Committee or Panel conducts reviews or investigations and asks people to attend or to give evidence, it will proceed in accordance with the following:

- (a) **Summoned Speakers** -The Committee may require Members of the local authority, and officers of the authority, to attend before it to answer questions and it shall be the duty of any such Member or Officer to comply with the requirement, provided that they will not be obliged by that requirement to answer any question which he or she would be entitled to refuse to answer in, or for the purposes of proceedings in, a court of law in England and Wales.
- (b) **Invited Speakers** - The Committee may request any of the following to attend a meeting:

- i) any Member, elected or co-opted, to attend and advise;
  - ii) a representative of any outside body, whose powers or interests are relevant to the matter in hand, to give their views;
  - iii) any external expert to give evidence, provided arrangements can be made within the budget to pay any expenses or fees so incurred; or
  - iv) (or allow to speak) any resident of the Borough or any person with a legitimate interest in the topic under consideration to attend and give their views.
- c) Conditions - In applying the above, the proceedings of the Committee will be subject to the following provisions:
- i) Any requirements to attend shall be subject to not less than five clear working days' notice, except in a case of urgency;
  - ii) A Chair of the Committee concerned or relevant Member may ask the appropriate chief officer or other senior officer to attend with them to assist in providing technical advice;
  - iii) Where a Committee asks or requires an officer to attend who is not a chief or statutory officer, the appropriate chief and/or statutory officer shall also be entitled to be heard, and the officer required to attend may, if they wish, nominate a senior officer to attend on their behalf;
  - iv) Where someone requested or required to attend is genuinely unable to attend then, in the case of a Chair or Member, another Member of the relevant committee shall attend in their place. In the case of an officer, another officer who is able to speak on the topic under consideration shall attend;
  - v) Anyone asked to speak to a meeting of a Committee shall be entitled to see the terms of reference of the particular matter under consideration by the Committee before attending to speak;
  - vi) Anyone asked to speak to a to a meeting of a Committee shall be entitled to see the public papers which have been made available to the Committee and, wherever possible, on the same timescale as for a member of that Committee;
  - vii) Anyone asked to speak to a to a meeting of a Committee shall, wherever possible, be given access to statements submitted by individuals from whom the Committee has already heard, but not those who have not yet given evidence. The Chair shall have a discretion to disclose other papers, including statements submitted by following speakers and confidential or exempt material, if he or she considers that will help the speakers to address a particular point, or will otherwise assist the Committee's examination of the issue;
  - viii) All speakers shall respect the confidentiality of any confidential or exempt information they receive, and shall not disclose it without the authorisation of the Committee;



- ix) Speakers may submit papers in advance to the Committee where that is possible, but such papers shall be clear and succinct;
- x) Papers for consideration by Committee will not be admissible without meeting the Access to Information Procedure Rules (unless in the context of a working group setting);
- xi) Speakers shall be able to bring such notes and diaries as are helpful to them in assisting the Committee, but shall expect to make available any such notes to the Committee, on the request of the Chair;
- xii) Papers submitted by speakers shall become public documents (in accordance with the Access to Information Procedure Rules) once they have presented their evidence, and shall be cited as background papers in any published report by the Committee;
- xiii) Officers shall not be required to give personal opinion on any Committee's decision which is different from the recommendation they made;
- xiv) Committee Members may expect to ask searching questions, but will always behave in a polite and respectful way to anyone contributing to the Committee's proceedings;
- xv) The Chair may specify a time limit for a contribution, in advance of the commencement of such contribution, which shall not be less than five minutes. If someone making such a contribution exceeds the time limit given, the Chair may stop them. The Chair may also structure a discussion and limit the time allowed for questioning by members of the Committee;
- xvi) Speakers shall be entitled to a copy of any draft minute or other record taken of their contribution for comment wherever possible. Should they feel that such record is not accurate, then they shall be given the opportunity to make a written representation asking for the correction to be submitted to the next meeting of the Committee.

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# CONSTITUTION OF THE COUNCIL

## Part 4 Section 5

### FINANCIAL REGULATIONS

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## 1. Introduction

- 1.1. The Finance Regulations and Contract Procedure Rules provide the framework for managing the Council's financial affairs. They apply to every Member and Officer and anyone acting on its behalf, including School Governors operating under local delegation arrangements. All decision makers need to ensure that they are not only empowered under the Constitution to make a decision, but that they are also authorised under these Rules to incur the financial consequences of every decision that they make.
- 1.2. Where urgent action becomes necessary as a result of some unforeseen emergency the Chief Executive, in consultation with the Director of Finance officer (or nominated representative), may take appropriate action and waive the Financial Regulations. Every use of this rule must be reported by the Director of Finance officer, in writing, to the next available meeting of the Policy and Resources Committee and Full Council.
- 1.3. The Director of Finance is responsible for maintaining a continuous review of the Finance Regulations and Contract Procedure Rules and submitting any additions or changes necessary to the Full Council for approval. The Director of Finance is also responsible for reporting, where appropriate, breaches of the Finance Regulations and Contract Procedure Rules to the Audit and Risk Management Committee.
- 1.4. The Senior Leadership Team is responsible for ensuring that all staff are aware of the existence and content of the Council's Finance and Contract Procedure Rules and other internal regulatory documents and that they comply with them, as required by the Council's Code of Conduct for Employees and this Constitution. Failure to comply with the Code of Conduct may result in disciplinary action.
- 1.5. The Director of Finance is responsible for issuing advice and guidance to underpin the Finance Regulations and Contract Procedure Rules that Councillors, Officers and others acting on behalf of the Council are required to follow.
- 1.6. Councillors have a fiduciary duty to local taxpayers to spend money wisely and to balance the interests of those who will pay against the interests of those who will benefit from the expenditure.
- 1.7. The Rules are not intended to cover every eventuality, but the spirit of the Rules must always be followed. Should there be a requirement for interpretation or any conflict between these Financial Regulations and any other part of the Constitution, the Monitoring Officer should be consulted. Should any conflict between these Financial Regulations and the Council's Budget and Policy Framework Rules, at Part 4(3) of this Constitution, the Council's Budget and Policy Framework Rules prevail.

## 2. Financial management

### 2.1. Responsibilities

- 2.1.1. Financial management covers all financial accountabilities in relation to the running of the Council, including the policy framework, revenue budget, trading activities' financial plans, capital programme and treasury management.
- 2.1.2. Committees are responsible for discharging the Council's functions within the Budget and Policy Framework provided by Council. The Budget will be aligned with Committee and Directors of Service responsibilities as far as possible.
- 2.1.3. The Audit and Risk Management Committee has a right of access to all the information necessary to effectively discharge its responsibilities and may consult directly with internal and external auditors. The Audit and Risk Management Committee is responsible for a range of matters as set out in Council's Constitution. The Committee's responsibilities with regard to the financial management of the Council include:
- 2.1.3.1. overseeing the Council's role and responsibilities in respect of Corporate Governance and Audit
  - 2.1.3.2. ensuring that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit is actively promoted
  - 2.1.3.3. approving the Council's Annual Statement of Accounts
  - 2.1.3.4. approving the annual Internal Audit plan, and receiving reports from the Council's Internal Auditor, including the annual report of the Chief Internal Auditor
  - 2.1.3.5. ensuring the Council's Risk Management arrangements are operating effectively
  - 2.1.3.6. monitoring the effectiveness of the Council's Financial Regulations, Procurement Policy and Procedures and other strategies for counter fraud and corruption, anti-bribery, declarations of interest, gifts and hospitality, whistle blowing and anti-money laundering.
- 2.1.4. The Director of Finance (Section 151 Officer) is the Council's 'responsible financial officer' under the Accounts and Audit Regulations. They are responsible for the proper administration of the Council's affairs as specified in, and undertaking the duties required by Section 151 of the Local

Government Act 1972, Section 114 of the Local Government Finance Act 1988 and all other relevant legislation.

In order to fulfil these statutory duties and legislative requirements the Director of Finance will:

- 2.1.4.1. set appropriate financial management standards for the Council which comply with the Council's policies and proper accounting practices, and monitor compliance with them
- 2.1.4.2. determine the accounting records and systems to be kept by the Council and the form of any supporting records. The Director of Finance officer shall ensure that the accounting systems approved are observed and maintained
- 2.1.4.3. ensure there is an appropriate framework of budgetary management and control
- 2.1.4.4. monitor performance against the Council's budget and advise upon the corporate financial position
- 2.1.4.5. ensure proper professional practices are adhered to and to act as Head of Profession in relation to the standards, performances and development of finance staff throughout the Council; all finance staff will have a direct reporting line to the Director of Finance officer
- 2.1.4.6. prepare and publish the Council's Statement of Accounts for each financial year, in accordance with the statutory timetable and arrangements specified by law
- 2.1.4.7. make proper arrangements for the audit of the Council's annual statement of accounts
- 2.1.4.8. ensure that claims for funds, including grants, are made by the due date and in compliance with the grant terms and conditions
- 2.1.4.9. make proper arrangements for the overall management of the Council's Internal Audit function
- 2.1.4.10. manage the treasury management activities in accordance with the Council's Treasury Management Policy Statement, Treasury Management Strategy and Prudential Indicators
- 2.1.4.11. manage the Pension Fund within the scope of the Local Government Pension Scheme Regulations

- 2.1.4.12. provide advice and guidance to reinforce the Financial Regulations that Members, Officers and others acting on behalf of the Council are required to follow
- 2.1.4.13. maintain and continuously review the Financial Regulations and implement any changes
- 2.1.4.14. take responsibility for advising the Council on corporate financial matters ; Chief Officers shall have responsibility for advising Members or Committees on financial matters relevant to their own service areas, where possible in consultation with the Director of Finance
- 2.1.5. Senior Leadership Team members are responsible for financial management within their directorates and spending within the limits of the budgetary framework set by Council. They shall manage the development of budget proposals with a detailed assessment of financial implications within the Budget and Policy Framework agreed by the Council.

## **2.2. Schemes of Financial Delegation**

The Senior Leadership Team members will establish, operate and keep under review local Schemes of Financial Delegation to ensure that the day-to-day financial management of services within their directorate is carried out in a secure, efficient and effective manner, and in accordance with the Finance Regulations, Contract Procedure Rules and associated relevant guidance.

## **2.3. Revenue budget monitoring and control**

Once the budget is approved by the Council, Chief Officers are authorised to incur expenditure in accordance with the approved budget, subject to the limits in the Constitution and local Schemes of Financial Delegation to officers. Chief Officers must, however, maintain effective budgetary control within their service to ensure that spending is contained within the annual budget limit and to secure value for money.

- 2.3.1. It is the responsibility of Senior Leadership Team to control income and expenditure within their area and to monitor performance, taking account of financial information and guidance provided by the Director of Finance. They must report on variances within their own areas. They must also take any action necessary to avoid exceeding their budget allocation and alert the Director of Finance to any potential overspending or under-achievement of income budgets in a timely manner.
  - 2.3.1.1. The Director of Finance, with the support of the Senior Leadership Team, is responsible for establishing an appropriate framework of budgetary management and control which ensures that:

- budget management is exercised within annual budget limits unless the Full Council agrees otherwise
- timely information on receipts and payments is made available, which is sufficiently detailed to enable officers to fulfil their budgetary responsibilities
- expenditure is committed only against an approved budget.
- all officers responsible for committing expenditure comply with relevant guidance and Finance and Contract Procedure Rules. Consideration must also be given to the requirements relating to key decisions. (Part 4, Section 2, paragraph 8 of the Constitution).
- each cost centre has a single named manager, determined by the relevant Head of Service. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure
- significant variances from approved budgets are investigated and reported by budget managers regularly.

2.3.1.2. Reports shall be produced to Committees and Full Council, with the relevant Chief Officer or Head of Service, where they are unable to balance expenditure and resources within existing approved budgets under their control

2.3.1.3. Reports shall be produced on the Council's projected income and expenditure compared with the budget on a regular basis.

2.3.1.4. Schemes of Financial Delegation are maintained for all functions within their area of responsibility

2.3.1.5. A Business Case is prepared for all revenue proposals with a significant financial impact, risk profile or policy change.

2.3.2. Scheme of virement

The scheme of virement is intended to enable budgets to be managed with a degree of flexibility within the overall framework determined by the Council, and therefore optimise the use of resources.

2.3.2.1. Virements are not permitted:

- in relation to asset charges or other budget headings that are deemed to be outside the control of the relevant budget holder, or where a proposal would adversely affect long-term revenue commitments
- between revenue and capital budgets



- 2.3.2.2. Budget virements are subject to the following approval limits
- up to and including £100,000 - Chief Officer in consultation with the Budget Holder
  - more than £100,000 but no more than £500,000 – Relevant Committees and Chief Officers may approve virement of revenue budget up to and including £500,000 (cumulatively up to £1,000,000 over the financial year) provided that there is no virement of revenue budget transfer between ‘Directorates’ (Budget Heads)
  - amounts above £500,000 must be referred to Policy and Resources Committee which may vire an amount over £500,000 where it considers that virement across budget heads or budgets has become necessary or desirable, is consistent with approved Council policy and there would be no consequential revenue effects in later years.
- 2.3.2.3. Budget virements are not subject to the approval limits where a budget will continue to be used for the approved purpose but is being moved, for example, to reflect a change in budget holder responsibilities. Such transfers will however require the approval of the relevant representative of the Director of Finance.

## **2.4. Capital Programme monitoring and control**

Once the Capital Programme has been approved, project owners must ensure that the scheme is appropriately managed. Monitoring and reporting requirements are outlined in section 3.3 Capital Programme.

## **2.5. Treatment of year-end balances**

- 2.5.1. Overspends or underspends in relation to the approved revenue budget may occur for a variety of reasons. With regard to General Fund budgets, there is no ‘as of right’ carry forward of underspends from one financial year to another except where this is provided for by a binding partnership agreement or other legal agreement with a third party. Individual School’s budgets are ring-fenced in accordance with statutory provisions thus overspends and underspends are always carried forward into future years.
- 2.5.2. Any revenue underspending at the year-end may be carried forward, subject to the agreement of the Director of Finance following consideration of the overall financial position by the Policy and Resources Committee. All carry forward proposals must be supported by an appropriate Business Case demonstrating that the underspend was planned and that the resources carried forward will be earmarked for a specific and appropriate purpose. Where carry-forwards are agreed, they will be allocated to an Earmarked Reserve until they are utilised.

- 2.5.3. Capital schemes in particular can be prone to delay. It cannot be assumed that underspends will automatically roll forward into the following year. Requests to carry forward funding should make clear whether they are due to re-profiling of schemes or for other reasons. Requests for carry forward should be made to the Director of Finance officer who will report variances to the Capital Programme to Council for final approval.

## **2.6. Accounting Policies, Records and Returns**

- 2.6.1. The Director of Finance is responsible for control and assurance and therefore determines appropriate accounting policies and procedures; exercising oversight of financial and accounting records and systems; and preparing and publishing reports containing statements on the overall finances of the Council, including the annual statement of accounts.
- 2.6.2. Financial statements must present fairly the financial position of the Council and its expenditure and income.
- 2.6.3. All accounts and accounting records will be compiled by the Director of Finance or under their direction. The form and content of records maintained in other directorates will be approved by the Director of Finance along with reconciliation procedures.
- 2.6.4. The Director of Finance is responsible for ensuring that the annual statement of accounts is prepared in accordance with the Code of Practice on Local Council Accounting in the United Kingdom (CIPFA/LASAAC).
- 2.6.5. All statutory financial returns must be completed in line with published guidelines and timescales.
- 2.6.6. Financial records must be retained in line with statutory requirements and the Corporate Record Retention Policy.

## **3. Financial Planning**

### **3.1. Budget and policy framework**

- 3.1.1. The Council is responsible for agreeing a framework of corporate policies that set out and underpin the Corporate Plan. The key elements of this framework are:
- 3.1.1.1. The Council Plan – this sets out the longer term aims and objectives for Wirral.

- 3.1.1.2. Medium Term Financial Strategy (MTFS) – this brings together the key assumptions about financing resources (including council tax, non-domestic rates and government funding settlements) and spending pressures over the medium to longer term. This enables the Council to plan for financial risks and thus inform the setting of service financial targets for the annual revenue budget and capital payments guidelines.

The Director of Finance will ensure that the MTFS is presented to the Policy and Resources Committee and Council as part of the annual budget setting process.

The responsibilities of the Director of Finance are to:

- develop a five-year MTFS (including the current budget year)
- undertake a formal review of the MTFS on an annual basis and update where necessary

Chief Officers must provide information that may be requested by the Director of Finance to support the MTFS

- 3.1.1.3. Revenue Budget – this is the financial expression of the Council's Corporate Plans. It sets out the allocation of resources to Committees, services and projects, the level of contingency funding, the Council Tax base and Council Tax rate, borrowing limits and capital financing requirements. See also section 3.2 Revenue Budget.

- 3.1.1.4. Capital Programme – Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs. See also section 3.3 Capital Programme.

- 3.1.1.5. Treasury Management Strategy – this sets out the arrangements for the management of the Council's borrowing, lending, cash flows and investments. The Policy and Resources Committee, in conjunction with the Director of Finance, will propose an annual Treasury Management Strategy, a set of Prudential Indicators and a policy for making revenue provision for the repayment of debt (referred to as the 'Minimum Revenue Provision' policy) to the Council in advance of the start of the relevant financial year. These will be consistent with the Council's revenue budget and capital programme proposals. These documents are required to comply with CIPFA's Codes of Practice on Treasury Management and the Prudential Framework for Capital Finance, relevant Regulations and with the Council's own Treasury Management Policy Statement and Treasury Management Practices; they will set the parameters within which

investment and borrowing activity will be managed during the forthcoming financial year.

- 3.1.1.6. Fees and charging policy - Chief Officers, in consultation with the Director of Finance, will follow the relevant charging policy for the supply of goods or services where charges may be lawfully applied, and the annual forecast of the recoverable amount is £250,000 or more. Charges will be reviewed annually. All new charges, and amendments to existing charges, will be subject to formal approval in accordance with the Council's Constitution. Further detail on income is provided in Section 5.2.
- 3.1.1.7. Pay policy - the pay policy statement will be prepared as required by law. At present it is required to set out the Council's policy on the level and elements of remuneration for each chief officer, the remuneration of its lowest paid employees, and the relationship between the remuneration of its chief and other officers. It is also required to address other specific aspects of chief officer remuneration such as remuneration on recruitment, increases and additions to remuneration, use of performance related pay and bonuses, termination payments and transparency.
- 3.1.1.8. Specific Service Plans and Strategies which have a financial implication.

## **3.2. Revenue budget**

The revenue budget reflects the day to day running costs and associated receipts of the Council. This includes costs for salaries, energy, traveling and other costs incurred in providing services plus income raised by charging service users and government grants.

- 3.2.1. The Director of Finance will determine the general format of the budget.
- 3.2.2. The Chief Executive, in conjunction with the Director of Finance officer, will manage the preparation of the budget on an annual basis for consideration by the Council in line with the Budget and Policy Framework Rules. The annual budget will include allocations to different services and projects, proposed taxation levels and contingencies.
- 3.2.3. Detailed budgets, as proposed by Chief Officers, will be subject to challenge and review through a process determined by the Director of Finance.
- 3.2.4. The Director of Finance is responsible for reporting to Full Council on the robustness of estimates contained within the budget and the adequacy of reserves allowed for in the budget proposals.

- 3.2.5. The Council shall not approve amendments to either revenue or capital budgets without first having considered the advice of the Director of Finance on the financial implications arising.
- 3.2.6. The Director of Finance is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations at a corporate level and report to the relevant Committees on the overall position on a regular basis. See also section 2.3 Revenue budget monitoring and control.

### **3.3. Capital Programme**

The Capital Programme is the Authority's plan of capital projects and spending over future years. The Policy and Resources Committee, in conjunction with the Director of Finance, will manage the preparation of a capital programme, on behalf of the Council, on an annual basis in accordance with the Council's capital projects' governance arrangements.

Capital expenditure of less than £10,000 will be charged to revenue on the grounds of materiality.

- 3.3.1. Capital projects - approvals are sought on an individual project basis and reflect the total cost of each project rather than the anticipated expenditure in each year.
- 3.3.1.1. A Business Case must be prepared for all capital proposals before approval is sought for inclusion in the Capital Programme. The Business Case will be in a format to support decision making, and must identify whole life costs, for revenue and capital. The amount of detail will be proportionate to the value and level of risk. Where there is a greater risk further detail in the Business Case may also be required.
- 3.3.1.2. Any 'in year' approval sought to vary the financial values or implications of a capital scheme, must be supported by an update to the Business Case.
- 3.3.1.3. Once the Capital Programme has been approved, project owners must ensure that the scheme is appropriately managed to achieve appropriate Time, Quality and Cost measures in accordance with the business case. This could be supported by production of a more detailed Business Case outlining how the Project or Programme will achieve the associated benefits.
- 3.3.1.4. Project owners must provide regular reporting of progress of their schemes to the relevant committee. Where project performance or outcomes are at risk of significantly varying from the business case the project owner is responsible for taking appropriate mitigating action including the need to seek appropriate approvals as required. All reporting

and monitoring activity should be evidenced and recorded in a way that can be accessed to support auditing of project activity. Guidance should be sought from the Director of Finance if required.

- 3.3.1.5. Council will approve the re-profiling of spend on approved capital schemes across financial years and carry forward of slippage/accelerated spend into financial years as part of the budget monitoring/setting processes.

### 3.3.2. Financing of capital expenditure

The Director of Finance will determine the financing of the capital programme, taking into consideration the availability of reserves and balances, funding from other bodies and the affordability of borrowing.

### 3.3.3. Capital Receipts

- 3.3.3.1. The Director of Finance must be informed of all proposed capital receipts including sales of land and buildings so that the effect on financial and property management can be assessed.
- 3.3.3.2. On the advice of the Director of Finance, the Council will determine how capital receipts will be applied when setting the budget. Schools capital receipts are ring-fenced and thus can only be used in a prescribed manner.

## 3.4. Reserves

- 3.4.1. The Director of Finance is responsible for advising on the prudent levels of reserves for the Council. The key controls are:
  - 3.4.1.1. to maintain reserves in accordance with the Code of Practice on Local Council Accounting in the United Kingdom and agreed accounting policies,
  - 3.4.1.2. for each reserve established, the purpose, usage and basis of transactions should be clearly identified
  - 3.4.1.3. reserves are used only for the purpose for which they were intended
- 3.4.2. Authorisation to establish and add to a reserve is by the appropriate Chief Officers in conjunction with the Director of Finance and authorisation to incur expenditure against the reserve is by the appropriate Chief Officer.

## 3.5. Leasing, Rental and Right of Use Agreements

- 3.5.1. Leasing, rental or hire purchase agreements must not be entered into unless the service has established that they do not constitute a charge against the Council's prudential borrowing limits. All lease type arrangement must comply with IFRS 16 and approved by the Director of Finance.

### **3.6. Internal trading activities**

- 3.6.1. The requirements for a service to be designated as a trading activity include:
- provision of all, or the majority, of their services in an environment where their customers have the option to use them or an alternative service provider; and
  - charging for the full cost of the goods / services they provide, on the basis of an agreed charge or rate.
- 3.6.2. Services are only permitted to operate as a trading activity with the prior approval of the Council, in consultation with the Director of Finance officer and the Monitoring officer.
- 3.6.3. Trading activities are each required to:
- 3.6.3.1. maintain a Trading Account into which all expenditure related to the provision of their services will be charged (i.e. including direct costs, the full costs of services provided by the Council's support services, any service management provided by senior managers and asset and other accounting charges).
- 3.6.3.2. receive all income due for work done by the trading activity. Exceptions to the requirement for a Trading Accounts will apply when the Service funded is occasional and below a limit value set by the Director of Finance.
- 3.6.3.3. balance their budget by generating sufficient income to cover the full costs of service provision.
- 3.6.3.4. operate within the Council's overall arrangements and rules for personnel and resource management. Council may approve special arrangements in exceptional circumstances, where it can be demonstrated that adherence to these rules and arrangements would lead to the unit becoming uncompetitive and losing work and that the proposed departure does not expose the Council to significant risk.

## **4. Risk Management and Control of Resources**



## 4.1. Risk management

- 4.1.1. It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.
- 4.1.2. The Council has adopted a Risk Management Policy and Strategy which has been approved by Audit and Risk Management Committee and is regularly updated to ensure its continuing effectiveness on a continuous basis.
- 4.1.3. Chief Officers are responsible for ensuring the Risk Management Policy and Strategy is implemented and that the Risk Management framework operates within their Service. Risk Management should be embedded throughout the organisation at both a strategic and an operational level, through integration into existing systems and processes.
- 4.1.4. There are several levels of risk register within the Council. There should be a movement of risks both upwards and downwards through the levels and treatment addressed at the most appropriate level of the organisation:
  - 4.1.4.1. Corporate Risk Register - contains risks impacting on the organisation's overall objectives
  - 4.1.4.2. Departmental/Directorate Risk Registers - contain strategic and operational risks with the potential to impact on the delivery of Departmental/Directorate objectives. These are managed and reviewed, at least quarterly, by Directorate Management Teams.
  - 4.1.4.3. Service/Team Risk Registers – contain operational risks with the potential to impact on the delivery of service or team priorities and act as a feeder for risks to be elevated to the Departmental/Directorate Risk Register
  - 4.1.4.4. Programme/Project Risk Register – contain risks associated with delivery of individual projects, managed and reported via the Programme Office and escalated to Investment and Change Board and/or Departmental/Directorate Risk Register.
- 4.1.5. The Director of Finance is responsible for preparing the Council's Risk Management Policy and Strategy, and for promoting it throughout the Council to ensure effective management and monitoring of risks.
- 4.1.6. Business Continuity - The Civil Contingencies Act 2004 places a statutory requirement for Local Authorities to maintain plans for the continuation of services in the event of an emergency, as far as is reasonably practicable.



4.1.7. The Director of Finance is responsible for developing the Business Continuity Strategy which is approved by the Audit and Risk Management Committee. Chief Officers are responsible for ensuring arrangements are in place to ensure the continuity of service delivery in the event of a disruptive incident. This is managed via the development of robust Business Continuity Plans which are regularly maintained and tested in accordance with the Business Continuity Strategy. This extends to those Council services provided by third parties and the ongoing monitoring and compliance with this requirement via contract performance management.

#### 4.1.8. Internal Controls

4.1.8.1. The Director of Finance is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

4.1.8.2. It is the responsibility of Senior Leadership Team to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve best value, continuous improvement, economy, efficiency and effectiveness, and for achieving their financial performance targets.

4.1.8.3. The Council must, on an annual basis, produce an Annual Governance Statement. This statement must provide a description of the system of internal control within the Council, a description of any work undertaken to assess the effectiveness of the internal control framework, and any significant internal control weaknesses.

## 4.2. Audit arrangements

4.2.1. Internal Audit - the Accounts and Audit Regulations 2015 require the Council to have a sound system of internal control which facilitates the effective exercise of its functions; the achievement of its aims and objectives; ensures that the financial and operational management of the authority is effective; and includes effective arrangements for risk management.

4.2.1.1. To contribute to the production of the Annual Governance Statement, the Head of Internal Audit, is responsible for planning and delivering a programme of independent review of the Council's activities, the scope of the programme being based on the Council's objectives and an assessment of the risk which may affect the achievement of these objectives.

- 4.2.1.2. The Head of Internal Audit will present an annual report to the Audit and Risk Management Committee, summarising the audit plans for the coming year and a commentary on audit activity which is completed or in progress, with regular reports setting out progress against the annual audit plan. In addition, any matters of material importance in relation to audit matters are also reported to the Audit and Risk Management Committee.
- 4.2.1.3. Internal Audit staff have, in accordance with the Accounts and Audit Regulations, (with strict accountability for confidentiality and safeguarding records and information), full, free and unrestricted access to any and all of the Council's premises, personnel, assets, records and third-party fund transactions pertinent to conducting any engagement, including those of the Council's alternative service delivery vehicles. These rights of access should be documented in the management agreement.
- 4.2.1.4. With regards to organisations participating in partnering arrangements, Internal Audit staff shall have such access to the premises, personnel assets and records of the partner as is necessary for the purposes of the partnering arrangement, as detailed in section 6 below. Partners will be required to grant reasonable access when requested and details of such access should be agreed with the partner and set down in the Partnering Agreement. Where the right of access has not been specified in existing arrangements then appropriate discussions with partners should take place.

#### 4.2.2. External Audit

- 4.2.2.1. The Local Audit and Accountability Act 2014 established new arrangements for the audit and accountability of relevant authorities. Under these new arrangements the Council has opted for its external auditors to be appointed by the Public Sector Audit Appointments Limited (PSAA), an independent company established by the LGA for this purpose.
- 4.2.2.2. The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

### 4.3. Preventing Fraud and Corruption

- 4.3.1. The Council has an approved Counter Fraud and Corruption Strategy which places responsibility for preventing fraudulent activity with all Members, Managers and individual members of staff. Any matters which involve, or are thought to involve, any fraud or other significant irregularity involving Council assets or those of a third-party fund, must be notified immediately

to the Head of Internal Audit, in conjunction with other officers detailed in the Council's Counter Fraud and Corruption Strategy.

4.3.2. Other policies and arrangements in place to support the prevention of fraud and corruption are:

- Conflict of interests' policy
- Gift and Hospitality policy
- Whistle-blowing policy
- Code of Conduct
- Anti-Money Laundering policy
- Anti-bribery policy

4.3.3. In addition, all members of staff are required to regularly complete and refresh their level of governance training.

#### **4.4. Insurance**

4.4.1. The Council is responsible for ensuring that adequate proper insurance arrangements exist.

4.4.2. The Director of Finance is responsible for advising the Council on proper insurance cover and managing the Council's insurances.

4.4.3. The settlement of insurance claims against the Council is subject to the following approval limits:

- up to and including £20,000 – Senior Liability Claims Officer
- in excess of £20,000 but no more than £150,000 – Assistant Director Finance and Investment
- in excess of £150,000 but no more than £1m – Director of Finance (in consultation with the Insurance Manager)
- in excess of £1m – Audit and Risk Management Committee

4.4.4. The Director of Finance will notify Audit and Risk Management Committee if the total value of claims during a financial year exceeds £1m for any of the following classes of claim:

- Employer liability
- Public liability (highways)
- Public liability (non-highways)
- Property
- Motor
- Other

- 4.4.5. Chief Officers must comply with all relevant insurance terms and conditions, and:
- 4.4.5.1. Notify the Director of Finance officer immediately of any loss, liability or damage that may lead to a claim against the Council
  - 4.4.5.2. Notify the Director of Finance officer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances
  - 4.4.5.3. Consult the Director of Finance officer and the Monitoring Officer on the terms of any indemnity that the Council is proposing to give
  - 4.4.5.4. Ensure that employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim
  - 4.4.5.5. Ensure all officers are aware of their responsibilities relating to the use of insurance policies
  - 4.4.5.6. Identify and report to the Director of Finance officer and Monitoring Officer any changes which could affect risks insured by the Authority
  - 4.4.5.7. Ensure that any conditions affecting insured risks are met and departmental actions do not invalidate any claims

#### **4.5. Assets**

In the context of these Rules, Assets include buildings, land and infrastructure, furniture, equipment, plant, stores, cash balances and “intellectual property” such as computer software, data and information of all kinds.

All staff have a responsibility for safeguarding the Council's assets and information, including safeguarding the security of the Council's computer systems and paper records, and for ensuring compliance with the Council's computer and internet security policies.

- 4.5.1. The Senior Manager Asset Management will undertake the role of 'corporate landlord' and will ensure that:
  - 4.5.1.1. the proper security and maintenance of all premises occupied and/or owned by the Council
  - 4.5.1.2. Record Management hold the title deeds for all Council properties
- 4.5.2. Chief Officers are responsible for:

- 4.5.2.1. the care, control and proper and economical use of all assets used in connection with the operation and delivery of their Services. Proper records should be maintained for these assets, together with appropriate arrangements for their management and security.
- 4.5.2.2. ensuring that assets are used only for official purposes and that all appropriate rights, licenses and insurances are obtained.
- 4.5.2.3. ensuring that all computer software used is properly licensed
- 4.5.3. The Director of Finance is responsible for the maintenance of a corporate register of the Council's property, plant and equipment assets.
- 4.5.4. Land and property
- 4.5.4.1. Land and property transactions include:
- freehold acquisitions and disposals
  - long leasehold acquisitions and disposals
  - short leases as tenant and as landlord
  - entering into section 106 agreements as landowner
  - release of covenants
  - compulsory acquisitions and land compensation claims
  - taking and granting easements
  - option Agreements
  - lease surrenders and exit agreements (including dilapidations).
- 4.5.4.2. Each of these transactions has a financial consequence for the Council and the following approvals are required:
- up to and including £100,000 – Senior Manager Asset Management
  - in excess of £100,000 – Policy and Resources Committee
- 4.5.5. Inventories
- 4.5.5.1. Heads of Service must ensure that proper arrangements are made to maintain inventories of all valuable and transportable items, including vehicles, furniture, computer and other equipment (including software), visual aids, expensive tools and sports equipment.
- 4.5.5.2. The inventory must be updated for all acquisitions and disposals and checked at least annually. Items acquired under leasing arrangements must be separately identified for disclosure in the published final accounts.

- 4.5.6. Stock is defined as consumable items constantly required and held by a Service in order to fulfil its functions. Heads of Service are responsible for the control of stocks. They must ensure that stocks are appropriately secured and recorded, do not exceed reasonable requirements and that all significant stock is accounted for in the year end accounts. Stocks should be checked at least once a year, more frequently in the case of expensive and/or security-controlled items such as cheques.
- 4.5.7. Cash held on any Council premises should be held securely and should not exceed any sums for which the Council is insured. If retention of cash on site is unavoidable in exceptional circumstances, the Head of Service is responsible for making appropriate security arrangements. All cash should be banked as quickly as possible.
- 4.5.8. Asset Disposal/Write-off
- 4.5.8.1. Chief Officers (in consultation with the Director of Finance) may authorise the write off of losses or disposal of assets (excluding land and property) up to and including £50,000. Write offs over £50,000 will require approval as follows:
- Inventory – Policy and Resources Committee
  - Assets (excluding land and property) up to and including £100,000 – relevant Committee (in consultation with the Director of Finance)
  - Assets (excluding land and property) more than £100,000 – Policy and Resources Committee
- 4.5.8.2. Land and property disposals up to and including £100,000 may be authorised by the Senior Manager Asset Management unless the value of the Councils interest or sale proceeds are less than the book value in which case approval must be sought from the Policy and Resources Committee. Disposals in excess of £100,000 require approval from the Policy and resources Committee.
- 4.5.8.3. Any write off which arises as a result of theft or fraud must be notified to the Head of Audit and Risk immediately.
- 4.5.9. Treasury Management
- 4.5.9.1. The Council has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities.
- 4.5.9.2. The full Council is responsible for approving the Treasury Management Strategy. The Director of Finance has delegated responsibility for implementing and monitoring the approved policy and practice (without financial limit).

- 4.5.9.3. All money in the hands of the Council is controlled by the Director of Finance.
- 4.5.9.4. The Director of Finance is responsible for reporting to the Policy and resources Committee periodically in each financial year on treasury management activities undertaken within delegated powers.
- 4.5.10. Investments and Borrowings - it is the responsibility of the Director of Finance to:
  - 4.5.10.1. ensure that all investments of money are made in the name of the Council or in the name of approved nominees.
  - 4.5.10.2. ensure that all securities that are the property of the Council or its nominees and the title deeds of all property in the Council's ownership are held in safe custody
  - 4.5.10.3. effect all borrowings in the name of the Council.
  - 4.5.10.4. act as the Council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Council.
- 4.5.11. Trust Funds and Funds Held for Third Parties - it is the responsibility of the Director of Finance to:
  - 4.5.11.1. arrange for all trust funds to be held, wherever possible, in the name of the Council (e.g. 'Wirral Borough Council on behalf of.....'). All officers acting as trustees by virtue of their official position shall deposit securities, etc. relating to the trust with the Director of Finance unless any deed otherwise provides.
  - 4.5.11.2. arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Director of Finance, and to maintain written records of all transactions.
  - 4.5.11.3. ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.
- 4.5.12. Intellectual Property

Intellectual property is a generic term that includes inventions and writing. If an employee creates these during employment then they belong to the Council, not to the employee.

Like any assets, intellectual property is an essential factor in ensuring business continuity within the Council, and the effective delivery of Council



services. It is critical therefore, that the Council puts in place adequate controls over the ownership, storage and use of all intellectual property.

Chief Officers will ensure that their staff are aware of the Council's rights about intellectual property. Instances where intellectual property has been (or may be) created which has, or may have, commercial value to the Council should be referred to the relevant Officer(s).

#### **4.6. Staffing**

Council staff are an essential part of providing the highest level of quality services. Staff are the greatest single item on which the Council spends its budget. It is therefore crucial that procedures and guidance issued by Human Resources are followed precisely. In order to provide the highest level of service, it is crucial that the Authority recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level within the resources available.

- 4.6.1. The Head of Paid Service is responsible for providing overall management to staff and is also responsible for ensuring that there is proper use of evaluation or other agreed systems for determining the remuneration of a job. The Assistant Director of Human Resources acts as an advisor to Chief Officers on areas such as national insurance, pension contributions and HR policy.
- 4.6.2. Chief Officers have primary responsibility for their establishment and are accountable for compliance with establishment and financial controls. Chief Officers are responsible for:
  - 4.6.2.1. ensuring that positions are only created as new requirements and associated funding
  - 4.6.2.2. that all changes to staffing levels are communicated to Human Resources as soon as possible to ensure financial and operational records are kept up to date
  - 4.6.2.3. for instructing Human Resources and for providing appropriate and accurate information to enable the prompt and accurate payment of travelling, subsistence and other expenses where applicable
- 4.6.3. The Director of Finance will:
  - 4.6.3.1. advise Chief Officers on areas such as national insurance and pension contributions, as appropriate. I ensure that budget provision exists for all existing and new Officers and prepare an annual staffing budget for



services, in consultation with Chief Officers and ensure it is an accurate forecast of staffing levels.

- 4.6.3.2. ensure arrangements for payment to the appropriate bodies, of all statutory taxation and other payroll deductions

**4.7. Third Party Funds** are defined as any fund financed other than by the Council, controlled wholly or partly by a member of the Council's staff in connection with the clients, establishments or activities of the Council such as School Funds, Amenity Funds or Criminal Injuries Compensation Payments for children in care.

- 4.7.1. Money or goods belonging to the Third-Party Fund must be kept completely separate from other money or goods belonging to the Council. Similarly, completely separate records must be kept of the money or goods involved.

- 4.7.2. The Senior Leadership Team is responsible for ensuring that any Third-Party Funds controlled by Council staff are:

- 4.7.2.1. maintained separately and correctly in accordance with these Finance Regulations; and

- 4.7.2.2. subject to the same standards of stewardship and probity as Council funds.

#### **4.8. Retention of records**

- 4.8.1. The Returning Officer will be responsible for maintaining complete and accurate records and for reconciliation with regard to elections accounts.

- 4.8.2. The Council, in common with other public and private organisations, has certain statutory obligations it has to meet for the retention of its records. It also has to fulfil the requirements of HM Revenue and Customs, other legislative requirements and the external auditors in respect of its financial records.

- 4.8.3. The majority of financial records must be kept for 6 years from the end of the tax year to which they relate. Some records, however, may need to be kept for longer periods e.g. if required to defend future insurance claims. It is possible others can be destroyed within shorter periods. Guidance on the appropriate retention period is given in the Council's Corporate Record Retention Policy.

- 4.8.4. All records held should have an appropriate retention period assigned to them, which meet the statutory obligations to retain financial records, but also considers legislative requirements such as the Limitation Act, GDPR,

Data Protection Act; Freedom of Information requirements; and the business needs of the Service.

## **5. Financial Systems and Procedures**

### **5.1. Banking Arrangements**

- 5.1.1. All bank accounts must be titled impersonally in the name of Wirral Borough Council.
- 5.1.2. Subject to any directions given by the Council, all arrangements with the Council's bankers must be made solely through the Director of Finance. No bank accounts may be opened, or arrangements made with any other bank except by agreement with the Director of Finance.
- 5.1.3. Bank transfers must be authorised by the Director of Finance, or those officers authorised to sign through the agreed local Scheme of Financial Delegation or in accordance with the Treasury Management Policy.
- 5.1.4. Direct debits can only be set up with the prior Approval of Finance in line with the local scheme of delegation for the Finance Directorate.
- 5.1.5. Payments must be authorised in line with local Schemes of Financial Delegation
- 5.1.6. Chief Officers must:
  - 5.1.6.1. Make secure arrangements for the receipt of income and subsequent prompt banking
  - 5.1.6.2. Adhere to the banking instructions issued by the Director of Finance

### **5.2. Income**

- 5.2.1. The Director of Finance is responsible for developing and maintaining standards, procedures, systems and reports to facilitate the effective and efficient identification, collection, receipting, banking and recovery of income due to the Council.
- 5.2.2. Charges will be reviewed annually in line with the Fees and Charges Policy. The Fees and Charges Policy will be approved by Council as part of the annual budget setting process.

- 5.2.3. Council officers must comply with guidelines issued by the Director of Finance for the safe and efficient collection and recording of all money due to the Council.
- 5.2.4. Bad Debts
- 5.2.4.1. The Council has a Corporate Debt Policy with the guiding principle that customers have a responsibility to pay amounts that have been properly assessed as being due. The Council is committed to using the most appropriate and effective recovery methods available to it. In certain circumstances and for justifiable reasons it will be necessary to classify some debts as irrecoverable and to recommend that they be written off, however this does not preclude pursuit of the debt.
- 5.2.4.2. Chief Officers will critically review outstanding debts on a regular basis, in conjunction with the Director of Finance, and take prompt action to write off debts no longer deemed to be recoverable. Chief Officers will recommend to the Director of Finance all debts to be written off in line with the following approval limits:
- up to and including £10,000 – Budget Holder in consultation with the Director of Finance
  - more than £10,000 – Policy and Resources Committee
- 5.2.4.3. The Senior Leadership Team is responsible for ensuring that an adequate provision for bad debt is made in the Council's accounts at year end and that contributions to this provision are included in budgetary projections and outturn reports. A record must be maintained for all debts written off.

### **5.3. Purchase of goods and services**

- 5.3.1. The Senior Leadership Team and Heads of Service are responsible for providing all appropriate information and instructions to Transactional Services to allow for prompt and accurate payment for goods and services provided and for the analysis of expenditure.
- 5.3.2. Except for purchases by Purchase Card, imprest accounts, periodic payments such as rent or rates, Grant payments, contributions made to other Public Sector Bodies and Subscriptions all purchases must be supported by an official requisition and purchase order unless previously agreed with the Head of Procurement.
- 5.3.3. All purchases must have regard to these Financial Regulations, Contract Procedure Rules and local Schemes of Financial Delegation. Consideration must also be given to the requirements relating to key decisions. (Part 4, Section 2, paragraph 8 of the Constitution).

- 5.3.4. All requisitions and purchase orders must be authorised in accordance with the approved budget and the limits below to ensure that funds are available to pay for the purchase.
- up to and including £100,000 – Budget Holder
  - more than £100,000 but less than £250,000 – Chief Officer
  - more than £250,000 but less than £1.5m – Chief Officer in consultation with the Director of Finance
  - more than £1.5m – relevant Committee
- 5.3.5. Heads of Service must ensure that there is adequate separation of duties in the raising and authorisation of requisitions, authorising of purchase orders, receipt of goods and authorisation of payments to creditors.
- 5.3.6. Heads of Service must consult the Director of Finance on appropriate arrangements for purchases of goods and services which cannot be accommodated within standard ordering and payment processes.
- 5.3.7. Payment of Invoices
- 5.3.7.1. All invoices must be sent directly by the creditor to the address stated on the official purchase order to enable prompt payment.
- 5.3.7.2. All invoices, as a minimum, must include the official purchase order number, the description of the goods or services provided, the quantity delivered, the delivery address, the date of the invoices and/ or date of delivery of the goods or services, the address and VAT registration number of the supplier and the price and VAT at the prevailing rate.
- 5.3.7.3. Invoices received without a valid purchase order number will be returned to the creditor as unauthorised for payment.
- 5.3.7.4. The Council's standard payment terms are 30 days from receipt of a correct invoice by BACS (Bankers Automated Clearing System). Alternative terms may not be negotiated or agreed with suppliers without the explicit approval of the Head of Procurement.
- 5.3.7.5. Payment will only be made for goods and services which have been formally receipted in accordance with receipting procedures set out by the Director of Finance.
- 5.3.8. Non-invoice Payments
- 5.3.8.1. Where Heads of Service wish to initiate a payment to a third party without a supporting invoice, an official request for payment must be submitted in a form approved by the Head of Procurement.

- 5.3.8.2. Any such requests must be authorised by an officer designated with an appropriate approval limit in the relevant local Scheme of Financial Delegation. They are responsible for ensuring that all payment details provided are accurate and that supporting records and documentation are available to substantiate the payment, including an official VAT receipt to allow for the reclaim of any VAT element.
- 5.3.8.3. Appropriately authorised requests for payment will be processed and paid by BACS.
- 5.3.8.4. Non-invoice payments should be requested on an exceptional basis only. Where payments of this type need to be made on regular basis Heads of Service must consider, in conjunction with the Head of Procurement, other alternative options which may be more appropriate.
- 5.3.8.5. Payments or reimbursements in respect of salaries and wages, travelling expenses or other employment allowances must be processed through the Payroll system and not treated as a non-invoice payment.
- 5.3.9. Purchase cards are an effective method of payment for goods and services of low value and for one off purchases. Heads of Service are responsible for the appropriate deployment and management of Purchase cards within their service in accordance with the local Scheme of Financial Delegation.
- 5.3.10. Imprest Accounts
- 5.3.10.1. Wherever possible, purchase cards will be used for low value transactions and where there are no mandated procurement contracts in place. However, in the limited circumstances when purchase cards cannot be used, the Director of Finance may provide bank imprest (petty cash) accounts to meet minor expenditure on behalf of the Council of up to £50 per transaction. Where circumstances require individual payments in excess of £50, approval to set-up a local arrangement must be sought from the Director of Finance.
- 5.3.10.2. Heads of Service are responsible for ensuring that the rules of operation issued by the Director of Finance are adhered to, and that:
- local Schemes of Financial Delegation set out clearly the responsibilities and approval limits of individual officers in respect of these arrangements
  - adequate records are maintained to allow for the verification and reconciliation of all payments made to the Council's general ledger and bank accounts, and to allow for the proper treatment of VAT
  - arrangements are being operated for legitimate Council business only.

5.3.11. Local arrangements may not be used in any circumstances to circumvent either these Financial regulations or the Contract Procedure Rules.

#### **5.4. Payment to Members**

5.4.1. The Director of Law and Corporate Services will arrange for payments to Members entitled to claim allowances through selfserve, on receipt of the proper form, completed and certified in accordance with the approved scheme for allowances set out in Part 6 of the Constitution.

#### **5.5. Taxation**

5.5.1. The Director of Finance is responsible for ensuring compliance with all relevant taxation regulations and guidance that affect the Council either directly, because of its own activities, or indirectly, because of service delivery through external partners.

5.5.2. The Director of Finance will ensure that:

5.5.2.1. proper arrangements are in place for the administration and accounting for taxation

5.5.2.2. timely completion of statutory returns as directed by HMRC e.g. VAT and PAYE

5.5.2.3. provision of up-to-date guidance for officers on taxation

#### **5.6. Emergency payments**

5.6.1. Emergency payments may arise because of unforeseen circumstances (e.g. as a consequence of a natural disaster, a civil emergency or a court order etc.) where budget provision has not been made and the payment cannot be covered within the relevant service's existing budget. Emergency payments can only be made in extenuating circumstances with the following approval:

- up to and including £250,000 – Chief Officers
- in excess of £250,000 but not more than £1m – Chief Executive or Director of Finance
- in excess of £1.5m – Policy and Resources Committee

5.6.2. Details of emergency payments made will be reported retrospectively to the Council

#### **5.7. Transparency**

To provide transparency in its stewardship of public funds the Council makes information available to the public in relation to its spending, regardless of value. Monthly payment transactions made via purchase card, employee expenses and accounts payable are available to download via the Council's website.

## **6. External Arrangements**

### **6.1. Collaborative working**

The term “collaborative working” covers a wide array of joint working arrangements. For the purposes of this section, the term “collaborative working” means working with one or more third parties collectively to achieve a shared objective. The Council's contribution to collaborative working may be capital, revenue or contributions in kind such as staff time.

Any collaboration which involves the creation of or participation in a separate legal entity (Alternative Service Delivery Vehicle (ASDV)), such as a limited company, trust or charity, must be set up and approved in accordance with these Financial Regulations and the governance arrangements as set out in Part 5, Section 8 of the Constitution (Governance of Council Interest in Companies).

#### **6.1.1. Alternative Service Delivery Vehicles (ASDVs)**

6.1.1.1. Any proposal to commission services via an alternative delivery model must be developed through the Council's business case governance framework, to ensure that there is a robust planning and decision-making process in place.

6.1.1.2. Chief Officers are responsible for ensuring that the Council's governance framework is followed through all stages of the business case development and decision-making process, and that specialist advice is sought from relevant key stakeholders across the Council, at each stage in the development of the business case. Key stakeholders will include:

- Finance
- Legal and Assurance (including Monitoring Officer)
- Internal Audit and Risk
- Merseyside Pension Fund, (if in respect of pension arrangements), and
- any other Chief Officers having an interest or in a position to contribute.

6.1.1.3. Chief Officers are also responsible for ensuring that Council approval is obtained before any contract negotiations and/or financial transactions



are entered into, and that all agreements and arrangements are properly documented, the content and format of which must be approved by the Monitoring Officer and/or Director of Finance.

- 6.1.1.4. Detailed guidance on the requirements and responsibilities in relation to ADV's is given in Part 5, Section 8 of the Constitution (Governance of Council Interest in Companies).

## 6.1.2. Partnerships

Partnerships include any arrangements where the Council agrees to undertake, part fund or participate in a project with other bodies; either as a beneficiary of the project, or because the nature or status of the project gives the Council a right or obligation to support it. It does not include situations where the Council is simply providing funding without assuming any obligation or risk relating to delivery of the project in which case the Contract Procedure Rules cover the arrangement.

- 6.1.2.1. Forming of partnerships - The approval of both the Director of Finance and the Monitoring Officer must be obtained prior to the Council entering into any formal partnership agreement. The approval of the Director of Finance must also be obtained where it is proposed that the Council adopts the role of 'Accountable Body' for a partnership.

A partnership agreement must be produced which ensures that:

- legal status and financial viability of the arrangement are clearly established and acceptable
- Council's financial commitment to the partnership is quantified and that this can be accommodated within the existing budget provision
- financial and corporate governance arrangements in place for the partnership are robust, and acceptable from the Council's perspective
- the Council is not exposed to undue financial, legal or reputation risk as a consequence of its involvement in the partnership
- Council's own financial accounting and reporting requirements can be satisfied
- the arrangements for dispute resolution and for exiting the arrangement are identified

In addition, a performance monitoring framework must be established to ensure that the objectives of the partnership are met.

The Policy and Resources Committee is responsible for approving delegations and frameworks for all partnerships. Partnerships must be approved by Council or the Strategic Leadership Team depending on the scale of the project and the local Scheme of Financial Delegation.



Chief Officers will ensure that:

- the approval of the Director of Finance officer and the Monitoring Officer is obtained prior to entering into a partnership agreement
- an appraisal is undertaken which demonstrates that the risks associated with the arrangement are minimal, or that appropriate arrangements are in place to mitigate any such risks
- the partnership agreement and arrangements will not impact adversely upon the services provided by the Council or upon its finances
- the proposed financial contribution by the Council to the partnership can be met from existing budget provision
- Council approval is secured for all delegations and frameworks for the proposed partnership.

6.1.2.2. Delegation of budget to a partnership - the delegation of budget to a partnership (whether the arrangement is binding on the parties or not), where money is normally spent in accordance with the wishes of a group of individuals or organisations, is subject to approval as follows:

- less than £100,000 – Chief Officer
- £100,000 and above but no more than £1m – Relevant Committee (in consultation with Director of Finance)
- more than £1m – Policy and Resources Committee

6.1.2.3. Financial Administration - where the Council is the 'accountable body' for the Partnership these Financial Regulations, Contract Procedure Rules and all other relevant policies and procedures will apply.

## **6.2. Bidding for Grant Funding**

6.2.1. All grant bids are subject to the requirements of the Revenue and Capital Grants Central Repository and Approval Process and any additional requirements in local Schemes of Financial Delegation.

6.2.2. All grant bids must be approved as set out in 6.2.3 before commencing any spend.

6.2.3. Grant approvals must be sought as follows:

- Revenue Grants less than £100,000 – Chief Officer/DMT of the Service's Management Team in accordance with the Financial regulations. The Change Advisory Board (CAB) will be notified to allow for oversight and comment.
- Revenue Grants £100,00 and over – Change Advisory Board (CAB)
- Capital Grants – Investment Change Board (ICB) overseas all Capital Grant bids regardless of value

6.2.4. The receipt of grant income and related expenditure is subject to these Financial regulations and Contract Procedure Rules.

### **6.3. Support to other organisations**

6.3.1. Grants, donations and contributions may be made in accordance with these Financial Regulations subject to there being adequate provision in service budgets and the appropriate approvals being sought.

6.3.2. Loans to third parties - loans may be provided by the Council to third parties in line with the following circumstances and approval limits:

6.3.2.1. Monies invested with banks and other financial institutions – to be undertaken in line with the Treasury Management Strategy

6.3.2.2. Loans to third parties for the purpose of financing expenditure which, if incurred by the Council, would constitute capital expenditure – to be undertaken in line with the Capital Programme approval process

6.3.2.3. Loans to third parties for other purposes (e.g. where a service is delivered by an ASDV and the provider seeks an up-front payment to support cash flows):

- Less than £50,000 - Chief Officer (in consultation with the Director of Finance)
- £50,000 or more but less than £100,000 – relevant Committee (in consultation with the Director of Finance)
- £100,000 and above – Policy and Resources Committee

## 7. Financial limits

Whilst financial limits may have been referred to in the relevant sections of these Financial Regulations, all approval limits have been brought together in this section for ease of reference.

### 7.1. Revenue budget virements

Delegations	Responsible Officer(s) and/or Committee	Constitution
Up to and including £100,000	Chief Officer in consultation with the Budget Holder	Part 4, Section 3 Budget and Policy Framework (paragraph 6)
In excess of £100,000 but no more than £500,000 (cumulatively up to £1,000,000 over the financial year) provided that there is no virement of revenue budget between 'Directorates' (Budget Heads)	Relevant Committee in consultation with the Chief Officer	
In excess of £500,000	Policy and Resources Committee	

### 7.2. Capital expenditure

De-minimis	Constitution
Capital expenditure will be charged to revenue on the grounds of materiality if it is less than £10,000	Part 4, Section 5 Financial Regulations (paragraph 3.3)

### 7.3. Settling insurance claims

Delegations	Responsible Officer(s) and/or Committee	Constitution
Up to and including £20,000	Senior Liability Claims Officer	Part 4, Section 5 Financial Regulations (paragraph 4.4.3)
In excess of £20,000 but no more than £150,000	Assistant Director Finance and Investment	

In excess of £150,000 but no more £1.5m	Director of Finance (in consultation with Insurance Manager)	
In excess of £1.5m	Audit and Risk Management Committee	

#### 7.4. Land and property transactions

Delegations	Responsible Officer(s) and/or Committee	Constitution
Up to and including £500,000	Senior Manager for Asset Management	Part 4, Section 5 Financial Regulations (paragraph 4.5.4)
In excess of £500,000	Policy and Resources Committee	

#### 7.5. Disposal of assets

Delegations	Responsible Officer(s) and/or Committee	Constitution
Up to and including £10,000	Head of Service (in consultation with the Director of Finance)	Part 4, Section 5 Financial Regulations (paragraph 4.5.8)
In excess of £10,000 but no more than £50,000	Chief Officer (in consultation with the Director of Finance)	
In excess of £50,000 but no more than £100,000	Relevant Committee (in consultation with the Director of Finance)	
In excess of £100,000	Policy and Resources Committee	

#### 7.6. Write-offs

Delegations	Responsible Officer(s) and/or Committee	Constitution
<b>Inventory:</b>		
Up to and including £10,000	Budget Holder (in consultation with the Director of Finance)	Part 4, Section 5 Financial Regulations (paragraph 4.5.8.1)
In excess of £10,000 but no more than £50,000	Chief Officer (in consultation with the Director of Finance)	
More than £50,000	Policy and Resources Committee	
<b>Bad Debts:</b>		
Up to and including £10,000	Budget Holder (in consultation with the Director of Finance)	Part 4, Section 5 Financial Regulations (paragraph 5.2.4.2)
More than £10,000	Policy and Resources Committee	

## 7.7. Purchasing

Delegations	Responsible Officer(s) and/or Committee	Constitution
Up to and including £100,000	Budget Holder	Part 3, Section C Scheme of Financial Delegation of Authority to Officers (paragraph 2(a)) and Part 4, Section 5 Financial Regulations (paragraph 5.3.4)
In excess of £100,000 but no more than £250,000	Chief Officer	
In excess of £250,000 but no more than £1.5m	Chief Officer (in consultation with the Director of Finance)	
More than £1.5m	Relevant Committee	

## 7.8. Emergency Payments

Delegations	Responsible Officer(s) and/or Committee	Constitution
Up to and including £250,000	Chief Officer	Part 4, Section 5 Financial Regulations (paragraph 5.6.1)
In excess of £250,000 but no more than £1m	Chief Executive or Director of Finance	
More than £1m	Policy and Resources Committee	

## 7.9. Delegation of budget to a partnership

Delegations	Responsible Officer(s) and/or Committee	Constitution
Less than £100,000	Chief Officer	Part 4, Section 5 Financial Regulations (paragraph 6.1.2.2)
£100,000 and above but no more than £1m	Relevant Committee (in consultation with Director of Finance)	
More than £1m	Policy and Resources Committee	

### 7.10. Grant funding bids

<b>Delegations</b>	<b>Responsible Officer(s) and/or Committee</b>	<b>Constitution</b>
<b>Revenue:</b>		
Less than £100,000	Chief Officer/DMT of the Service's Management Team	Part 4, Section 5 Financial Regulations (paragraph 6.2.3)
£100,000 and above	Change Advisory Board (CAB)	
<b>Capital:</b>		
All bids – no minimum	Investment Change Board (ICB)	Part 4, Section 5 Financial Regulations (paragraph 6.2.3)

### 7.11. Loans to third parties

<b>Delegations</b>	<b>Responsible Officer(s) and/or Committee</b>	<b>Constitution</b>
Less than £50,000	Chief Officer (in consultation with the Director of Finance)	Part 4, Section 5 Financial Regulations (paragraph 6.3.2.3)
£50,000 or more but less than £100,000	Relevant Committee (in consultation with the Director of Finance)	
£100,000 and above	Policy and Resources Committee	



# CONSTITUTION OF THE COUNCIL

## Part 4 Section 6

### CONTRACT PROCEDURE RULES

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## 1. Introduction

- 1.1 These Contracts Procedure Rules are standing orders made pursuant to Section 135 of the Local Government Act 1972, **effective as of April 2016 and amended September 2020**. Compliance with the Rules and observance of domestic law from which they emanate (in particular the principles relating to non-discrimination, equal treatment and transparency) is mandatory for all Officers and Members. The Rules ensure that procurement activity is undertaken in a legally compliant, transparent, fair and competitive manner.
- 1.2 Decisions relating to procurement are among the most important decisions that can be made by the Council, its Members and Officers because the money involved is public money and the Council is concerned to ensure that high quality Goods, Services and the execution of Works are procured. Efficient use of resources in order to achieve Best Value is therefore imperative.
- 1.3 These Rules shall apply to all procurement activity where the Council is to procure any Goods, Services or the execution of Works, or enters into a concessions Contract as either a contracting authority or commissioner of such, regardless of the origin of funding (such as external grants, partnership funding, pooled or joint budgets for example).
- 1.4 For the avoidance of doubt, these Rules shall apply to Framework Agreements.
- 1.5 Where relevant, the Council shall have regard to the Public Services (Social Value) Act 2012 (“the Act”). This requires commissioners and procurers at the pre-procurement stage to consider how / what is to be procured may improve social, environmental and economic well-being of Wirral, how it might secure any such improvement and to consider the need to consult. The Council and Officers should refer to the Procurement Toolkit for further guidance.
- 1.6 The Audit and Risk Management Committee shall monitor compliance with the Rules and undertake a review of the Rules every two years. Any failure to comply with any of the provisions of these Rules must be reported immediately to the Director of Law and Governance (Monitoring Officer). Failure by any Officer or Member to comply with the provisions of these Rules may lead to disciplinary action being taken against them.
- 1.7 The Director of Law and Governance (Monitoring Officer) will keep these rules under review and have authority to make minor amendments as required, after consultation with the Head of Commercial Procurement. Any changes will be notified by the Director of Law and Governance (Monitoring Officer) to Strategic Directors for dissemination to officers involved in procurement. Any significant changes require the consent of the Audit and Risk Management Committee.
- 1.8 The Director of Law and Governance (Monitoring Officer), in consultation with the Head of Commercial Procurement, will fully review these rules every two years and report this review to the Audit and Risk Management Committee for approval.

1.9 These Rules should be read in conjunction with the Council's Constitution and in particular the Financial Regulations, the Procurement Toolkit, any relevant guidance documents endorsed by the Council.

## 2. **Interpretations and Definitions**

2.1 In the event of any conflict between these Rules and Council Policy, the requirements of English law shall prevail over Council Policy.

2.2 Any reference to legislation, primary or secondary, shall include any amendments / replacements made from time to time.

2.3 All figures specified in these Rules are exclusive of VAT.

2.4 In the event of any doubt as to the interpretation of these Rules, or as to proper procedure to be followed, advice should be sought from Corporate Procurement in the first instance and reference should be made to the guidance contained in the Procurement Took Kit which should be read in conjunction with these Rules.

2.5 In these Rules the words and phrases below have the following meanings:

AO	Authorised Officer and is any Officer, who has delegated authority from the SRO, to carryout commissioning functions.
Best Value	has the same meaning as that defined in the Local Government Act 1999 as amended from time to time.
Bidder	any Economic Operator that submits a Quotation or Tender.
Call-off	an order made/call-off Contract entered into under a Framework Agreement and are subject to the application of Rule 5.1.
Category Manager	the Category Manager is a procurement specialist who has responsibility for all stages of a procurement process for a defined group of products, services or works
Concessions	the granting of a right (exclusive or otherwise) to an economic operator to exploit works or services provided for their own gain with or without payment.
Contract	a legally binding agreement between the Council and the Contractor for the procurement by the Council of all Goods, Services, the execution of Works and

	Concessions Contracts and which incorporates the terms and conditions under which the Goods, Services, execution of works and Concessions will be provided.
Contractor	the Bidder or Tenderer who the Council enters into a Contract with following the submission of a Quotation or Tender and who is appointed by the Council to provide the Goods, Services, execution of Works or Concessions Contract. They may also be referred to as 'suppliers', 'providers' or 'service providers'.
Contracts Finder or Find a Tender	the web-based portal provided for the purposes of Part 4 of the regulations by or on behalf of the Cabinet Office.
Corporate Procurement	Provide advice and support at all stages of the procurement process regardless of value. They will conduct procurement activity for contracts of £25,000 or over in value.
Director of Finance (S151)	the Senior Responsible Officer for Finance and is the most Senior Officer delegated in the Council's Scheme of Delegation for Finance Services, the Officer appointed by the Council pursuant to S151 of the Local Government Act 1972.
Economic Operator	any natural or legal person or public entity or group of such persons and/or entities, including any temporary association of undertakings, which offers the execution of Works and/or a work, the supply of Goods or the provision of Services on the market.
EIR	the Environmental Information Regulations 2004.
Electronic Purchasing System (EPS)	purchases made online.
Equality Duties	The Council's responsibilities as defined within the Equality Act 2010.
Public Contract Regulations-	Relevant Directives in force.

Exemption/Exception	the release of the obligation to comply with some or all of these Rules.
Financial Regulations	the written code of procedures forming part of the Council's Constitution which provide a framework for proper financial management and which set out the rules on accounting, audit, administrative procedures and budgeting systems.
FOIA	the Freedom of Information Act 2000
Framework Agreement	an agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing Call-off Contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
Goods	an inherently useful tangible item required by the Council, from time to time.
Head of Commercial Procurement	the Senior Responsible Officer for all Council procurement activity.
Director of Law and Governance (Deputy Monitoring Officer)	the Senior Responsible Officer for Legal and is the most Senior Officer delegated in the Council's Scheme of Delegation for Legal Services.
Invitation to Tender	an invitation issued by the Council to Tenderers to submit a Tender or a quote for the provision of Goods, Services, the execution of Works or a Concessions contract in accordance with the Specification or request for those Goods, Services, execution of works or Concessions Contract.
Key Decision	Key decisions are those as set out in Article 13 of the Council's Constitution.
Law and Governance	The Contract Team within Law and Governance Services can provide legal advice on high-value or complex procurements. Officers are responsible for ensuring that Law and Governance Services are involved in all above threshold contracts and any contracts involving legal

	issues for example TUPE or State Aid. The Contract Team within Law and Governance Services can provide legal advice on specialist IT, social care, education and housing related contracts.
Modification	any variation to a Contract, including an extension or overspend
Officer	any employee of the Council which shall include any person engaged by the Council to act as an agent or consultant on its behalf.
Post Tender Report	a summary of the outcomes delivered by the procurement activity.
SQ	Qualification questionnaire and is the document used by the Council to screen potential Tenderers in accordance with the Regulations.
Procurement Smartform	a document providing details of the procurement activity and the authority to commence it as required in accordance with Rule 7.1.or for the approval or notification of Exceptions to CPR's; Extensions to Contracts ; Variations to Contracts Contract Award; Breach Notice.
Procurement Toolkit	the documents which detail the processes, procedure and regulations to follow when carrying out a procurement activity.
Purchasing Cards	transaction cards which work in a similar way to charge cards and can be used by an AO to purchase Goods and/or Services.
Quotation	a formal offer submitted by a Bidder to supply goods, Services, execute Works or operate a Concessions Contract at a defined price.
Regulations	the Public Contracts Regulations 2015, and The Concessions Regulations 2016, as amended or replaced from time to time, which implement the public procurement directives.

Regulations Threshold	the financial threshold identified by the UK Procurement Regulations, as amended from time to time, and where applicable, requires the procurement activity to be subject to the Regulations.
Rules	these Contract Procedure Rules
Scheme of Delegation	the scheme identified within the Council's Constitution which delegates powers and duties of the Council to Officers under Section 101 of the Local Government Act 1972 and all other powers enabling such delegation necessary for the discharge of the Council's functions.
SCM	the Senior Category Manager or similar role with equivalent experience and seniority within Corporate Procurement
Services	the time, effort and expertise required by the Council, from time to time, and supplied by a Contractor.
Specification	the outputs, outcomes and the scope and nature of Goods, services, execution of Works or concessions Contract required by the Council from a procurement activity.
Social Value	a requirement upon the contractor to improve the economic, social, and environmental wellbeing of the Borough of Wirral which is relevant and proportionate to the primary purpose of the procurement.
SRO	Senior Responsible Officer and is the Officer delegated in the Council's Scheme of Delegation for the relevant service with the responsibility for the award of the Contract.
Tender	a formal offer submitted by a Tenderer to the Council at a stated price in response to a Specification to supply Goods, Services, execute Works or operate a Concessions Contract.
Tenderer	any Economic Operator that submits a Tender.

Tendering Portal	Wirral tendering and sourcing portal.
TUPE	the Transfer of Undertakings (Protection of Employment) regulations 2006 as amended from time to time.
Value for Money	the optimum combination of whole-life costs, price, quality and benefits to meet the Council's requirement. Such a term equates to the UK procurement requirement of most economically advantageous offer, as well as the duty of Best Value as defined by the Local Government Act 1999 as amended from time to time.
Works	the provision of physical activity which is directed toward the production or accomplishment of something by the Contractor, from time to time.
Writing	the requirement that any document should be in writing is satisfied where (apart from the usual meaning of that expression) the text of it is created and transmitted by electronic means, in legible form, and capable of being used for subsequent reference.

### 3. **Principles and Responsibilities**

#### 3.1 **Principles**

3.1.1 All procurement activity must comply with the obligation under the UK-EU Trade and Cooperation Agreement and where applicable the Public Contracts Regulations 2015 and the Concession Contracts Regulations 2016 as amended, and any relevant retained EU legislation.

- a. non-discrimination;
- b. openness/transparency;
- c. equal treatment for all; and
- d. proportionality

3.1.2 All procurement activity must be compliant with the latest national legislation, and the Council Constitution and have regard to:

- a. **The need to achieve accountability** through effective mechanisms which enable Officers and Members of the Council to maintain the highest standards

- of integrity and honesty and to enable them to discharge their responsibility on issues of procurement risk and expenditure of public money;
- b. **The need to provide consistent procurement policy to suppliers and achieve competitive supply;**
  - c. **The need to meet commercial, regulatory and Corporate Priorities of the Council;**
  - d. **The need to achieve efficiencies** by administering procurement processes which are cost effective.
  - e. **The need to ensure Value for Money**
  - f. **The need to ensure fair-dealing** by ensuring that suppliers are treated fairly and without unfair discrimination, including protection of commercial confidentiality where compatible with the Council's obligations under FOIA and EIR;
  - g. **The need to maintain integrity** by excluding corruption or collusion with suppliers or others from procurement processes;
  - h. **The need to ensure informed decision-making** based on accurate information;
  - i. **The need to ensure legality** in the administration of procurement processes and award of contracts;
  - j. **The need to promote responsiveness** by endeavouring to meet the aspirations, expectations and needs of the community served by the procurement processes;
  - k. **The need to provide transparency** by ensuring that there is openness and clarity on the Council's procurement policy and its delivery.
  - l. **The need to create and retain an audit trail in relation to each procurement activity**
  - m. The consideration of **Risk**

## 3.2 The Responsibilities of Officers and Members

- 3.2.1 Officers and Members involved in procurement activity must comply with these Rules, the Council's Financial Regulations, and the Council's Employees Code of conduct/Members Code of Conduct. They must also have due regard to any guidance provided by Corporate Procurement.
- 3.2.2 Failure to comply with any of these rules may be considered a **breach of the Officers Code of Conduct and may result in disciplinary action.**
- 3.2.3 Where it becomes apparent that a Service has failed to comply with the CPRs a Breach Notice, as set out in the Procurement Smartform should be completed and submitted to the Head of Commercial Procurement and Internal Audit. Internal Audit will ,if the breach exceeds £50,000 in value, submit a report to the Head of Commercial Procurement and the Director of Law and Governance ( with appropriate recommendations) before reporting to the Audit and Risk Management Committee and/or the Corporate Governance Group. Breaches up to £50,000 will be reported to the Corporate Governance Group by Corporate Procurement in consultation with Internal Audit.

## 4. Contracts to which these Rules do not apply



- 4.1 These rules **do not** apply to the following:
- a. employment contracts for Officers engaged on a PAYE basis;
  - b. Contracts relating solely to the disposal or acquisition of securities and investments; - Treasury Management Strategy
  - c. Contracts for the acquisition of an interest in land and property;
  - d. Contracts for the appointment of Counsel or the appointment of experts for the purpose of legal or potential legal proceedings by the Director of Law and Governance (Monitoring Officer).

5. **Contracts which do not require full competition**

The Senior Responsible Officer (SRO)/Authorised Officer (AO) must complete a Procurement Smartform in accordance with Rule 12 where any of the circumstances outlined below are applicable and the procurement may be excepted from the requirement of Rule 9 (Quotations) and Rule 10 (Tenders).

5.1 **Call-Off contracts**

- 5.1.1 Call-off Contracts where a suitable Framework Agreement has been identified in accordance with Rule 6.3.

5.2 **No competitive market**

- 5.2.1 Where any of the following circumstances apply and subject to Rule 5.2.2:

- a. Proprietary or patented goods or services are proposed to be purchased which, in the opinion of the AO, are only obtainable from one person, and it can be demonstrated that no reasonably satisfactory alternative to those proprietary or patented goods is available; or
- b. The AO can demonstrate that no genuine competition can be obtained in respect of the purchase of particular Goods, Services or execution of works; or
- c. The AO is satisfied that the Services or execution of Works are of such a specialist nature that they can only be carried out by one person (e.g. statutory undertakers); or
- d. Goods are proposed to be purchased by or on behalf of the Council at a public auction; or
- e. Goods or Services are proposed to be purchased which are of a specialist or unique nature (such as antiquities for museums or a particular performance artist)

Further guidance can be provided by Corporate Procurement and an AO must seek advice where there is any doubt and comply with Rule 10.

5.2.2 The AO, in conjunction with the Director of Law and Governance (Monitoring Officer) and, the Head of Commercial Procurement, shall ensure that the Contract terms and conditions are appropriate taking into account all relevant factors (such as benefit and risk to the Council) and ensure that the Contract complies with Rule 11.

### 5.3 Exemptions as prescribed by legislation

5.3.1 Certain other arrangements contained in domestic legislation may permit an exemption from the requirement for competition. Contact Corporate Procurement for advice.

## 6 Corporate Contracts

### 6.1 Use of Corporate Contract

6.1.1 If a Council contract exists which covers the subject matter of the proposed procurement (a Corporate Contract) it must be used unless one of the following conditions applies:

- The corporate contractor has confirmed that the goods or services are not available within the required timescale.
- The corporate contractor has confirmed that they are unable to fulfil the requirement.
- The corporate contract is subject to an unresolved dispute or an exit plan has been exercised.
- The corporate contractor's financial position has altered and a status of administration or liquidation has been applied.
- The corporate contractor is in breach of contract and a termination notice has been issued.
- The Corporate Contract is no longer value for money and the Council is entitled in law to procure the goods or services elsewhere.

6.1.2 Where an officer seeks to no longer use a corporate contract, they will arrange for consent to be obtained in writing from the Head of Commercial Procurement.

## 7. Pre-Procurement Process

### 7.1 Authority to carry out procurement activity

7.1.1 Any procurement activity carried out on behalf of the Council must be carried out by an SRO with the appropriate delegated authority as set out in the Scheme of Delegation. For all procurements valued at £25,000 or greater the SRO must submit a Procurement Smartform to Corporate Procurement, prior to starting the relevant procurement activity. By submitting the Procurement Smartform the SRO confirms that they have the authority and budget to carry out the procurement activity. When a single quote is obtained above £5000 up to the threshold of £25,000, this requires the senior or peer agreement of a DMT member of the relevant department prior to the proposed action. It is the responsibility of the

commissioner to obtain this agreement and retain the appropriate evidence should it subsequently be required.

7.1.2 Any proposed procurement for I.T. or Telecomms products or services must be referred to the Head of Digital by the SRO for approval to proceed further. This approval should be recorded by the SRO and Head of Digital. The Procurement Smartform can be completed and submitted when this approval has been granted.

## 7.2 Appraisal of the procurement activity

7.2.1 The AO, together with Corporate Procurement, must conduct an options appraisal of the route to market and consider the following:

- a. Value for Money;
- b. The need for the expenditure and its priority;
- c. The objectives of the purchase;
- d. Whether it is a Key Decision;
- e. Any risks associated with the purchase and how to manage them;
- f. The market;
- g. TUPE and pensions;
- h. Which procurement method is most likely to achieve the purchasing objectives;
- i. Existing and compliant Framework Agreements or other arrangements; and
- j. The economic, social and environmental wellbeing of the borough and the benefit which the procurement process can bring to the community and have regard to the duty to secure continuous improvement in accordance with Best Value, ***the Council's Social Value Policy, Social Value Guidance and Social Value Framework.***

7.2.2 Where award for a Contract for services may result in **employees** of the Council or its Contractor **transferring to a new employer**, the **advice** of the Director of Finance and the Director of Law and Governance (Monitoring Officer) **must be obtained** before the commencement of the procurement activity to ensure compliance with **TUPE**, and other related legislation, and to assess the implications in respect of pension arrangements.

7.2.3 The AO must ensure that an appropriate Tender Specification or request for a Quotation commensurate to the scope of the Goods, Services, and execution of Works or Concessions Contract required is written prior to the commencement of any procurement activity. Advice from Corporate Procurement must be sought where it is proposed that a Tender Specification or request for a Quotation is not used.

7.2.4 For procurement under the Regulations Thresholds, the use of PQQs is no longer permitted. However, the Regulations do permit the use of suitability assessment questions where they are relevant to the subject matter of the procurement and are proportionate. Advice must be sought from Corporate Procurement where it is proposed that such questions are to be used.

7.2.5 The Authorising Officer, together with Corporate Procurement, in all Supplier / Contractor sectors and areas identified as vulnerable to serious and organised crime include within the **quotation / tender** documentation the following statement:

*“Wirral Council has identified that the scope of this procurement falls within a business sector which may be attractive to infiltration by organised crime groups. Wirral Council therefore reserves the right to include enhanced probity checks / requirements at both the selection and award stages of the procurement.”* as set out in the invitation to tender.

### 7.3 Framework Agreements

7.3.1 Where, following an options appraisal as required by Rule 7.2 a suitable Framework Agreement is identified, the AO must ensure that:

- a. Any Call-off Contract is entered into in accordance with the terms of the relevant Framework Agreement; and
- b. Where applicable, a further competition (the tender process required by the Framework Agreement) is held in accordance with rules of the Framework Agreement.
- c. Authority to proceed must be obtained from the Head of Commercial Procurement or his delegated representative.

7.3.2 For the avoidance of doubt, a Framework Agreement is considered suitable where it has either been entered into by:

- a. the Council in compliance with these Rules; or
- b. another local authority, a local authority purchasing consortium or central government where the Framework Agreement has been tendered and awarded in accordance with public procurement legislation, and the Council is identified as a contracting authority.

7.3.3 Where a Framework Agreement has been set up following an UK Tender, there must be full compliance with UK rules when awarding Call-off Contracts under it.

7.4 Pre-Procurement Market Research and Consultation (Soft Market Testing can be referenced within Guide 9 of the Procurement Toolkit) and must be in accordance with Public Contract Regulations

7.4.1 The AO responsible for the procurement activity and Corporate Procurement:

- a. Before commencing a procurement procedure commissioners may conduct market consultations with a view to preparing the procurement and informing economic operators of their procurement plans and requirements;
- b. For this purpose, commissioners may, for example, seek or accept advice from independent experts or authorities or from market participants;

- c. Such advice may be used in the planning and conduct of the procedure, provided that it does not result in a violation of the principles of non-discrimination and transparency;
- d. Appropriate measures must be undertaken to ensure that competition is not distorted by participation of the candidate or tenderer in:
  - i. The communication to the other candidates and tenderers of relevant information exchanged in the context of or resulting from the involvement of the candidate or tenderer in the preparation of the procurement procedure
  - ii. The fixing of adequate time limits for the receipt of tenders
- e. The candidate or tenderer shall only be excluded from the procedure where there are no other means to ensure compliance with the duty to treat economic operators equally.
- f. Prior to any such exclusion, candidates or tenderers will be given the opportunity to prove that their involvement in preparing the procurement procedure is not capable of distorting completion.

Advice and support must be sought from Corporate Procurement in all instances.

## 7.5 Estimating the Total Value of a Contract or Framework Agreement

7.5.1 The Council must not split Contracts or Framework Agreements to avoid public procurement rules or calculate the value of Contracts in such a way as to deliberately avoid exceeding the Regulation Thresholds or any threshold identified in these Rules. Therefore all Contracts should be dealt with according to their total value and all Officers must calculate the total value (excluding VAT) of any Contract. The value of a Contract should be calculated as follows and applies to the aggregate value of the Contract:

**Yearly contract value X Contract Period in years (including any option to extend) = Total value**

Where the duration of the contract is indeterminate or is longer than four years, this should be taken to be the estimated value of the contract over a period of four years.

7.5.2 The value of a Framework Agreement means the estimated amount payable by the users of the Framework Agreement for the Goods, Services or execution of Works (excluding VAT) under Call-off Contracts entered into over the entire possible duration of the Framework Agreement.

7.5.3 Framework Agreements must not be for more than four years (including options to extend) unless otherwise authorised by the Director of Law and Governance (Monitoring Officer) and the Head of Commercial Procurement.

7.5.4 The value of the Contract or Framework Agreement will determine which procurement activity to follow in accordance with Table 1 below subject to Rules 7.5.6 and 7.5.7:

**Table 1**

Goods, Services and Concessions

<b>Value</b>	<b>Procurement Activity</b>	<b>Quotation /Tender process Managed by:</b>
£0-£1,999.99	No requirement for a quotation	Departmental responsibility
£2,000 - £25,000	Minimum one Quotation in accordance with Rule 8 - Quotations	
£25,000 – PCR Thresholds	Minimum of five quotations in accordance with Rule 9	Corporate Procurement through the Tendering Portal (and Contracts Finder / Find a Tender)
Above the Regulation Thresholds	In accordance with Rule 10 – Tenders and the most appropriate procedure permitted by the Regulations	Corporate Procurement through the Tendering Portal, UK Notice and Contracts Finder / Find a Tender

**\*WHERE ANY OPPORTUNITY OVER £25k IS OPENLY ADVERTISED, IT MUST BE PLACED ON CONTRACTS FINDER BY CORPORATE PROCUREMENT**

- 7.5.5 For procurements above £1,999, and below £25,000 the Director responsible for the procurement must make adequate arrangements to ensure that the chosen supplier is selected by reference to objective criteria such as technical ability and value for money and that the chosen supplier is not selected for any other contract within the same financial year without undergoing a competitive procurement. A written record of the decision making process must be kept and open to inspection by financial, legal and procurement officers.
- 7.5.6 Irrespective of the value in Rule 7.5.4 Contracts and Framework Agreements that are subject to grant funding requirements shall be advertised in accordance with published guidance.
- 7.5.7 The AO and Corporate Procurement shall ensure that, where proposed Contracts or Framework Agreements, irrespective of their value, might be of interest to potential Economic Operators located in other states, a sufficiently accessible advertisement is published.
- 7.5.8 Quotations for construction works, below regulation thresholds, shall only be invited from contractors who are members of Constructionline and the Safety Scheme in Procurement (SSIP) or any other comparable pre-selection model. If quotations are invited on a restricted basis, at least six contractors shall be invited to quote to be selected in accordance with the Council's policy on the procurement of such contracts (available on the Procurement website).

7.5.9 Where the value of the Contract is below £25,000, its procurement must comply with the general principles contained in Rule 3.1.2 and a Quotation sought if the procurement would otherwise not be so compliant.

## 7.6 **Standards and Award Criteria**

7.6.1 Before inviting Quotations or Tenders, the AO, with support from the Corporate Procurement, must ascertain any relevant British, international standards which apply to the subject matter of the Contract. The AO must include those standards or equivalent where they are necessary to describe the required quality.

7.6.2 The AO must define award criteria that is appropriate to the procurement activity and designed to secure an outcome giving Value for Money for the Council. The basic award criteria shall include one of the following:

- a. Most economically advantageous tender (“MEAT”) – where considerations other than price also apply;
- b. Lowest price – where payment is to be made by the Council;
- c. Highest price – if payment is to be received by the Council;

If MEAT is the chosen award criteria, advice must be obtained from Corporate Procurement to ensure that it is compatible with the UK Directives and the Regulations.

7.6.3 The AO must seek advice from Corporate Procurement to ensure any award criteria are compliant with relevant legislation and best practice.

## 8 **The Tendering Portal**

8.1 The Council’s Tendering portal, shall be used for procurement activities of £25,000 and above.

- a. The web based portal facilitates online tendering to ensure access to a wide spectrum of suppliers, process efficiency, standardisation and compliance.
- b. Officers must use this system for all procurement with a value of £25,000 and above unless the Head of Commercial Procurement, Legal Services and Internal Audit have provided written consent for an Exception.
- c. The elements of the procurement process carried out using the Tendering Portal are highlighted below and within the Procurement Toolkit.

## 9. **Quotations**

### 9.1 **Requests for Quotations**

9.1.1 All Quotations, including those in further competitions under Framework Agreements, must be confirmed in writing before a decision to award can be made and all Quotations, of £25,000 and above in value, must be stored on the Tendering Portal

9.1.2 When requesting a Quotation, an appropriate description of the Goods, Services, execution of Works or Concessions (commensurate with the value of the Contract)

setting out the Council's requirements in sufficient detail must be provided to prospective Bidders to enable the submission of competitive Quotations.

9.1.3 The request for a Quotation shall also make reference to or include the following as a minimum:

- a. the terms and conditions of Contract that will apply; and
- b. notification that Quotations are submitted to the Council on the basis that they are compiled at the Bidder's expense; and
- c. a description of the award criteria as appropriate and in accordance with Rule 7.6; and
- d. the date and time by which a Quotation is to be submitted by; and
- e. that the Council is not bound to accept any Quotations submitted.

9.1.4 The proposed form of Contract must comply with Rule 11 and where possible the Council's standard terms and conditions of Contract must be used. Advice must be sought from Law and Governance Services and approval given by the Director of Law and Governance (Monitoring Officer) where alternative terms and conditions are used.

9.1.5 Where requests for a Quotation are sought from more than one prospective Bidder, where possible, the request must be sent to each Bidder at the same time and contain the same conditions. Any supplementary information must be given on the same basis.

## 9.2 Submission and Receipt of Quotations

9.2.1 Unless agreed by Corporate Procurement, bidders must be given a minimum of two weeks in which to prepare and submit a Quotation, timescales should be consistent with the complexity of the Contract requirement and provide bidders with a reasonable opportunity to prepare and submit a Quotation.

9.2.2 In the event that an abnormally low Quote is received, the AO must take advice from Corporate Procurement on how to proceed.

9.2.3 Any Quotation (including all associated documents) submitted after the specified date and time for submission of Quotations shall only be accepted or considered by the Council with agreement from the Director of Law and Governance (Monitoring Officer) and the Head of Commercial Procurement.

9.2.4 If fewer than the minimum number of Quotations is received as stipulated in Table 1 in Rule 7.5, then advice must be sought for a decision from the Head of Commercial Procurement as to whether to proceed. Any decision must be recorded in writing and stored on the Tendering Portal.

## 9.3 Amendments to Quotations

9.3.1 The Council may accept amendments to Quotations, including those in further competitions under Framework Agreements, providing they are received prior to the closing date for submissions. In such circumstances, any alterations must be made by resubmitting a new Quote and clearly highlighting which Quotation (and



associated documents) is correct and which should be considered as part of the procurement activity.

9.3.2 A Quotation may be amended after the closing date for submission if the amendment is made only in order to correct arithmetical errors or. ambiguities Such amendments may only be made with the prior approval of the Head of Commercial Procurement and Senior Manager Internal Audit.

#### 9.4 Evaluation of Quotations

9.4.1 All compliant Quotations, including those in further competitions under Framework Agreements, must be checked by the AO and validated to ensure they are arithmetically correct. The AO must seek advice from Corporate Procurement if there is any doubt. If arithmetical or other obvious errors are found they should be notified to the Bidder, who should be requested to confirm, or withdraw or seek permission to amend their Quotation. If the rates in the Quotation prevail over the overall price, an amended Quotation may be requested to accord with the rates given by the Tenderer. All amendments to correct any error may only be allowed at the discretion of the Head of Commercial Procurement who may seek advice from the Director of Law and Governance (Monitoring Officer). Any decision to allow an amendment must have regard to the general principles contained in Rule 3.1.2.

9.4.2 Where the Most Economically Advantageous Tender is used as the award criteria, all evaluations including an explanation of the reasons for the scores should be recorded by the AO, and where appropriate (£25,000 and above) recorded on the Tendering Portal The AO must then confirm to Corporate Procurement that the Contract can be awarded in accordance with Rule 9.5 by submission of a Procurement Smartform.

9.4.3 Officers must ensure transparency and fairness during the evaluation process.

#### 9.5 Contract Award – through a Quotation Process

9.5.1 The Contract will be awarded in accordance with the award criteria used.

9.5.2 Where the Quotation is not within the relevant approved budget but additional budgetary provision is available, the relevant AO, with the approval of the Director of Finance (S151 Officer), may accept the Quotation ensuring compliance with the Financial Procedure Rules/Regulations.

9.5.3 The approval to award the Contract must be given in accordance with the Council's Scheme of Delegation.

9.5.4 All award decisions must be recorded and a Procurement Smartform signed and dated by the SRO or delegated representative for the relevant service and, **where necessary** signed by the Director of Law and Governance (Monitoring Officer) and the Head of Commercial Procurement e.g. if Rules 5 or 12 apply.

9.5.5 Once the decision has been made and the approval given to award the Contract, the AO, through Corporate Procurement, must send a Contract award notice to the winning Bidder(s) and inform unsuccessful bidders of the outcome.

9.5.6 Prior to commencement of the Contract, the Contract must be completed in accordance with Rule 11.2 unless Rule 11.2.5 applies.

9.5.7 Law and Governance Services will, where necessary, advise on the formalities for completion of the contract by parties other than the Council and how to ensure that the Contract is legally binding.

## 10. **Tenders**

### 10.1 **Invitations to Tender**

10.1.1 All Tender opportunities must be placed on the Tendering Portal and, where appropriate, Contracts Finder/Find a Tender in accordance with Table 1 at Rule 7.5.

10.1.2 The Invitation to Tender shall include the following where appropriate:

- a. A form upon which the Tenderer can provide details of its bid (“Form of Tender”);
- b. A reference to the Council’s ability to award in whole, in part or not at all;
- c. A Specification that describes the Council’s requirements in sufficient detail to enable the submission of competitive offers;
- d. the terms and conditions of Contract that will apply;
- e. A requirement for Tenderers to declare that the Tender content, price or any other figure or particulars concerning the Tender have not been disclosed by the Tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose);
- f. A requirement for Tenderers to fully complete and sign all Tender documents including the Form of Tender and certificates relating to canvassing and non-collusion;
- g. Notification that Tenders are submitted to the Council on the basis that they are compiled at the Tenderer’s expense;
- h. A description of the award procedure and the evaluation criteria to be used to assess Tenders including any weighting as considered appropriate and in accordance with Rule 6.6. The evaluation criteria must be clear, concise and unambiguous and must be approved by the AO in consultation with Corporate Procurement. The evaluation criteria cannot be amended once published in the Invitation to Tender;
- i. The method by which any arithmetical errors discovered in the submitted Tenders are to be dealt with and in particular, whether the overall price prevails over the rates in the Tender or vice versa;
- j. Whether the Council is of the view that TUPE will be applicable in relation to the procurement activities;
- k. Whether additional arrangements will be required in relation to pension provision;
- l. Provisions relating to the Council’s termination rights in the event that corruption is discovered;
- m. The relevance and application of any parent company guarantees and/or bonds;
- n. That the Council is not bound to accept Tenders.

10.1.3 The proposed form of Contract must comply with Rule 10 and where possible the Council's standard terms and conditions of Contract must be used. Advice must be sought from Law and Governance Services and approval given by the Director of Law and Governance (Monitoring Officer) where alternative terms and conditions are used.

10.1.4 All Tenderers invited to Tender must be issued with the same information at the same time and contain the same conditions. Any supplementary information must be given on the same basis.

10.1.5 All communications relating to Tenders must be recorded on the Tendering Portal. .

## 10.2 Pre and Post Tender Clarification Procedures

10.2.1 Providing pre-Tender clarification to potential or actual Tenderers, or seeking clarification of a Tender, is permitted subject to Rule 9.2.3.

10.2.2 Post-tender clarification may be undertaken with Tenderers only where it is essential in order to be completely clear about any fundamental aspect of the Tender submission before the completion of the Tender evaluation process and subject to Rule 10.2.3.

10.2.3 All pre- and post- tender communication must be conducted either in writing or in a meeting recorded by Corporate Procurement. All correspondence or meetings must be documented and retained on the Tendering Portal . **Where a meeting is required, there must always be more than one Officer present.**

10.2.4 At all times during the clarification process, the Council shall consider and implement the principles of non-discrimination, equal treatment and transparency.

10.2.5 Unless otherwise permitted by the Regulations, in no circumstances are post-award negotiations permitted that would materially change the contract.

## 10.3 Submission and Receipt of Tenders

10.3.1 Tenderers must be given a reasonable period in which to prepare and submit a proper Tender, consistent with the complexity of the Contract requirement and in accordance with the Regulations.

10.3.2 Any tender (including all associated documents) submitted after the specified date and time for submission of Tenders shall only be accepted or considered with agreement from the Director of Law and Governance (Monitoring Officer) and Head of Commercial Procurement.

10.3.3 All Tenders received, including those in further competitions under Framework Agreements, must remain unopened until the specified closing date and time has passed.

10.3.4 If less than the minimum number of Tenders is received as stipulated in Table 1 in Rule 7.5, then advice must be sought for a decision from the Head of Commercial

Procurement on how to proceed. Any decision must be recorded in writing and stored on the Tendering Portal .

#### **10.4 Verifying and Opening Tenders**

10.4.1 Tenders for contracts valued at £500,000 or above must be opened and verified by an Officer who is independent of the procurement activity to which the Tender relates.

10.4.2 Tenders below £500,000 must be opened and verified by Corporate Procurement.

10.4.3 All tenders must be submitted through the Tendering Portal unless an exception in writing has been obtained from the Head of Commercial Procurement.

10.4.3 A record of all tenders received will be kept and will include;

- service name
- contractor's names
- tender value
- date
- reason for any disqualifications
- name of those who were invited but did not submit a tender

10.4.4 Any request for an extension to a tender period by an AO must be made no later than 3 working days before the tender closing date and agreed by the Head of Commercial Procurement. If an extended date is permitted all tenderers must be advised.

#### **10.5 Amendments to Tender**

10.5.1 The Council may accept amendments to Tender submissions, including those in further competitions under Framework Agreements, providing they are received prior to the closing date for submissions.

10.5.2 A Tender may be amended after the closing date for submission if the amendment is made only in order to correct arithmetical errors or ambiguities . Such amendments may only be made with the prior approval of the Head of Commercial Procurement and Internal Audit informed.

#### **10.6 Evaluation of Tenders**

10.6.1 In the event that an abnormally low Tender is received, the AO must take advice from Corporate Procurement on how to proceed.

10.6.2 All compliant Tenders, including those in further competitions under Framework Agreements, must be checked by the AO and validated to ensure they are arithmetically correct. The AO must seek advice from Corporate Procurement if there is any doubt. If arithmetical errors or other ambiguities are found they should be notified to the Bidder, who should be requested to confirm, or withdraw or seek permission to amend their Tender. If the rates in the Tender prevail over the overall price, an amended Tender may be requested to accord with the rates given by the Tenderer. All amendments to correct any error may only be allowed at the discretion of the Head of Commercial Procurement who may seek advice from the Director of

Law and Governance (Monitoring Officer). Any decision to allow an amendment must have regard to the general principles contained in Rule 3.1.2.

10.6.3 Where the Most Economically Advantageous Tender is used as the award criteria, all evaluations including an explanation of the reasons for the scores should be recorded on the Tendering Portal The AO must then confirm to Corporate Procurement that the Contract can be awarded by updating the Smartform

10.6.4 During the evaluation process, the evaluation of quality should be separate from that of price to ensure so that one cannot influence the other before the final scoring of bids is completed. Unless agreed with Corporate Procurement all evaluation criteria should be based on the standard scoring model. For contracts valued at £100k or above, Social Value must be applied to the evaluation and will be a minimum of 5% and a maximum of 20% of the scoring model.

10.6.5

<b>Standard Scoring Model</b>		
	<b>Contracts up to £100k</b>	<b>Contracts of £100k and more</b>
<b>Price</b>	<b>70%</b>	<b>65%</b>
<b>Quality</b>	<b>30%</b>	<b>20%</b>
<b>Social Value</b>	<b>Discretionary</b>	<b>15%</b>

Officers must ensure transparency and fairness during the evaluation process.

## 10.7 Financial Evaluations

10.7.1 Corporate Procurement shall obtain financial profile reports of bidders for all appropriate procurements of £100k and above.

10.7.2 Financial profile reports for procurements of £100k and above, shall be considered jointly by the commissioning service and Corporate Procurement for the purposes of deciding to include the bid in the evaluation stage. Financial profile reports for procurements equal in value to the appropriate Regulation Threshold and above shall be submitted to the Director of Finance (S151) for the approval or rejection of the bidder to proceed to the evaluation stage in accordance with the following principles.

10.7.3 No tender shall be rejected on the grounds of lack of financial standing unless the criteria for rejection are clearly stated in the published pre-tender documentation and the tender can be rejected in accordance with those criteria.

10.7.4 The financial standing criteria must comply with Regulation 58 of the Public Contracts Regulations 2015 as being related to and proportionate to the subject matter of the contract and compliant with the requirements on minimum yearly turnovers and ratios between assets and liabilities set out in the Regulation.

10.7.5 Where the Director of Finance(S151) considers it to be necessary, annual accounts shall be obtained from bidders for appraisal.

## 10.8 Contract Award – through a Tender process

- 10.8.1 The winning Tenderer shall be awarded the Contract in accordance with the award criteria used.
- 10.8.2 Where the Tender is not within the relevant approved budget but additional budgetary provision is available, the relevant SRO, can only accept the tender by having prior approval of the Director of Finance (S151 Officer), and complying with the Financial Regulations.
- 10.8.3 The approval to award the Contract must be given in accordance with the Council's Scheme of Delegation.
- 10.8.4 All award decisions must be recorded and a Procurement Smartform signed and dated by the SRO for the relevant service and where necessary signed by the Director of Law and Governance (Monitoring Officer) and the Head of Commercial Procurement e.g. if Rules 5 or 12 apply.
- 10.8.5 A contract which has a contract value above the Regulation thresholds can only be awarded after a notice of the proposed award has been given to all unsuccessful Tenderers and the 10 day standstill period has elapsed from the date the notice was given. If the 10 days expire on a non-working day, then the notice period will be deemed to have lapsed on the next working day.
- 10.8.6 Once the decision to award a Contract is made, each Tenderer must be notified by the AO and Corporate Procurement in writing of the outcome. All Tenderers must be notified simultaneously and as soon as possible of the intention to award the Contract to the successful Tenderer(s) and this should be done via the Tendering Portal. The letters must include a description of the relative advantages of the successful Tenderer.
- 10.8.8 All challenges by Tenderers must be dealt with immediately by the SRO/AO, in consultation with Law and Governance Services and Corporate Procurement, before the award process proceeds.
- 10.8.9 Prior to commencement of the Contract, the Contract must be completed in accordance with Rule 11.2 unless Rule 11.2.5 applies.
- 10.8.10 Law and Governance Services will, where necessary, advise on the formalities for completion of the contract by parties other than the Council and how to ensure that the Contract is legally binding.
- 10.8.11 The AO and Corporate Procurement must publish a contract award notice in accordance with Public Procurement Regulations and on the Council's eSourcing Portal no later than 48 days after the date of award of the Contract where a Contract value exceeds the Regulation threshold and has been tendered pursuant to the Regulations or is subject to the relevant provision of the Regulations relating to Contract award.

10.8.12 Contract award letters, feedback to Tenderers and the contract Terms and Conditions, including any incidental documentation must be approved by Corporate Procurement prior to sending, where the value of the Contract is over the Regulation Thresholds.

10.8.13 Contract award letters and notices must be issued through the Tendering Portal unless otherwise authorised by the Head of Commercial Procurement

## 10.9 **Enquiries about the Tender process**

10.9.1 The confidentiality of Tenders and the identity of Tenderers must be preserved at all times insofar as this is compatible with the Councils' obligations under FOIA and EIR.

10.9.2 If the Council receives a request for information under the FOIA as a result of the de-briefing process, the request must be referred to both the Head of Commercial Procurement and the relevant Officer of the Council who deals with such requests. The Council will be responsible for responding to the request.

10.9.3 Any challenges, complaints or requests for feedback, clarification or further information must be referred to the Head of Commercial Procurement who will advise on how to respond and notify the Director of Law and Governance (Monitoring Officer).

## 11. **Contract Provisions and Contract Formalities**

### 11.1 **Contract Provisions**

11.1.1 All contracts must be in writing and must set out the parties' obligations, rights and risk allocations. Advice must be sought from Corporate Procurement as to the appropriate form of Contract to be used and where possible, be on the Council's standard terms and conditions.

11.1.2 All contracts, irrespective of value, shall, where appropriate, clearly specify as a minimum:

- a. What is to be supplied (i.e. the Works, materials, services, matters or things to be furnished, had or done)
- b. The provisions for payment (i.e. the price to be paid and when)
- c. The time, or times, within which the contract is to be performed
- d. The provisions for the Council to terminate the Contract and break clauses.
- e. The provision for collateral warranties from sub-contractors.
- f. The provision of Bond of Surety where applicable, Legal and Procurement to advise.
- f. Dispute resolution process.

11.1.3 Law and Governance Services can provide advice on Contract specific terms and conditions.

### 11.2 **Contract Formalities**

- 11.2.1 Once a decision to award has been made in accordance with Rule 9.5.3 or 10.7.3, the contract must be either be signed by the Officer authorised to award the Contract under Council's Scheme of Delegation or by Seal and in accordance with Rule 11.3.2.
- 11.2.2 Where the Contract is to be in writing, the AO must arrange with Law and Governance Services for the Contract including all schedules and appendices to be signed by all parties. This can be done in two ways:
- a. Sending bound hard copies of the Contract to the winning Bidder(s) or Tenderer(s) for signing; or
  - b. Sending electronic copies of the Contract to the winning Bidder(s) or Tenderer(s) for printing, binding and signing.
- 11.2.3 Before arranging for the Contract to be signed or sealed on behalf of the Council, the Law and Governance Services must check that the returned signed Contract has not been amended or altered by the winning Bidder(s) or Tenderer(s) without prior written agreement by the Council.
- 11.2.4 All Contracts which are to be formally completed in writing must be completed before the Goods are supplied, or the Service, execution of Works or Concessions Contract begins, except in exceptional circumstances, and then only with the prior approval from the Director of Law and Governance (Monitoring Officer).
- 11.2.5 All contracts must include clear provisions as to the amounts and timing of payments due under the contract. Payments should be paid in arrears upon the production of satisfactory evidence of performance. Where the total amount payable under the contract cannot be ascertained the contract must include a clear mechanism for calculating the amounts due, for example by reference to a bill of quantities or schedule of rates, and the maximum amount payable must be stated.
- 11.2.6 Approval of the relevant SRO and the Head of Commercial Procurement is required if payment is required in advance or partially in advance as necessary for provision of the service or in line with statutory guidance. Evidence of such approval and the reasons for it must be recorded.
- 11.2.7 A purchase order must be raised in the e-Procurement system for all goods, services and works requirements to be acquired through an EPS and for all Contracts. The purchase order must attach the terms and conditions of Contract between the Council and the Contractor. The exception to this is where payment is to be made by certificate within the contract conditions.  
(e.g. New Engineering Contract 3)
- 11.2.8 The AO must ensure that the person signing on behalf of the Contractor has requisite legal authority to bind the Contractor. Where there is any doubt, the AO must seek advice from Legal Services.

### 11.3 **Contracts under Seal**



11.3.1 A Contract must be sealed where:

- a. The Council wishes to extend the liability period under the Contract and enforce its terms for up to 12 years; or
- b. The price to be paid or received under the Contract is a nominal price and does not reflect the value of the goods or services; or
- c. The Contract value is £100,000 or above.

11.3.2 The seal must be affixed in accordance with the provisions of the Council's Constitution.

11.3.3 All contracts with a value of £100,000 or over will be sealed by Law and Governance Services. Contracts between £50,000 and £100,000 in value shall be signed by an authorised signatory from Law and Governance Services.

11.3.4 When the steps for finalising the contract are complete the contract can be issued to the supplier for execution as a Deed or for signature (as appropriate).

11.3.5 The supplier will seal or sign the contracts in duplicate but leave them undated.

11.3.6 Law and Governance Services must notify Corporate Procurement, Finance and the relevant SRO when the contract has been executed.

11.3.7 The contract will be dated when the Council's seal is affixed.

11.3.8 Electronic signatures may be used in accordance with the Electronic Signatures Regulations 2002, provided the security arrangements have been approved by the relevant SRO.

#### 10.4 **Transfer of Contracts**

11.4.1 No Contract should be transferred from one Contractor to another without first consulting Law and Governance Services. Contracts can only be transferred if approved in accordance with the table below:

<b>Value of Contract/Quote</b>	<b>Decision Maker</b>
All values	Director of Finance (S151 Officer) and the Director of Law and Governance (Monitoring Officer) or their nominees in accordance with the Council's Scheme of Delegation and consultation with the Head of Commercial Procurement

#### 11.5 **Insurance**

11.5.1 The AO is responsible for checking that all chosen contractors provide written evidence of adequate insurance to cover public liability, employers' liability and if necessary professional indemnity for the full duration of the contract.

11.5.2 Indemnity levels must reflect the risk to the Council which typically will be for each and every contract;

- £10 million for Public liability
- £5 million for Employers liability (or statutory minimum)
- £2 million for Professional indemnity

11.5.3 In some cases where the contract is of low risk the levels required may be reduced but only following written consent of the Director of Finance (S151 Officer) or nominee. For major contracts of long duration where contractor's exposure to liability is high, it may be appropriate to require higher limits.

**12. Waiving the Rules**

**12.1 Procedure Rules Approval**

- 12.1.1 Where an Officer intends to seek an exemption or exception to these rules as they apply to all procurements they shall arrange for consent to be obtained in writing.
- a. Such consent shall be evidenced on a Procurement Smartform Document signed by the authorised appropriate Officer/s depending on the value of the procurement as set out in the table below **prior** to the start of the procurement process.
  - b. The Procurement Smartform must be completed by the SRO/AO quoting which of the Exceptions listed below apply and why. The Procurement Smartform must be checked by Law and Governance Services and Procurement prior to signing by the authorised Officer/s.
  - c. Consent to waiving the rules will only be approved in exceptional circumstances and only when the Public Contract Regulations do not apply.

**12.2 Summary Table: Officers authorised to approve waiving of the Contract Procedure Rules**

<b>Under £50,000</b>	<b>Under £100,000</b>		<b>£100,000 and over</b>	<b>Over threshold</b>
Category Manager	Senior Category Manager		Approval of Head of Commercial Procurement and Director of Law and Governance (Monitoring Officer) or Delegated representatives	Unable to waive unless exempt from the Regulations and the Chief Executive, Director of Law and Governance (Monitoring Officer) and the Head of Commercial Procurement provide prior approval

**12.3 Exemptions**

- 12.3.1 Contracts which are exempt from the application of the Regulations and these rules include:
- a. Contracts relating solely to the acquisition or disposal of an interest in land and buildings
  - b. Transactions conducted by the Director of Finance (S151 Officer) in respect of dealing in the money market or obtaining finance for the Council
  - c. Employment contracts

**12.4 Exceptions**

- 12.4.1 Requests to waive these rules for under UK threshold contracts (or where the thresholds do not apply) may be authorised in the following circumstances, supported in all cases by appropriate evidence;
- a. goods, services or execution of works are obtainable only from one source or contractor and there is no reasonably satisfactory alternative.
  - b. compatibility issues such that procurement from another source would be uneconomic given the investment in previous infrastructure;
  - c. a waiver of the rules would be in the interests of the Council, be lawful, and provide value for money;
  - d. Where there is a legal requirement to contract with a particular supplier.
  - e. Contracts awarded to sole suppliers because of exclusive rights.

**12.5 Records of Waiver**

12.5.1 All exemptions or exceptions should be recorded by Corporate Procurement in the Contract Procedure Rules Exceptions Register and be available for inspection as required. All original Procedure Rules Approval Document evidencing waiving of the rules must be available when required.

**13. Extension or Variation/Overspend of Contracts**

13.1 The relevant SRO must not enter into variations or overspends which are within the scope of the original procurement but would increase the value of the contract singly or cumulatively by an additional 5% for contracts which are valued at £100,000 or more and 10% contracts up to £100,000 beyond the approved budget without the approval of the Director of Finance (Chief Finance Officer). A business case will be required to obtain this approval. Evidence of such approval must be recorded in writing in a Procurement Smartform.

13.2 Contract extensions must be considered for approval by the Director of Finance and the Head of Corporate Procurement (or delegated representatives). Evidence of approval granted or rejected must be recorded in writing in a Procurement Smartform

**Summary Table: Procurement Officers authorised to approve contract extensions.**

Extensions

<b>Under £50,000</b>	<b>Under £100,000</b>	<b>£100,000 and above</b>
Category Manager	Senior Category Manager	Head of Procurement or Delegated representative

- 13.2 The Head of Commercial Procurement will keep a record of such approvals.
- 13.3 The SRO can extend or vary a contract provided;
- there is provision within the contract to extend (and this has not already been utilised to its full extent)
  - the budget has been confirmed in writing or confirmation there is the budget available
  - authority is recorded in writing and
  - Legal Services prepare the documentation to record the terms of the extension or variation (if necessary depending upon the provisions of the contract).
- 13.4 If there is no provision within the contract notice or in the contract terms for extensions, legal advice should be sought.
- 13.5 Legal advice must be sought on the need to re-procure if changes amount to a significant or material alteration to the contract advertised or there is a proposed change to a named subcontractor.

**14. Sale of Council Goods or Assets**

- 14.1 When selling Council goods or assets Officers must comply with the aims of these rules (Rule 3) specifically the need to achieve best value, ensure transparency, openness, nondiscrimination, probity and accountability.
- 14.2 Appropriate authority under the relevant scheme of delegation for the sale must be evidenced before commencing the sale process.
- 14.3 The table below sets out the minimum measures Officers must take to ensure that sales achieve best value.

Sale with value of under £10,000	Sale with value under £50,000	Sale with value over £50,000
Minimum of 3 offers required wherever possible	Procurement to advise on the need to advertise to achieve an appropriate level of interest	Advertise sale appropriately

- 14.4 Corporate Procurement can advise officers on compliance regarding sales if required.

**15. Application of the Contract Procedure Rules to Schools**

- 15.1 The Schools Fair Funding Scheme (FFS) governs the management by each school of its delegated and devolved budget as determined in s.48 of the School's Standards and Framework Act 1998. Schools (other than academies) are encouraged to follow these Rules, (unless Governing bodies have taken decisions to

change reporting arrangements) but where there is conflict between the Rules and the FFS, the FFS will take precedence.

## 16. **Declarations of Interest, Anti-Bribery and Corruption**

- 16.1 The Council's reputation with regards to procurement activity is important and should be safeguarded from any imputation of dishonesty or corruption. All elected Members and Officers are reminded of their responsibilities in relation to gifts, hospitality and any conflicts of interest and should ensure they comply with the obligations set out in the Council's Members' Code of Conduct and Officers' Code of Conduct respectively and any other relevant policies, guidance or strategies relating to bribery, fraud and corruption issued or endorsed by the Council from time to time.
- 16.2 Any Member or Officer must declare any interest which could influence their judgment in relation to procurement activity in accordance with the Council's Code of Conduct.
- 16.3 No gifts or hospitality should be accepted from Bidders or Tenderers involved in procurement activity except in accordance with the Council's Code of Conduct.
- 16.4 Members and Officers involved in a procurement process must not have contact with Bidders or Tenderers whilst documents are out to tender or whilst bids are being evaluated, except, formally, through the Tendering Portal . Exceptional circumstances, where contact forms part of the process, can only be conducted with the prior written consent of the Director of Law and Governance (Monitoring Officer) and Head of Commercial Procurement.

## 17. **Reporting to Members**

- 17.1 The Officer responsible for awarding the Contract shall notify in writing the Head of Commercial Procurement who shall report at half yearly intervals to the Audit and Risk Management Committee, whenever:
- a contract is awarded the total value of which exceeds £500,000 or
  - a variation or extension to a contract value of £100,000 of greater is approved by the Director of Finance (S151 Officer) or
  - there is a waiver of the Contract Procedure Rules in relation to a contract which exceeds £100,000 in value.

## 18. **Contract Management**

- 18.1 All Contracts must have a Council Contract Owner for the entirety of the Contract. In the event that there is no named Contract Owner the AO will fulfil the role of Contract Owner.
- 18.2 The Contract Owner will be responsible for reviewing monitoring and evaluating the contract to ensure that its provisions and the services within it are being followed and performed as they should be.
- 18.3 During the life of the Contract, the Contract Owner should monitor the Contract in respect to the following:

- a. Performance (against agreed KPIs where relevant);
- b. Compliance with specification and contract;
- c. Cost;
- d. Any Best Value duties;
- e. Continuous Improvement;
- f. user satisfaction; and
- g. Risk Management
- h. Be responsible, in accordance with the Council's Equality Duties, for ensuring that workforce profiles are submitted annually from all contractors.

18.4 Where the Contract is to be re-let, this information should be available early enough to inform the approach to re-letting the next contract.

18.5 Corporate Procurement can provide advice and support on good practice in performance management of Contracts £25,000 and over

18.6 All Contracts, of £25,000 and over in value, must be included and published on the Contracts Register maintained by Corporate Procurement. This is a mandatory requirement and it is the responsibility of the SRO for each Service to ensure that they have informed Corporate Procurement of the Contracts they are responsible for and provided them with the information necessary to update the Contracts Register accordingly.

19. **Retaining Relevant Documents**

19.1 All records in relation to the award of Contracts and the associated procurement process, including supporting documentation, shall be stored by Corporate Procurement in an electronic filing system to be available for inspection by the Council's internal and external auditors, or Officer, immediately upon request. Records will be retained in accordance with relevant regulations applicable to electronic record retention.

19.2 Records of contracts shall be retained as follows:

Contracts with a value between £25,000 and £249,999	for six years after the end of the Contract
All sealed Contracts and Contracts with a value of £250,000 and above	For twelve years after the end of the Contract
Contracts that are grant funded regardless of value	Must comply with retention period above or the terms and conditions of the grant, whichever is the longer

19.3 If legislation related to any individual Contract stipulates a longer retention period than this, then the legislation requirements takes precedence over the Council's minimum periods.

19.4 Once executed, the Council shall retain one original of the complete Contract documents in line with the timescales in the table above and one copy of the complete Contract documents shall be provided to the Contractor.



# CONSTITUTION OF THE COUNCIL

## Part 4 Section 7

### OFFICER EMPLOYMENT PROCEDURE RULES

#### 1 Purpose

These standing orders set out the rules dealing with the appointment and dismissal of staff. This includes mandatory standing orders required by statute.

#### 2 Recruitment and Appointment

##### (a) All staff to be appointed on merit

Subject to those exceptions set out in section 7 of the Local Government and Housing Act 1989, every appointment of a person to a paid office or employment under the Authority (an officer of the Council) shall be made on merit.

##### (b) Declarations:

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, spouse, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or Officer of the Council; or of the partner of such persons.
- (ii) No candidate so related to a Councillor or an officer will be appointed without the authority of the Head of Paid Service or relevant Chief Officer or an officer nominated by him/her.

##### (c) Seeking support for appointment

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor or officer for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) No Councillor or officer will seek support for any person for any appointment with the Council.

#### 3. Recruitment of Chief Officers and Deputy Chief Officers

- (a) A 'Chief Officer' and a 'Deputy Chief Officer' means those officers of the Council as defined by Part 1 of the Localism Act 2011 and as listed in Article 12 of this Constitution.
- (b) Where the Council proposes to appoint a Chief Officer or Deputy Chief Officer, and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:
  - (i) draw up a statement specifying:
    - (1) the duties of the officer concerned; and
    - (2) any qualifications or qualities to be sought in the person to be appointed;
  - (ii) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - (iii) make arrangements for a copy of the statement mentioned in paragraph (i) above to be sent to any person on request.
- (c) Where a post has been advertised as provided in (a), the Council shall:
  - (i) interview all qualified applicants for the post, or
  - (ii) select a short list of such qualified applicants and interview those included on the short list.
- (d) Where no qualified person has applied, the authority shall make further arrangements for advertisement in accordance with (a)(ii) above.

**4. Appointment of Head of Paid Service, Monitoring Officer and the Chief Finance (S.151) Officer**

- (a) The full Council must appoint the Head of Paid Service following consideration of any recommendation of the Senior Officer Appointments & Staffing Sub-Committee (Appointment Panel) as to the person to be appointed.
- (b) The full Council shall appoint the Monitoring Officer and the Chief Finance (S.151) Officer following consideration of any recommendation of the Senior Officer Appointments & Staffing Sub-Committee (Appointment Panel) as to the person to be appointed.
- (c) The full Council shall also appoint the officer designated as the Returning Officer and the Electoral Registration Officer.

**5. Appointment of Chief Officers**

The Senior Officer Appointments & Staffing Sub-Committee (Appointment Panel) will appoint all other Chief Officers, whose posts are normally designated as a 'Director'. The Sub-Committee may make a recommendation to Council in respect of those chief officers identified at paragraph (4) above.



## 6. **Appointment etc of Deputy Chief Officers**

The appointment of and all other associated employment matters relating to all Deputy Chief Officers, whose posts may variously be described or designated as 'Assistant Director', 'Head of Service', 'Chief [Technical] Officer', 'Service Manager' or similar, has been delegated by Council to the Head of Paid Service or an officer nominated by him or her.

## 7. **Other appointments**

(a) **Officers other than Chief Officers** – The appointment of all officers other than a Chief Officer or Deputy Chief Officer (excepting assistants to political groups referred to at (b) below) is the responsibility of the Head of Paid Service or his/her nominee and may not be made by Councillors.

(b) **Assistants to political groups.** Appointment of an assistant to a political group under the Local Government & Housing Act 1989 shall be made in accordance with the wishes of that political group.

## 8. **Disciplinary action in respect of the Head of Paid Service, Monitoring Officer or Chief Finance (s.151) Officer**

(a) **Suspension** - The Head of Paid Service, Monitoring Officer or Chief Finance Officer and other Chief Officer(s) may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months without a review of such suspension first taking place.

(b) **Potential for dismissal** - Disciplinary action or situations in which there is the potential to dismiss either the Head of Paid Service, Monitoring Officer or Chief Finance Officer on the grounds of misconduct and potential to dismiss for other reasons such as capability and some other substantial reason will require the involvement of an Independent Investigator. Where it results in a proposal to dismiss, it will require the involvement of an Independent Panel before the Council considers the proposal (in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015)).

(c) **Procedure** - Paragraphs 13 and 13A and Model Procedure A (England) of the Conditions of Service Handbook of the Joint Negotiating Committee for Local Authority Chief Executives (13<sup>th</sup> October 2016) give effect to these provisions and will be used in circumstances where disciplinary action against the Head of Paid Service, Monitoring Officer or s151 Officer is contemplated.

## 9. **Disciplinary action and dismissal of, and disciplinary action against, Chief Officers and Deputy Chief Officers**

Subject to Standing Order 8 above, the Head of Paid Service or an officer nominated by him or her is authorised to discharge the functions of dismissal of, and taking disciplinary action against, chief officers and deputy chief officers.

10. **Dismissal of and disciplinary action against other officers**

Councillors will not be involved in the dismissal of or taking disciplinary action against any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, although the Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to Members in respect of disciplinary action resulting in dismissal only.

11. **Statement of Pay Policy**

A statement of the Council's pay policy will be published annually.



# CONSTITUTION OF THE COUNCIL

## Part 5 Section 1

### THE MEMBERS CODE OF CONDUCT

#### Introduction

This Authority and those across the Liverpool City Region have adopted this Code of Conduct to promote and maintain high standards of conduct and underpin public confidence in the authority and its members and co-opted members. It is adapted from the Local Government Association (LGA) 2021 Model Councillor Code of Conduct and Guidance.

The LGA Model Code was introduced by a Joint Statement from the political groups that:

“The role of councillor across all tiers of local government is a vital part of our country’s system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public’s trust in local government.”

The Code sets out general obligations about the standards of conduct expected of Members and co-opted members of the authority, together with provisions about registering and declaring interests. It has been adopted under section 27 of the Localism Act 2011 by the Authority as of 6<sup>th</sup> September 2021 (amended for clarification May 2022).

The LGA Model Code is to be reviewed annually and is supported by published Guidance.

## Definitions

For the purposes of this Code of Conduct, a “Member” means a member or co-opted member of a local authority. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who:

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

For the purposes of this Code of Conduct, “local authority” includes the upper tier councils, town or parish councils and the combined authorities (the Liverpool City Region Combined Authority, the Merseyside Fire and Rescue Authority and the Merseyside Recycling and Waste Authority) together with any joint committee of two or more of the local authorities across the Liverpool City Region.

## Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a Member, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Members, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all Members and your specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of Member and local government.

## General principles of Member Conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, Members and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of Member.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of Member.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community.
- I do not improperly seek to confer an advantage, or disadvantage, on any person.
- I avoid conflicts of interest.
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

### **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Member or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Member.

This Code of Conduct applies to you when you are acting in your capacity as a Member which may include when:

- you misuse your position as a Member; or
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Member.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Member.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct.

### **Standards of Member conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a Member. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

## General Conduct

### 1. Respect

#### As a Member:

- 1.1 **I treat other Members and members of the public with respect.**
- 1.2 **I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Member, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Members.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Members, where action could then be taken under the Member Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Member- officer protocol.

### 2. Bullying, harassment and discrimination

#### As a Member:

- 2.1 **I do not bully any person.**
- 2.2 **I do not harass any person.**
- 2.3 **I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Members have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of officers of the local authority**

**As a Member:**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and access to information**

**As a Member:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it;**
  - ii. I am required by law to do so;**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**

**iv. the disclosure is:**

- 1. reasonable and in the public interest; and**
- 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
- 3. I have consulted the Monitoring Officer prior to its release.**

**4.2 I do not improperly use knowledge gained solely as a result of my role as a Member for the advancement of myself, my friends, my family members, my employer or my business interests.**

**4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

### **As a Member:**

**5.1 I do not bring my role or local authority into disrepute.**

As a Member, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Members and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/it's functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow Members to account and are able to constructively challenge and express concern about decisions and processes undertaken by the local authority whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

### **As a Member:**

**6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**



Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

**As a Member:**

**7.1 I do not misuse local authority resources.**

**7.2 I will, when using the resources of the local authority or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a Member.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a Member more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

**As a Member:**

**8.1 I undertake Code of Conduct training provided by my local authority.**

**8.2 I cooperate with any Code of Conduct investigation and/or determination.**

**8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a Member to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

## **Protecting your reputation and the reputation of the local authority**

### **9. Interests**

#### **As a Member:**

**9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of Members of the local authority.

You need to register your interests so that the public, local authority employees and fellow Members know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other Members when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B** sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

### **10. Pre-Determination or Bias**

## **As a Member I:**

- 10.1 Never place myself under any financial or other obligation to outside individuals or organisations who might seek to influence me in the performance of my official duties.**
- 10.2 Consider all matters with an open mind and make decisions based upon weighing the best evidence before me, fairly and on merit.**

Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life, you should not be prohibited from participating in a decision in your role as Member. However, you must ensure that your integrity is not compromised.

You may be pre-disposed to a number of outcomes to a decision, based upon your, philosophy, beliefs or political allegiance (including any application of a Group whip), but this must not predetermine your actions or the outcome of a decision you are to make. You must always remain open to the potential for further evidence or argument to alter any previously expressed or held viewpoint at the time of making your decision. For this reason, particularly in relation to contractual matters or those affecting individuals' civil rights, it is often best to be cautious about how or if your views are expressed before coming to make a decision.

## **11. Gifts and hospitality**

### **As a Member:**

- 11.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 11.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 11.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Member. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However,

you do not need to register gifts and hospitality which are not related to your role as a Member, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Member. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

“**Disclosable Pecuniary Interest**” means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

“**Partner**” means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

“**Standard Dispensation**” means a dispensation that has been granted by the Authority relieving the member or co-opted member from the restrictions or obligations under this Code as detailed in **Table 3** below.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A ‘sensitive interest’ is as an interest which, if disclosed, could lead to the Member, or a person connected with the Member, being subject to violence or intimidation.
3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Disclosure and Non-participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation or a Standard Dispensation applies. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you in exercise of your function as a Member (such as Chair or Vice-Chair or acting as consultee to an officer

decision or in attending an informal briefing as Leader, Deputy Leader, Group Leader or Spokesperson), you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

## **Disclosure of Other Registerable Interests and Non-Registerable Interests (Personal and Prejudicial Interests)**

### **Personal Interests**

6. Where a matter arises at a meeting which **affects**:
  - a. your own financial interest or well being;
  - b. a financial interest or well-being of a relative, close associate; or
  - c. a financial interest or wellbeing of a body included in those you need to disclose under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing the interest the following test should be applied

### **Prejudicial Interests**

7. In the following instances, you must disclose the interest and you may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.  
If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
  - a. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in **Table 2**).
  - b. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate.
  - c. Where a matter **affects** the financial interest or well-being:
    1. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
    2. a reasonable member of the public knowing all the facts

would believe that it would affect your view of the wider public interest

8. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

### **Overview and Scrutiny Committees**

9. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where:
  - (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's committees, sub-committees, boards, joint committees or joint subcommittees; and
  - (b) at the time the decision was made or action was taken, you were a member of the committee, sub-committee, joint committee, board or joint sub-committee mentioned in sub-paragraph (a) and you were present when that decision was made or action was taken.
10. Paragraph 9 does not prevent you attending and participating in a meeting if you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers.

**N.B.** Paragraphs 9 and 10 above apply to Members when participating in joint or combined authority committee meetings that have been established for the conduct of overview and scrutiny committee functions.

Wirral Council has elected to not establish an overview and scrutiny committee and these paragraphs are disapplied in respect of Council meetings.



## Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	<p>Any payment or provision of any other financial benefit (other than from the local authority) made to the Member during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a Member, or towards his/her election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
<b>Contracts</b>	<p>Any contract made between the Member or his/her spouse or civil partner or the person with whom the Member is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council</p> <p>—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>

<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the Member or his/her spouse or civil partner or the person with whom the Member is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	Any tenancy where (to the Member's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the Member, or his/her spouse or civil partner or the person with whom the Member is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where— (a) that body (to the Member's knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the Member, or his/ her spouse or civil partner or the person with whom the Member is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## Table 2: Other Registrable Interests

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) any unpaid directorships
- b) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- c) any body
  - (i) exercising functions of a public nature
  - (ii) any body directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management

## Table 3: Standard Dispensations

1. You will not be regarded as having a prejudicial interest in any business of your authority in respect of any Other Registrable Interest:
  - (a) where that business relates to:
    - (i) another local authority of which you are also a member;
    - (ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
    - (iii) a body to which you have been elected, appointed or nominated by your authority, but only in the circumstance where the sole purpose of participating is to make representations, answer questions or give evidence relating to the business at the request of the Committee meeting;
    - (iv) your role as a school governor, unless it relates particularly to the school of which you are a governor; or
    - (v) your role as a member of a National Health Service board or governing body;
  - (b) except that no dispensation described in sub-paragraph (a) above will apply where the business to be transacted at the

meeting is the determination of any regulatory approval, consent, licence, permission or registration (for example, determination of an application for planning permission or consent or licence under the Licensing Act 2003).

2. You will not be regarded as having a prejudicial interest in any business where that business relates to:
  - (a) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;
  - (b) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;
  - (c) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;
  - (d) the functions of your authority in respect of an allowance or payment made under sections 22(5), 24(4) and 173 to 176 of the Local Government Act 1972, an allowance or pension under section 18 of the Local Government and Housing Act 1989 or an allowance or payment under section 100 of the Local Government Act 2000;
  - (e) any ceremonial honour given to one or more Members; or
  - (f) the setting of the authority's council tax requirement, council tax, levy or a precept under the Local Government Finance Act 1992 (except that this dispensation does not apply if you are two months or more in arrears with their Council Tax you must declare this to the meeting and must not vote on budget recommendations, as to do otherwise can be a criminal offence).

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## MEMBERS' PLANNING CODE

### Introduction

**The aim of this Code:** to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

One of the key purposes of the planning system is to regulate the development and use of land in the public interest. **Your role as a Member of the Planning Authority is** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. You are also a democratically accountable decision-taker who had been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies **provided** that you have considered all material considerations and have given fair consideration to relevant points raised.

**When the Code applies:** this code applies to Members at all times when involving themselves in the planning process. This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings. It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

**If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.**

### 1. Relationship to the Members' Code of Conduct

- **Do** apply the rules in the Members' Code of Conduct first, which must always be complied with. This is both the rules on interest, Disclosable Pecuniary Interests (DPIs) and any other interests identified by the Authority, and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- **Do** then apply the rules in this Members' Planning Code, which seek to explain and supplement the Members' Code of Conduct and the law on decision making for the purposes of planning control. If you do not abide by this Members' Planning Code, you may put:
  - the Council at risk of proceedings on the legality of the related decision or maladministration; and
  - yourself at risk of 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

Localism Act 2011, a complaint being made to the police to consider criminal proceedings.

## 2. Development Proposals and Personal Interests

- **Do** disclose the existence and nature of your interest as required by the Members' Code of Conduct.
- **Do take into account when approaching a decision** that the Principle of Integrity is defined in terms that  
*"Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships**".*

It is therefore advisable that you:

- **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable or other personal conflict of interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.
- **Do** note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate officer, in person or in writing, but that your role as a councillor may place additional limitations on you in representing the proposal in which you have a personal interest.
- **Do** notify the Monitoring Officer in writing where it is clear to you that you have a disclosable pecuniary interest or other personal conflict of interest and note that:
  - you should send the notification no later than submission of that application where you can;
  - the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers;
  - you must not get involved in the processing of the application; and
  - it is advisable that you employ an agent to act on your behalf in respect of the proposal when dealing with officers and in public speaking at Committee.

## 3. Fettering Discretion in the Planning Process (natural justice, predisposition and predetermination)

- **Don't** fetter your discretion by approaching the decision with a closed mind.
- **Do** be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that



these comments have an added measure of protection under the Localism Act 2011.

- **Do** keep at the front of your mind that, when you come to make the decision, you
  - are entitled to have and to have expressed your own views on the matter, provided you are prepared to reconsider your position in the light of all the evidence and arguments;
  - must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice as well as the arguments from all sides;
  - are not required to cast aside views on planning policy you held when seeking election or otherwise acting as a Member, in giving fair consideration to points raised;
  - are only entitled to take account a material consideration and must disregard considerations irrelevant to the question and legal context at hand; and
  - are to come to a decision after giving what you feel is the right weight to those material considerations.
- **Do** be aware that you can be biased where the Council is the landowner, developer or applicant if you have acted as, or could be perceived as being, a chief advocate for the proposal. This is more than a matter of membership of both a Policy Committee (or any other proposing body) and the Planning Committee, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.
- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body, provided:
  - the proposal does not substantially effect the wellbeing or financial standing of the consultee body;
  - you make it clear to the consultee body that:
    - your views are expressed on the limited information before you only;
    - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area or ward, as and when it comes before the Committee and you hear all of the relevant information; and
    - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee.
- **Do** explain that you do not intend to speak and vote as a member of the Committee because you will be perceived as having judged (or you reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes. Use the disclosure form provided for disclosing interests of any type.
- **Do** take the opportunity to exercise your separate speaking rights as a Ward Member where you have represented your views or those of local

electors and fettered your discretion, but do not have a disclosable or other personal conflict of interest. Where you do:

- advise the proper officer or Chair that you wish to speak in this capacity before commencement of the item;
- remove yourself from the seating area for members of the Committee for the duration of that item; and
- ensure that your actions are recorded.

#### 4. Contact with Applicants, Developers and Objectors

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should seek to arrange that meeting yourself through a request to the Senior manager responsible for development control to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- **Do** otherwise:
  - follow the Authority's rules on lobbying;
  - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
  - report in writing to the Director of Regeneration & Place, or relevant senior manager responsible for development control, any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file

#### In addition in respect of presentations by applicants/developers:

- **Don't** attend a planning presentation without requesting an officer to be present.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the planning authority.
- **Do** be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at a committee.

#### 5. Lobbying of Councillors

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the Committee's decision making, to make any sort of promise to vote one way or another or such a firm point of view that it amounts to the same thing.
- **Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible, including its addition to your register of interests where relevant.
- **Do** copy or pass on any lobbying correspondence you receive to the senior manager responsible for development control at the earliest opportunity.
- **Do** promptly refer to the senior manager responsible for development control any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- **Do** note that, unless you have a disclosable or overriding other personal conflict of interest, you will not have fettered your discretion or breached this Planning Code through:
  - listening or receiving viewpoints from residents or other interested parties;
  - making comments to residents, interested parties, other Members or appropriate officers (making clear that you must keep an open mind when it comes to making the decision);
  - seeking information through appropriate channels; or
  - being a vehicle for the expression of opinion of others in your role as a Ward Member.

## 6. Lobbying by Councillors

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals unless it is your intention to openly campaign on the matter and will therefore step away from the Committee when it comes to make its decision.
- **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals (such as the Victorian Society, CPRE, Ramblers Association or a local civic society), but you should normally seek to disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal.

- **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- **Don't** decide or discuss how to vote on any application at any 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. Site Visits/Inspections

- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:
  - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
  - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- **Do** ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all Members of the Committee
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party, with the exception of the Ward Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- **Don't** express opinions or views.
- **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
  - you feel it is essential for you to visit the site other than through attending the official site visit,
  - you have first spoken to the senior manager responsible for development control about your intention to do so and why (which will be recorded on the file) and
  - you can ensure you will comply with these good practice rules on site visits.

## 8. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.

- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

## 9. Officers

- **Don't** put pressure on officers to put forward a particular recommendation. This does not prevent you from asking questions or submitting views to the Development Management Manager, which may be incorporated into any committee report.
- **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting with those officers who are authorised by the Corporate Director to deal with the proposal at a Member level.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Officers' Code of Conduct and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

## 10. Decision Making

- **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your planning reasons are recorded and repeated in the report to the Committee.
- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** comply with section 38 of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- **Do** have recorded the reasons for a Committee decision to defer any proposal.
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

## 11. Training

- **Don't** participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- **Do** participate in any periodic review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.



# CONSTITUTION OF THE COUNCIL

## Part 5 Section 3

### PROTOCOL FOR MEMBER/OFFICER RELATIONS

#### Content:

1. Introduction
2. Members
3. Officers
4. The Relationship
5. Support Services to Members and Party Groups
6. Correspondence
7. Press and Media
8. Involvement of Ward Councillors
9. Breaches of the Protocol

## 1. Introduction

- 1.1 The purpose of this protocol is to guide Members and Officers of the Council in their relations with one another. It is hoped the Protocol will help build and maintain good working relationships between Members and Officers as they work together. Employees who are required to give advice to members are referred to as “Officers” throughout.
- 1.2 A strong, constructive, and trusting relationship between Members and Officers is essential to the effective and efficient working of the Council.
- 1.3 This protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of Local Government and they therefore demand very high standards of personal conduct.
- 1.4 The following extract from the beginning of the previous national guidance on conduct for councillors remains relevant in its description that:
- “1. Both Councillors and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council’s work under the direction and control of the council, their committees and sub-committees.
- “2. Mutual respect between Councillors and Officers is essential to good local government.”
- 1.5 The provisions of this Protocol will be interpreted having regard to the requirements of the Members’ Code of Conduct, the Officers’ Code of Conduct, the Council’s Whistleblowing Protocol and the Council’s policies, procedures and processes.
- 1.6 At the heart of the Codes, and this Protocol, is the importance of mutual respect and also of civility. Councillors should not raise matters relating to the conduct or capability of an officer, or of officers collectively, in a manner that is incompatible with this Protocol at meetings held in public. This is a long-standing tradition in public service. An officer has no means of responding to criticisms like this in public.
- 1.7 Neither should an officer raise with a councillor matters relating to the conduct or capability of another officer or to the internal management of the section or Directorate in a manner that is incompatible with the objectives of this Protocol.
- 1.8 A Member who is unhappy about the actions taken by, or conduct of, an officer should:
- avoid personal attacks on, or abuse of, the officer at all times,
  - ensure that any criticism is well founded and constructive,
  - ensure that any criticism is made in private,
  - take up the concern with the appropriate Director or Deputy Chief Officer.
  - If the matter is of a particularly serious nature to inform the Chief Executive



## 2. Members

2.1 Mutual respect between Councillors and Officers is essential to good Local Government. Close personal familiarity between individual Councillors and Officers can damage this relationship and prove embarrassing to other Councillors and Officers.

It is important that any dealings between Members and Officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.

2.2 In line with the Code of Conduct, as set out in Part 5(1) of this Constitution, a Member must treat others with respect and must not do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Council.

2.3 Officers can expect Members:

- to act within the policies, practices, processes and conventions established by the Council
- to work constructively in partnership with Officers acknowledging their separate and distinct roles and responsibilities
- to understand and support the respective roles and responsibilities of Officers and their associated workloads, pressures and reporting lines
- to give political leadership and direction and to seek to further their agreed policies and objectives with the understanding that Members have the right to take the final decision in issues based on advice to treat them fairly and with respect, dignity and courtesy
- to act with integrity, to give support and to respect appropriate confidentiality
- to recognise that Officers work to the instructions of their Senior Officers and not to individual Members
- not to subject them to intimidation, harassment, or put them under undue pressure. Members will have regard to the seniority of Officers in determining what are reasonable requests, having regard to the relationship between the Member and Officer, and the potential vulnerability of Officers, particularly at junior levels
- not to request them to exercise discretion which involves acting outside the Council's policies and procedures
- not to authorise, initiate, or certify any financial transactions or to enter into any contract, agreement or undertaking on behalf of the Council or in their role as a Member without proper and lawful authority
- not to use their position or relationship with Officers to advance their personal interest or those of others or to influence decisions improperly
- to comply at all times with the Members Code of Conduct, the law, the Constitution and such other policies, procedures, protocols and conventions agreed by the Council.

2.4 It is important that Members of the Authority:

- respect the impartiality of Officers and not undermine their role in carrying out their duties
- do not ask Officers to undertake work, or act in a way, which seeks to support or benefit a particular political party or gives rise to an Officer being criticised for operating in a party political manner
- do not ask Officers to exceed their authority where that authority is given to them in law, by the Council or by their Managers

2.5 The Head of Paid Service, the Monitoring Officer and the Chief Finance (section 151) Officer and other Statutory Officers have specific responsibilities placed on them by law. These responsibilities go beyond their obligations as employees of the Council. Where an Officer is discharging his/her responsibilities under any statutory office a Member or Members shall not:

- improperly interfere with or obstruct the Officer in exercising those responsibilities
- victimise any Officer who is discharging or has discharged his/her responsibilities of the Statutory Office

### **3. Officers**

3.1 The primary role of Officers is to advise, inform and support all members and to implement the lawfully agreed policies of the Council.

3.2 Officers are responsible for day-to-day managerial and operational decisions within the Council. Members should avoid inappropriate involvement in such matters.

3.3 In performing their role Officers will act professionally, impartially and with political neutrality. Whilst Officers will respect a Member's view on an issue, the Officer should not be influenced or pressured to make comments, or recommendations which are contrary to their professional judgement or views.

3.4 Officers should:

- implement decisions of the Council and its subordinate bodies which are lawful, which have been properly approved in accordance with the requirements of the law and the Council's Constitution and are duly recorded.
- work in partnership with Members in an impartial and professional manner
- assist and advise all parts of the Council. Officers must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
- respond to enquiries and complaints in accordance with the Council's standards protocol
- be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.
- act with honesty, respect, dignity and courtesy at all times
- provide support and learning and development opportunities for Members to help them in performing their various roles

- not seek to use their relationship with Members to advance their personal interests or to influence decisions improperly
- comply, at all times, with the Officer Code of Conduct, and such other Policies or Procedures approved by the Council

3.5 Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on Officers' involvement in political activities.

#### **4. The Relationship**

4.1 Members and Officers are indispensable to one another. However, their responsibilities are distinct. Members are accountable to the public, whereas Officers are accountable to the Council as a whole.

At the heart of the Codes, and this Protocol, is the importance of mutual respect and also of civility. Councillors should not raise matters relating to the conduct or capability of an officer, or of officers collectively, in a manner that is incompatible with this Protocol at meetings held in public. This is a long-standing tradition in public service. An officer has no means of responding to criticisms like this in public.

4.2 There is a statutory recognition for party groups and officers may be properly called upon to support and contribute to deliberations by party groups when giving preliminary consideration to matters of Council of business in advance of its consideration by the relevant Council decision making body. This could be a meeting with a Chair or Spokesperson or a full party group meeting.

4.3 Any requests for advice or attendance is to be directed through the Group Leaders or Chairs/Spokespersons for the relevant Committee. The request shall be made to the relevant Chief Officer or, in their absence, to their deputy or the next appropriate lower tier officer. An officer accepting an invitation to one political group or individual will not decline an invitation to advise another political group or individual on the same subject, although the Officer is not obliged to offer to advise another political group on the same subject.

4.4 It is important that the following factors are taken into consideration when an officer attends a party group meeting:

- Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business and only matters relating to Council business should be discussed when officers are in attendance.
- Where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.
- Party Group Meetings are not empowered to make decisions on behalf of the Council and conclusions reached at such meetings should not be interpreted or acted upon as such.

- It is incumbent on a party group to declare if a non-Councillor will be in attendance and in such circumstances, access to information procedure rules apply and the officer reserves the right to not provide advice.
- Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group, unless agreed otherwise.

- 4.6 It is clearly important that there should be a close working relationship between the Chair of a Committee and the Chief Officers who support that Committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members and other Party Groups.
- 4.7 Whilst the Chair of a Committee (or Sub-Committee) will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, usually together with the Spokespersons of a Committee, it must be recognised that in some situations an Officer will be under a duty to submit a report on a particular matter. Similarly, an Officer will always be fully responsible for the contents of any report submitted in his/her name. Any issues arising between a Chair or Spokespersons and an Officer in this area should be referred to the Chief Executive for resolution.
- 4.8 The Council's delegation scheme and resolutions passed at Committee meetings authorise a named officer to take action, sometimes in consultation with one or more Members such as the Chair and Vice-Chair of a Committee. In these circumstances it is the officer, rather than the Member, who takes the decision or action and it is the officer who is accountable for it.

## **5. Support Services to Members and Party Groups**

- 5.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport, etc.) to Members is to assist them in discharging their role as members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

## **6. Correspondence**

- 6.1 Correspondence between an individual Member and an Officer should not normally be copied (by the officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of "silent copies" should not be employed. Acknowledging that the "BCC" system of e-mailing is used, it should be made clear at the foot of any e-mails if another Member has received an e-mail by adding "cc Councillor x."
- 6.2 Official letters or emails on behalf of the Council should normally be sent out over the name of the appropriate Officer, rather than over the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter or email to appear over the name of a Member, but this should be the exception rather than the norm. Letters or emails which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

6.3 Correspondence to individual Members from officers concerning regulatory matters such as planning, enforcement, licensing and environmental health matters should not be sent or copied to complainants or other third parties if they are marked “confidential”. In doing so, the relevant officer should seek to make clear what is to be treated as being shared with the Member in confidence only and why that is so.

## **7. Press and Media**

7.1 The full guidance on the Council’s policy towards interaction with the press and media can be found within the Press and Media Protocol contained at Part 5(4) of this Constitution. In summary, it is required as follows.

7.2 The Council must comply with the provisions of the Local Government Act 1986 (“the Act”) regarding publicity. All media relations work will comply with the national Code of Practice for Local Government Publicity. The Code is statutory guidance and the Council must have regard to it and follow its provisions when making any decision on publicity.

7.3 The Leader, Deputy-Leader and Chairs act as spokespersons for the Council in responding to the press and media and making public statements on behalf of the Council. The Leader, Deputy-Leader and Chairs should liaise with the Communications Team on all forms of contact with the press and media. Annexed to this protocol is a note on the practice for the issue of press releases.

7.4 A Chief Officer or Deputy Chief Officer or nominated representative may respond to press enquiries but should confine any comments to the facts of the subject matter and the professional aspects of the function concerned. On no account must an officer expressly or impliedly make any political opinion, comment or statement.

7.5 Any press release that may be necessary to clarify the Council’s position in relation to disputes, major planning developments, court issues or individuals’ complaints should be approved by the appropriate Chief Officer or the Monitoring Officer.

7.6 For more detailed information and guidance regarding the role of Members in connection with the use of social media, reference should be made to the Council’s Social Media Protocol contained as an Annexe to the Press and Media Protocol as Part 5(4)(a) of this Constitution.

## **8. Involvement of Ward Councillors**

8.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise.

## **9. Breaches of the Protocol**

9.1 Where a Member is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the appropriate Director or Deputy Chief Officer. Where the Officer concerned is a Director or Deputy Chief Officer, the matter

should be raised with the Chief Executive. Where the employee concerned is the Chief Executive, the matter should be raised with the Monitoring Officer.

- 9.2 Where the relationship between Members and Officers breaks down or becomes strained, every effort will be made to resolve matters informally, through conciliation by an appropriate senior manager or Members.
- 9.3 Where an officer feels that he or she has not been properly treated with respect and courtesy, or is concerned about any action or statement relating to him/herself or a colleague by a councillor, they should raise the matter with their line manager, Director or the Chief Executive as appropriate. In these circumstances the Chief Executive or Director will take appropriate action either by approaching the individual councillor and/or the party group leader.
- 9.4 Officers will also have recourse to the Grievance Procedure or to the Council's Monitoring Officer, as appropriate. In the event of a grievance or complaint being upheld, the matter will be referred to the Chief Executive who, having advised the Leader of the Council and the appropriate Group Leader(s), will decide on the course of action to be taken, following consultation with the Constitution and Standards Committee if appropriate.
- 9.5 Breaches of this Protocol by a Member may constitute a breach of the Members' Code of Conduct.
- 9.6 Breaches of this Protocol by an Officer may be referred for disciplinary action.



## **PRESS AND MEDIA PROTOCOL**

### **Content**

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## 1.0 SUMMARY

- 1.1 This protocol has been produced to clarify good practice relating to the effective management of media relations at Wirral Council and is supplementary to the Protocol on Member and Officer Relations
- 1.2 Given that not all situations can be covered in detail as much depends on a set of circumstances at any one time, this protocol is designed to be as flexible as possible yet retain a trusted and tested workflow.
- 1.3 The protocol applies to all Elected Members, Committee Chairs (and committee members), and council officers that may be contacted by local, regional, national or specialist media, and includes print as well as broadcast media.
- 1.4 The aim of the protocol is to ensure that the council makes the best use of its communications resources to support open, accessible, and responsive communications, whilst acknowledging that council resources may not be used for party political purposes. In all cases, the council's approach to the media should be:
  - open and honest
  - proactive
  - responsive
  - timely
- 1.5 It clearly sets out the respective roles of all Elected Members and officers in dealing with media enquiries and provides clarity on the circumstances for which Members and other council representatives should comment / be quoted in press releases, statements etc.
- 1.6 Adherence to the protocol will ensure consistency of standards, accuracy of information and appropriate political and officer input with a view to protecting and enhancing the reputation of Wirral Council.
- 1.7 The ability to act as quickly and decisively depends on being fully up to date as a Communications Team. All Elected Members and officers should ensure issues which will affect the council's reputation should be brought to the attention of the Communications Team in confidence as soon as possible.

## 2. Legal Framework

- 2.1 Under Section 2 of the Local Government Act 1986 a places a prohibition upon the council that it:

*"shall not publish any material which, in whole or in part, appears to be designed to effect support for a political party. In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and in particular the following matters:*



- (a) *Whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another;*
- (b) *Where material is part of a campaign the effect which the campaign appears to be designed to achieve"*

2.2 The term 'publicity' is defined in the Act as "any communication in whatever form, addressed to the public at large or a section of the public".

2.3 Local authorities are also required by section 4(1) of the Act to have regard to the Code of Recommended Practice on Local Authority Publicity contents of in coming to any decision on publicity.

### **3. The Publicity Code**

3.1 The Code of Recommended Practice on Local Authority Publicity was last issued in 2011.

3.2 The Publicity Code is grouped into seven principles for local authorities to follow, that the Council's publicity should:

- be lawful
- be cost-effective
- be objective
- be even-handed
- be appropriate
- have regard to equality and diversity
- be issued with care during periods of heightened sensitivity.

### **4.0 COMMUNICATION PRINCIPLES**

4.1 The council's Communications and Marketing strategy complies with the following principles:

- i) To support honest, open, two-way communication
- ii) To promote and protect the reputation of the council
- iii) To regulate the correct use of the corporate identity and style
- iv) To ensure all publicity is produced in an easy to understand and accessible format and style
- v) To practice a proactive and planned approach to media handling, advertising, marketing, and wider communication
- vi) To provide effective communication and marketing support
- vii) To promote the council's vision, priorities, and policies
- viii) To set standards on communicating with hard to reach groups
- ix) To support effective partnership working through developing communication strategies for joint projects

4.2 The council must comply with the provisions of the Local Government Act 1986 (“the Act”) regarding publicity. All media relations work will comply with the national Code of Practice for Local Government Publicity. The Code is statutory guidance and the council must have regard to it and follow its provisions when making any decision on publicity. This is explained at sections 2 and 3 above.

## **5.0 COMMUNICATIONS & MARKETING**

5.1 The council’s Communications and Marketing team provides advice and support to all directorates, council officers and Elected members. Its main roles are to manage and maintain relationships and reputation, as well as to promote pro-active publicity on council policy, local authority partnerships, local initiatives / achievements and other issues affecting the council and the borough.

5.2 The service should be the first point of contact for all media enquiries and all outgoing publicity or potential promotional opportunities with the press or any other publications.

5.3 Their expertise and knowledge support Elected Members and officers to ensure effective media handling. This includes opportunities for proactive positive news are maximised and negativity is mitigated and managed where possible.

5.4 No Wirral Council press releases or publications should be issued without the involvement of the Communications and Marketing team.

5.5 The council’s communication resources may not be used to affect or be designed to affect public support for a political party or to provide a political advantage to an Elected Member.

## **6.0 SOCIAL MEDIA**

6.1 The council will use social media, including X, Linked In etc and Facebook, to promote its news, in addition to conventional media. The Communications and Marketing team is responsible for the council’s main channels and has the discretion to write and post material without clearance, provided it is in line with the social media protocol and the council’s key messages. Social media activity should not be used to damage the reputation of the council.

## **7.0 MEDIA RELATIONS**

7.1 The council values the media as one of its key partners in communication and aims to forge strong professional links with local, regional, and national media, and is committed to being transparent and maintaining a positive working relationship. We respect the right of the media to report on any given topic.

7.2 Providing a professional information service to the media is a key responsibility for the council. The council takes a proactive approach to working with the media wherever possible.

- 7.3 The way in which the council is portrayed has a major influence on how it is perceived, and every opportunity should be taken to publicise the council's services, decisions, policies, and initiatives.
- 7.4 All Elected Members and officers should support the Communications and Marketing team in responding to media enquiries in a timescale that meets journalists' deadlines. If the council fails to reply in time, the journalist may source their story elsewhere or record a 'No comment' response, which may not be in the council's interests.
- 7.5 The Communications and Marketing team will never knowingly mislead the media. In order to maintain a good long-term relationship, both the team and key named council officers need to be trusted by the media and the wider community.

## **8.0 MEDIA ENQUIRIES**

- 8.1 All media enquiries should be referred to the Communications & Marketing team in the first instance. This enables the team to make a judgement about how an enquiry should be addressed and by whom. The response can often be handled with a written statement.
- 8.2 The vast majority of council publicity will include a written quote or interview, which can help to make the content more interesting and provide an authoritative voice on the subject matter. In certain cases, where a press release or statement is simply to provide a brief announcement or notice, this may not be necessary.
- 8.3 Any media enquiries that are deemed to be of a party political nature, will be referred to the Leader of the relevant party group for their information/response. Elected Members should make their own arrangements for issuing party political material to the media and ensure that the material does not use the council's brand identity or resources.
- 8.4 Unless an agreement has been made, it is not appropriate for officers to initiate contact with the media or respond to media enquiries independently without first consulting with a senior member of the Communications & Marketing team.

## **9.0 SPOKESPERSONS**

- 9.1 One of the most important aspects of dealing with and managing media is being able to provide a prompt response to a query, question, or interview request. The sooner we can respond and involve ourselves/ spokespersons in the story, the greater the chance we have to influence it. This is especially important where the council's reputation might be affected.
- 9.2 The Communications and Marketing team will work to respond to news agenda proactively by offering relevant spokespersons for interview or providing case studies to illustrate topical issues. We will use our forward planning process to identify opportunities in advance but will continue to exploit on-the-day stories particularly when there is breaking news or developing stories.
- 9.3 It is important that quotes are attributed to an individual as this demonstrates responsibility and counters perceptions that the council is a faceless and unaccountable organisation.
- 9.4 The Leader, Deputy-Leader and Committee Chairs/Vice Chairs will act as spokespersons for the council in responding to the press and media and making public statements on behalf of the council. The Leader, Deputy-Leader and Chairs/Vice Chairs should liaise with the Communications and Marketing team on all forms of contact with the press and media.
- 9.5 Where a matter has significant implications for policy or the reputation of the council, the Leader of the Council will be quoted. In his/ her absence, this will fall to the Deputy Leader.
- 9.6 Committee Chairs will be quoted on all other matters relating to committee portfolios. The relevant Director will use his/her best judgement, in consultation with the relevant Committee Chair, as to whether ward councillors should also be quoted. This should only be in exceptional circumstances.
- 9.7 Quotes will only be attributed to officers where specific operational issues requires technical or in-depth knowledge to articulate. Communications officers will advise with recommendations. These situations will be such as when:
- there is a need to respond extremely quickly in changing circumstances to maintain the flow of information to the public (e.g. an emergency road closure or an environmental health investigation);
  - The Leader, Deputy Leader or Committee Chair/Vice Chair is unavailable.
  - specific technical information is being explained
  - there is a legal aspect to the comment which would benefit from attribution to a professional officer rather than a politician.
- 9.8 Where the appropriate Committee Chair or Vice-Chair is unavailable within media deadlines, and therefore unable to approve comment that would otherwise be attributable to him/her, the Leader of the Council/ Deputy will be quoted.
- 9.9 In the event of neither an appropriate Committee Chair/Vice-Chair nor the Leader of the Council being available, an appropriate responsible officer will approve the quote, which may be attributed to a 'council spokesperson'. Whilst this is not best

practice from a public transparency or accountability perspective, it does serve to reinforce the clearly defined roles of Elected Members and officers in the decision-making process.

- 9.10 Quotes, comments and statements will reflect the factual representation of the Council's or Committee's decisions, and not that of the individual and/or political party views.

## **10.0 APPROVAL PROCESS**

- 10.1 Each directorate has an allocated communications support officer, which will be aligned with each committee area. This individual will be the main contact when producing and agreeing proactive and responsive communications.
- 10.2 For both news releases and/ or statements, sign off will be required by the relevant Director prior to issuing. Where an Elected Member quote is required, a communications officer will prepare a quote narrative, which will be forwarded to the relevant Member for approval.
- 10.3 Prior to the issuing of any news release, statement or channel of communication, Committee Chairs will be fully briefed on the proposed communications approach. Whenever that is not reasonably practicable, such as where time sensitive or response issues may arise, a separate briefing will take place between the Chief Executive/Director, relevant Member and senior communications manager.
- 10.4 In exceptional circumstances, where an urgent response is required to meet a tight deadline, a relevant Assistant Director or Head of Communications will provide approval in their absence.

## **11.0 PROACTIVE MEDIA**

- 11.1 When issuing proactive media, all content will follow a corporate style appropriate for the media being targeted, and a central record will be maintained. All releases will accurately reflect the corporate view of the council, contain relevant facts, and include an approved quotation from the appropriate Spokesperson-
- 11.2 Any departments wanting to promote a new initiative or event and would like to issue a press release to the media, must contact the Communications and Marketing team who will do this for them.
- 11.3 All official council news/press releases will be placed on the council's website.
- 11.4 Any officer contacted by a journalist requesting an interview should refer the journalist to the Communications and Marketing team. Should the interview be of a sound nature, the team will liaise with the appropriate Committee Chair.
- 11.5 Officers should never give their opinion on specific council policy but must keep to the corporate line and key messages. Their role is to provide expertise and factual

knowledge only, in support of the council's approved and agreed policies.

## **12.0 NEGATIVE MEDIA**

- 12.1 From time to time the council must respond to negative issues. It is important that these situations are managed carefully to limit the potential for negative publicity.
- 12.2 Members and officers must alert the Communications and Marketing team as soon as a potentially negative issue which may attract media interest comes to light. They should not wait until contact is made by the media.
- 12.3 Members and officers must be prepared to work together to prepare holding statements, other information and carry out research even if no media have contacted the council about an issue.
- 12.4 When preparing a response, the following strategy will be followed:
- i) where the council has made a substantial mistake, it will explain what went wrong and what it is doing to put it right. It will not be defensive but take the attitude that it can learn from its mistakes.
  - ii) where the media has made a substantial mistake in reporting the activities of the council it will quickly and assertively explain the mistake to the media and seek a right of reply.

## **13.0 CORRECTING INACCURATE REPORTING**

- 13.1 Should the media publish/broadcast an inaccuracy relating to council business, policy or process, a quick decision will be taken on any action necessary to correct it.
- 13.2 The issue will be discussed with the appropriate Committee Chair and Chief Officer and a plan of action agreed.
- 13.3 It should be noted that in the case of minor inaccuracies which have little or no impact on the message being conveyed, it can sometimes be counterproductive to complain. Each case will be judged individually by the Head of Communications and Marketing.

## **14.0 PARTNER COMMUNICATIONS**

- 14.1 Increasingly the council is working in partnership with other agencies. This includes issuing joint communications and publicity. The terms of this protocol and local government publicity law must be followed when the council issues joint publicity.
- 14.2 Where the council is approached for a comment in relation to a partnership of which it is a member, the communications officer will liaise with the relevant Director and Committee Chair to agree an appropriate comment.
- 14.3 If issuing or participating in a joint media release with our partners, we will ensure the following:

- The council's role or contribution is identified appropriately, and the release includes quotes from named Elected Members or, if appropriate, an agreed senior officer.
- Partner quotes will also be included.
- The lead organisation will issue the press release.
- Where appropriate, the council's logo is included with any others on the media release paper or email (as most media releases are issued this way).
- The draft text of the media release must be approved by the Head of Service. Partner organisations must also give their individual approval.
- The method, manner and timing of distribution are agreed in advance with the partner.

## 15.0 PHOTO OPPORTUNITIES

15.1 The Communications & Marketing team and/ or Journalists often arrange a photo opportunity to support and enhance a story. It is the responsibility of the Committee Chair to be available for the photograph. If the Chair is not available then a discussion will take place as to who would be best suited to attend. Officers and third parties may be involved in photo opportunities, where appropriate and in accordance with the media protocol.

15.2 To note: You need a person's consent (or parental consent for those under-16) before taking their photograph. Parental consent forms can be found on the intranet.

## 16.0 EMBARGOES

16.1 Embargoes will only be used when considered essential. For example, the following may legitimately be subject to an embargo:

- When news releases are linked to a launch event.
- When an issue of confidentiality requires it.
- When it is required by a third party.
- When it is linked to the outcome of legal proceedings and/or directions by a court.

16.2 **To note:** Embargoes are not legally enforceable and are adhered to by general local agreement. Nevertheless, they are important in terms of media relations so any breaches need to be referred to the communications officer. In the circumstances of a court direction, an embargo will likely be legally enforceable.

## 17.0 CRISIS COMMUNICATIONS

17.1 A standalone Crisis Communications Plan is in place and details several local scenarios and outlines the principles, resource allocation and strategic communications activity required to provide corporate communications during the response and recovery phases arising from a local emergency.

17.2 In the event of an emergency plan being invoked, to respond to a 'major incident or event', crisis communications protocols agreed with local resilience partner organisations are activated. These protocols supersede the council's own media protocols for the period of the emergency.

## **18.0 MEDIA ON SITE**

- 18.1 From time to time, the media (including photographers) may decide to go 'on site' to a council facility/building/property. This again should always be with the prior approval of the Communications and Marketing team because the reason for them being 'on site' can be positive or negative for the council.
- 18.2 If the Communications and Marketing team receive a request that the media intend to go 'on site' they will contact the relevant officers at the premises involved, as well as the relevant senior officer and Committee Chair, if of a significant nature.
- 18.3 If the reason for the 'on site' visit is to promote the council in a positive light, it may be that a member of the Communications and Marketing team does not have to be in attendance. If, however, the reason is to show the council in a negative light, a member of the team will be on hand at the premises, wherever possible.
- 18.4 If any employee or Elected Member are aware that a member of the media is going to be or is 'on site', the Communications and Marketing team must be notified immediately.

## **19.0 MEDIA ACTIVITY PRE/POST COUNCIL MEETINGS**

- 19.1 Committee (and other) agendas/ reports are made available to the media and public online 5 working days prior to a meeting.
- 19.2 In the period leading up to the publish date of agenda, the Communications and Marketing team will review the reports to promote, manage and/ or negate any potential outcomes. These pre committee releases will be factual only.
- 19.3 If an approach is made by the media for an interview before the meeting, it will be for the Committee Chair or, where necessary, a relevant officer to decide whether or not they wish to comment.
- 19.4 The communications officer will liaise with the senior officer and Committee Chair to prepare news releases to follow committee meetings. These news releases, as with all others, should detail the decisions/ recommendations taken at committee and be issued as promptly as possible after the meeting/event to maximise coverage and to ensure they remain relevant.
- 19.5 Members of the media are welcome to attend live streamed Council and Committee meetings. During the said meetings Elected Members and officers should be mindful that any comments and messages are put across in a manner which gives the journalist an accurate picture, rather than relying on the journalist's interpretation of what can be a complex issue or report.

## **20.0 TIMING OF PUBLICITY**



- 20.1 The Communications and Marketing team will make every effort to ensure that officers and Elected Members are informed before they are exposed to significant issues through the media.
- 20.2 In an increasingly fast and pervasive communications environment this will not always be possible. When holding media briefings or issuing news releases communications officers will use relevant methods including internet, intranet, TEAMS, and e-mail to make contact with Elected Members and officers.

## **21.0 PUBLICITY IN THE PRE-ELECTION PERIODS**

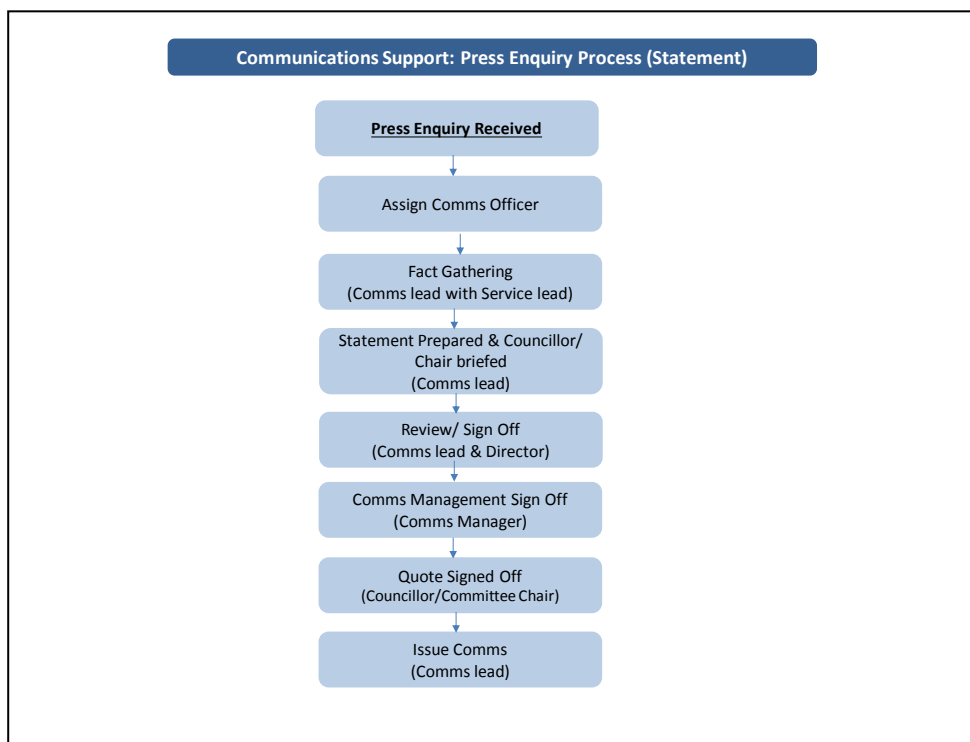
- 21.1 In the period between the notice of an election and up to and including the day of the election any publicity about political parties, candidates or other politicians is halted. This applies to local, regional, national elections and referenda.
- 21.2 During this period council publicity will not deal with controversial issues or report views, proposals or recommendations in a way that identifies them with individual political parties, candidates or other politicians. This is to ensure that no individual candidate, political or political party gains an unfair advantage by appearing in corporate publicity.
- 21.3 In these circumstances, where a quote is required, the relevant officer may be quoted, in accordance with the guidelines in this protocol.
- 21.4 Council Practice: All press releases and media engagement on behalf of the council will:
- be in accordance with the council's agreed Media Protocol.
  - be issued or organised through the council's Communications and Marketing team;
  - be concerned only with matters of policy and/or which relate to the council's functions
  - not contain anything of a political nature. In this respect regard must be given to the relevant legislation concerning publicity issued by local authorities, especially around election time.

## **22.0 RESPONSIBILITY TO PROTECT THE COUNCIL'S REPUTATION**

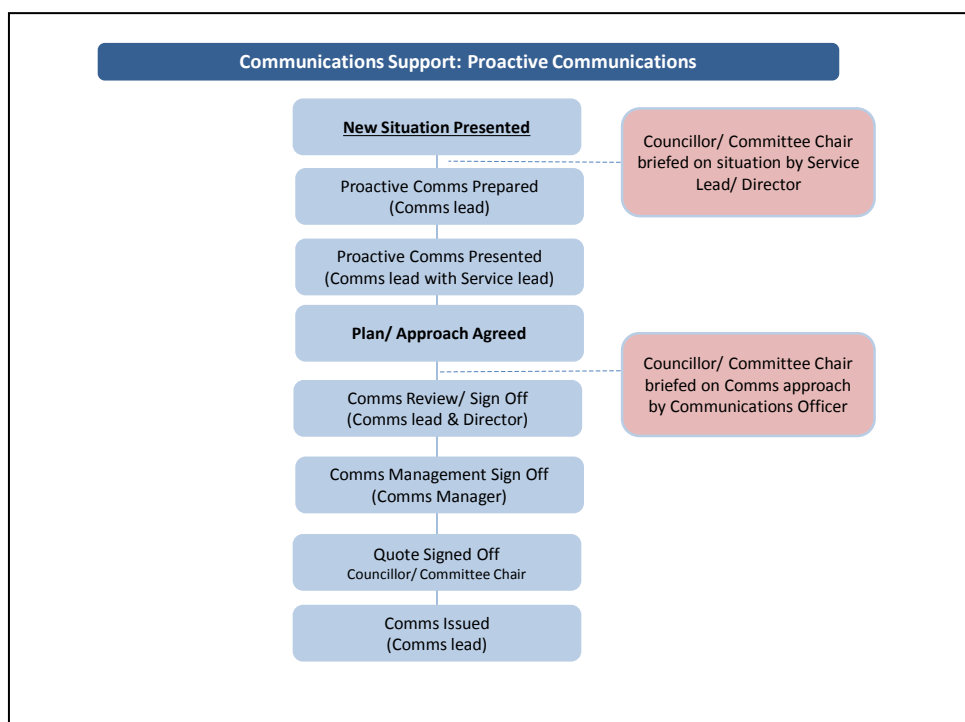
- 22.1 Disclosing of confidential information is not acceptable and for staff will be regarded as a disciplinary matter.
- 22.2 Disclosing of confidential information by an Elected Member may constitute a breach of the Member Code of Conduct and Members should take advice from the Monitoring Officer before considering releasing to the press confidential information which they may feel is in the public interest.

**Appendices:**

- Illustration a – Press Enquiry (Statement) Workflow



- Illustration b – Press Enquiry (Statement) Workflow





# CONSTITUTION OF THE COUNCIL

## Part 5 Section 4(a)

### SOCIAL MEDIA PROTOCOL FOR MEMBERS

#### 1. Purpose of this Protocol

The Council welcomes Members' use of social media and would like to support this by giving guidance so that Members have greater clarity as to what is and is not acceptable usage of social media. This Protocol therefore forms an annexe to the Press and Media Protocol and is intended to provide such guidance and complements the general rules under the Code of Conduct for Members.

#### 2. What is Social Media?

Social media is the term to describe websites and online tools which allow people to interact with each other. This could, for example, be blogs, and postings on a wide range of social media platforms including (but not limited to) Facebook, Twitter, LinkedIn, Snap-chat, Instagram etc.

On many social media sites users share information, give opinions and may create interest groups or pages leading to longer exchanges. Ultimately people use these sites and tools to build online communities and networks which encourage participation and engagement.

#### 3. Social Media and Members

It is not a requirement for Members to have a Facebook or Twitter account or to use other forms of social media to fulfil their job as a Member. However, if you are using or planning to use social media in connection with your work as a Councillor, or are already using such media in your private capacity, these guidelines will be relevant. Remember that, whenever you act or appear to act in your official capacity, you must comply with the Code of Conduct.

Social Media can be used:

- To support councillors in performing their community leadership role.
- To keep in touch with or obtain local views and opinions.
- For political campaigning.
- For campaigning on local issues.

Types of Social Media:

- Blogging and micro blogging – online journals – Twitter is an example of micro blogging, where entries are limited to 280 characters.
- Online Forums – people with similar interests sharing information and opinions – AccyWeb is an example.

- Social networking sites – these facilitate connections between those who already know each other, often in a social context, but are increasingly used by businesses to promote their products or services- Facebook is an example.
- Video and photo publishing – sharing videos and photographs worldwide – Flickr is an example.

#### 4. Things to Bear in Mind

- Any communication is capable of being misinterpreted. While the use of social media should not be more susceptible to this problem than any other form of communication, something about the immediacy of social media seems to magnify the problem.
- By the nature of such media, misinterpretation or misrepresentation, particularly with regard to something that is perceived as being more controversial than it was expected to be, is likely to lead to rapid and wide broadcasting of that apparently “controversial” item.
- There are no special, additional legal or ethical burdens relating to the use of social media. The same rules apply here that govern the rest of your behaviour as a councillor – you just need to think about them in this new context – their immediacy and ease of dissemination.
- Although the best use of social media is conversational in tone, publishing to the internet is still publishing. What you’ve said online is recorded and it is permanent. Most pitfalls will be avoided if your online content is accurate, informative and thought through. Think of it as speaking in public. Think before you commit each word.
- This doesn’t mean that members cannot, in the appropriate context, communicate politically. This is expected of a councillor, but you should be careful not to say anything that you wouldn’t be comfortable repeating or justifying, for example, at a public meeting.

#### 5. Some Legal Issues:

- **Libel** – If you publish an untrue statement about a person which is damaging to their reputation, they may consider it as defamatory and consider legal action. The same thing may happen if, for example, someone else publishes something defamatory on your social media or webpages; you know about it and don’t take swift action to remove it. A successful legal claim could result in the award of damages against you.
- **Defamation** – the Communications Team endeavour to monitor local social media channels. However, it cannot police every single comment that is made about the Council or Councillors. The Communications Team can directly remove postings on social media channels which it owns but not those on third party sites. Some sites are private or closed for which the team has no access to comment or report offending postings. Comments can be reported to some sites, for example to Facebook, if they are distasteful, illustrate use of drugs, guns or products of harm or if it is a comment based on race, gender, sexual orientation or disability. It is then in the hands of the social media channel to decide on the removal of the comment. Regarding defamation and social media, a complainant would need to prove that comments actually caused damage to a Member’s reputation. This may be very difficult to quantify, and generally, the Council is unable to commit

resources to an action for defamation by an individual or group of members but would provide supporting evidence to those wishing to take such action.

- **Copyright** – Placing images or text on your site / channel from a copyrighted source (for example extracts from publications or photos), without obtaining permission, is likely to breach copyright laws. Therefore don't publish anything you are unsure about, or make sure you obtain prior permission. Again, a successful claim for breach of copyright would be likely to lead to an award of damages against you.
- **Data Protection** – Do not publish the personal data of individuals unless you have their express permission. Personal information in an email or personal exchange should not be presumed to imply any consent to pass it on to others. If you place personal information on a public forum you should expect it to be published by others.
- **Bias and Predetermination** – if you are involved in making planning, licensing or other quasi-judicial decisions, do not say anything through social media (or indeed anywhere) that suggests you have made your mind up on an issue that is due to be formally decided. While your likely view on a particular application may be well known, you need to be able to show that you attended the committee or hearing prepared to take on board and weigh all the evidence, and were genuinely persuadable to a different view, otherwise, the decision may be later challenged as invalid. If a person has suffered some sort of detriment as a result of such an invalid decision, they may have a claim against the council for damages.
- **Electoral periods** – be mindful that when you are using social media for campaigning during election periods you will need to provide a return of expenditure on any advertising or campaign literature, including web advertising and the design and website costs of downloadable material.

## 6. **Social Media and the Code of Conduct for Members Generally:**

- Aspects of the Code of Conduct for Members will apply to your online activity in the same way as they do to any other communication you may use. The key to whether your online activity is subject to the Code is whether you are, or appear to be, acting in your capacity as a Councillor rather than as a private individual. If you have a Facebook or Twitter account which includes your role as a Councillor, you should keep this separate from your personal accounts or you risk being subject to the Code of Conduct.
- It can be presumed by others that you are speaking as a Councillor. This can happen where you have a social media account where you comment both as a Councillor and as an individual. Although you may be clear in your mind that you are acting in a private capacity it may be less clear to others. This can also mean that your views can be taken as being those of your organisation or party (rather than you personally) when this may not be the case.
- The presumption can arise simply because you are commenting on council business, because you are known to be a Councillor or make reference to this, use party political symbols or references in the text.
- One way of trying to avoid this, and perhaps avoiding some of the potential problems related to the Code of Conduct, may be to consider keeping your online accounts as a Councillor separate from those where you communicate in a

personal capacity. Another is to spell it out in the text (e.g. “speaking entirely personally...”). This is a decision for each Member and some Members may find the convenience of having one account outweighs the advantages of separate accounts. The Council’s Communications Team can help you with more specific advice if needed.

## 7. **Relevant Elements of the Members’ Code of Conduct:**

- **You must treat others with respect –**
  - do not use social media to make personal attacks or indulge in rude, disrespectful or offensive comments;
  - comply with equality laws, so do not publish anything that might be seen as racist, sexist, ageist, homophobic or anti-faith; and
  - do not say anything, particularly if it is part of a series of similar comments about a person or on a theme that might be construed as bullying or intimidation.
- **You must not conduct yourself in a manner which is contrary to the Authority’s duty to promote and maintain high standards of conduct of members –** you should not publish anything that could reasonably be perceived as reflecting badly upon or lowering the reputation of your office as a Councillor.
- **You must not disclose confidential information** - you must not, in your use of social media, just as in any other circumstances, disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature. Inadvertent leaks of the Council’s confidential information are more likely to take place when a Councillor is using social media, rather than, say, when they are carefully drafting a letter for publication in the local paper. This may be because of the more immediate, conversational, off- the cuff nature of much social media communication. Members must be careful to apply exactly the same standards to their social media communications as they would to statements made in a more formal context.

## 8. **Staying out of Trouble - Some Do’s and Don’ts**

### Some Do’s

- set appropriate privacy and security settings for your blog or networking site – especially if you have a private, non-political blog.
- keep an eye out for defamatory or obscene posts from others on your blog or page and remove them as soon as possible to avoid the perception that you condone such views. Be aware that the higher your profile as an elected member, the more likely it is you will be seen as acting in your official capacity when you blog or network.
- consider keeping your personal and elected member profile on social networking sites separate and maintain appropriate professional boundaries.
- ensure you use Council facilities appropriately; if you use a Council provided blog site or social networking area, any posts you make will be viewed as made in your official capacity.
- be aware that you will be seen as acting in your official capacity if you publish information that you could only have accessed by being an elected member.
- feel able to make political points, but be careful about being too specific or personal if referring to individuals. An attack on individuals may be seen as

disrespectful, whereas general comments about another party or comments on policy are less likely to be viewed as disrespect.

### **Some Don'ts**

- Blog in haste, particularly in circumstances where your judgement might be impaired; for example if you are tired or have consumed alcohol.
- post comments that you would not be prepared to make on paper or face to face.
- request or accept a Council employee or contractor providing services to the Council as a “friend” on a social networking site where this suggests close personal association. For the avoidance of doubt, this does not apply to sites which are intended as a neutral, professional connections registry (such as LinkedIn.)
- use social media in any way to attack, insult, abuse, defame or otherwise make negative, offensive or discriminatory comments about Council staff, service users, their family or friends, colleagues, other professionals, other organisations, or the Council.
- publish confidential information that you may have learned or had access to as part of your role as an elected member. This includes personal information about service users, their families or friends or others e.g. contractors, Council staff as well as Council related information.
- represent your personal views, or those of any political party or interest group you belong to, as being those of the Council, on any social medium.
- browse, download, upload or distribute any material that could be considered inappropriate, offensive, defamatory, illegal or discriminatory.
- make conspicuous or excessive use of social media technology during the course of a Council or committee meeting so that you give the impression to the public of not being respectful of the proceedings and, more seriously, taking decisions that are not based on full engagement with the facts and arguments.

### **9. General**

The Council wishes to encourage Members' use of new technology, including social media. This guidance is intended to help Members use social media in a way that avoids legal and reputational risk.

The Monitoring Officer and the Communications Team are happy to help Members by providing addition advice and guidance as appropriate.

### **10. Further Information**

Local Government Association - Digital Councils  
<http://www.local.gov.uk/digital-councils/get-started>

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**#BETHE  
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# Wirral Council Employee Code of Conduct



## Code of Conduct

**Our purpose** is working together to promote fairness and opportunity for people and communities.

**Our values** are at the heart of everything. They capture our spirit, driving what we do, how we do it, how we behave, and how we treat others. They are a non-negotiable part of all our roles and help us uphold the highest standards of conduct.



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**Our handshake** helps us understand what we can expect from our organisation and what we are asked for in return. It is built on the expectation of mutual respect, trust and a positive relationship.

### We will ...

- Live our values
- Care for you
- Value and respect you and the work you do
- Empower you to improve things and make Wirral a great place to work
- Support you to develop, learn and grow to be great at what you do
- Fly the flag for Wirral
- Learn from each other, support each other and take time to celebrate the great work we do
- Listen to you and involve you in how we do things

### You will ...

- Live our values
- Care for others
- Respect and value others
- Work together to improve things and make Wirral a great place to work
- Develop, learn and grow to be great at what you do
- Fly the flag for Wirral
- Learn from each other, support each other and take time to celebrate the great work we do
- Value and respect the trust and responsibility given to you



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## Scope

We are proud that our Code of Conduct (Code) applies to everyone working for us regardless of their role, including interim workers.

We are all expected to know, understand and follow our Code. Taking personal responsibility to make full use of all the support and guidance available to us to live it in what we do, how we do it, how we behave, and how we treat others.

We will recognise, celebrate and reward behaviours consistent with the Code and challenge any inconsistencies. This includes corrective interventions which can involve disciplinary action, up to and including termination of employment.

## Helping uphold the highest standards

Speaking up when somethings not right helps us to create a work environment we can all be proud of, where everyone can thrive and deliver our purpose.

Our [whistleblowing policy](#) outlines what we should do if we observe behaviours inconsistent with the Code.

### 1. Representing the council

At all times our residents, stakeholders, customers, clients, colleagues, elected members and partners should be treated professionally with honesty, integrity, openness, impartiality (including political neutrality in carrying out our job role), dignity, respect, fairness, and not discriminated against. This is acting in accordance with the trust placed in us as employees of the council.

In addition, our [dignity at work policy](#) and [equality, diversity and inclusion policy](#) outlines our personal responsibility to help create an inclusive workplace. This includes us behaving in a fair and equitable way and avoiding discrimination in any form.

It's important that employees do not engage in conduct outside of work which could damage the reputation of the council, or the reputation of other elected members/employees of the council. This includes notifying your Senior Manager, as soon as possible, if you are facing criminal charges irrespective of



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the whether you consider the matter to be relevant to your employment or not.

## 2. Duty of trust and care

Our [children's safeguarding policy](#), [adult's safeguarding policy](#) and [safer recruitment & employment policy](#) outlines our duty of trust and care for vulnerable adults, children and young people. This is shown through respectful and caring relationships, and demonstrating integrity, maturity and sound judgement at all times; and protecting them from harm.

## 3. Health and safety

Safety is our top priority. Our [Health & Safety Policy](#) outlines our collective and individual responsibility to make our workplace a safe place for everyone by taking reasonable steps to protect our own health and safety and that of other people who may be affected by our actions or omissions at work.

## 4. Use of council assets

Council assets are physical objects, buildings, financial resources, computer data and information generally. We all have a responsibility to:

- only use council assets for purposes that are in line with the post we hold,
- make sure we have the correct permission before we make use of council assets,
- not take anything that belongs to the council unless we are specifically authorised to do so,
- use assets in a responsible and lawful manner, ensuring value for money.

This includes the code of practice for the [acceptable use of computer facilities](#), including electronic mail, IT systems and the internet.



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## 5. Data protection

All council employees, suppliers, partners and clients/customers are entitled to protection of their personal information. Our [information governance policy](#) outlines our collective and individual responsibility to keep all personal data confidential, whether stored digitally or manually held.

## 6. Anti-fraud and corruption

Fraud is when somebody is deliberately dishonest to secure an unfair or unlawful gain. Corruption is when somebody unlawfully gives or receives an incentive to influence someone in a position of power. Our [anti-fraud and corruption policy](#), [anti-money laundering policy](#) and [anti-bribery policy](#) outlines our collective and individual responsibility to report something if we suspect it might involve fraud or corruption.

## 7. Conflict of interest

Our [conflict of interest policy](#) and [procedure](#) outlines our collective and individual responsibility to declare any actual or potential conflicts of interest in connection with our employment. A conflict of interest can arise if our outside activities, private, personal or financial interests:

- conflict with the council's purpose, duties, decisions, services or activities,
- influence or interfere with the decisions we make in the course of our work for the council, or
- appear to or could be perceived to influence or interfere with the decisions we make in the course of our work for the council,
- appear to or could be perceived to confer an advantage or disadvantage on any person,
- do anything which would affect their ability, or the public's confidence in their ability, to do their job.



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## 8. Gifts and hospitality

Some people may believe they will get a better level of service or more favourable treatment if they provide additional payments or offer us favours. Our [gifts & hospitality policy](#) and [supporting procedure](#) outlines our collective and individual responsibility if situations arise where we are offered gifts and hospitality in connection with our employment.

## 9. Social media

The council values the use of social media as an important way of communicating with the communities we serve. Our [social media policy](#) outlines our responsibility to make sure that what we access is always appropriate and that using social media doesn't interfere with our work. This includes ensuring our use of social media does not put the council at legal risk or damage the council's reputation.

## Related policies

Our Code cannot tell us exactly what to do in every situation or cover all standards and responsibilities, with its focus on some especially important ones. To understand the full range of responsibilities expected of us, a suite of corporate standards and conduct policies are available on our [intranet](#).

## Conclusion

We are proud to hold ourselves to the highest standards of professional conduct. We are all expected to know, understand and follow our Code.

This includes taking personal responsibility to make full use of all the support and guidance available to us and to complete assigned 'essential learning' on our learning platform, [Flo](#). You will find this learning, including frequency and deadline information, on the 'your assigned learning' banner on Flo.

If you need any clarity about the Code don't be afraid to ask your line manager or contact the Employee Relations Team at [EmployeeRelations@wirral.gov.uk](mailto:EmployeeRelations@wirral.gov.uk).

*\*\* Our Governance Working Group agreed this Code on 25<sup>th</sup> September 2023 and was endorsed by Council at its meeting on 22<sup>nd</sup> May 2024.*



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# CONSTITUTION OF THE COUNCIL

## Part 5 Section 6

### MONITORING OFFICER PROTOCOL

This protocol has been produced according to the model, introduced following the recommendation of the former District Auditor Service, that guidelines be produced for the benefit of Members and Senior Officers on the role of the Monitoring Officer.

#### 1. Introduction

This Protocol explains the role and functions of the Council's Monitoring Officer and the arrangements for ensuring this role is effectively carried out. It is based on the understanding that the ability of the Monitoring Officer to undertake this role effectively depends on excellent working relations with colleagues and Members and on the flow of information and access to debate particularly at early stages.

#### 2. Functions

The specific functions of the Council's Monitoring Officer are detailed in Article 12 of this Constitution. The chief responsibilities can be summarised as these:-

- (a) a duty to report to the Council in any case where the Monitoring Officer is of the opinion that any proposal or decision is or is likely to be illegal or to constitute maladministration. These matters are referred to in this Protocol as "reportable incidents";
- (b) a range of functions relating to Members' conduct; and
- (c) specific functions under the Council's Constitution.

#### 3. Discharge of Functions

3.1 In order to ensure the effective undertaking of these duties, the Monitoring Officer will:-

- (a) have regular meetings with each of the Head of Paid Service and Chief Finance (S.151) Officer in order to review current and likely future issues with legal, constitutional or ethical implications.
- (b) maintain good liaison and working relations with the Head of Internal Audit and the external audit service.
- (c) ensure that the Council is kept up to date on new legislation and changes in the law which are relevant to the carrying out of the Council's activities. This will generally take the form of reports to Members and briefing notes to Chief

Officers but where appropriate will involve training sessions for relevant Members and officers. These activities will be carried out in consultation and conjunction with relevant Chief Officers.

3.2 In addition, Chief Officers will ensure that:-

- (a) The Monitoring Officer or his/her Senior Staff are consulted at an early stage on new policy proposals and on matters which have potentially significant legal implications. Where there is any doubt, the Chief Officer should always consult.
- (b) All draft reports to the Council and Committees should as a matter of routine be cleared with the Monitoring Officer or his/her senior staff.
- (c) The Monitoring Officer is informed of all emerging issues of concern of a legal, ethical or constitutional nature. Similarly, Members should ensure that the Monitoring Officer is routinely informed and consulted in respect of new policy proposals.

The Monitoring Officer will always seek to resolve any potential illegality by identifying alternative and legitimate means of achieving the objective of the purpose. (See also para. 3.5(a)).

3.3 Also, in cases where external lawyers are acting for the Council, it will be necessary for the Monitoring Officer to appoint a client officer from within Legal Services and to agree with the relevant Chief Officer arrangements for ensuring that vires and constitutional issues are satisfactorily addressed.

3.4 These working arrangements will mean that:

- (a) The Monitoring Officer will seek to resolve potential reportable incidents (as defined in para 2(a)) by avoiding the illegality, etc., or by identifying alternative and legitimate means of achieving the objective of the proposal. Accordingly, and given that Council officers and Members are encouraged to consult the Monitoring Officer in respect of any proposal, the Monitoring Officer will only need to make a public report on the matter if the proposal were to be a potential reportable incident and the officer or Member subsequently took any action to progress that proposal despite being advised to the contrary by the Monitoring Officer.
- (b) Where the Monitoring Officer receives a complaint of a potential reportable incident, he/she must in appropriate cases seek to resolve the matter amicably, by securing that any illegality or failure of process is rectified. However, it is recognised that the Monitoring Officer may decide that the matter is of such importance that a statutory report is the only appropriate response.
- (c) In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer will be entitled to add his/her written advice to the report of any other Council officer.
- (d) Notwithstanding the above, the Monitoring Officer retains the right to make a statutory report where, after consultation with the Head of Paid Service and the

S.151 Officer, he/she is of the opinion that such is necessary in order to respond properly to a reportable incident.

- 3.5 In pursuance of his or her duties, and to assist in effective and efficient undertaking of these working arrangements, the Monitoring Officer will have the right:-
- (a) To receive advance notice of meetings, whether formal or informal between Chief Officers and Members of the Council or Committee Chairs where any procedural, vires or other constitutional issues are likely to arise, together with the right to attend such meetings.
  - (b) To receive advance notice of meetings of the Senior Leadership Team and the agenda and reports together with the right to attend and speak.
  - (c) To see all documents and information held by or on behalf of the Council, including documents and information held by any Council officer or Member. However, this right does not extend to documents and information held by or on behalf of any political party represented on the Council.
  - (d) To attend any meetings of officers or Members (or both), whether or not such meetings include any other persons. However, this right does not extend to any meetings held by or on behalf of any political party represented on the Council.
  - (e) To require any Council officer or Member, or any contractor to provide an explanation of any matter under investigation.
  - (f) To report to the Council, and its Committees, including a right to present a written report and to attend and advise orally.
  - (g) To have access to the Chief Executive (Head of the Paid Service) and to the S.151 Officer.
  - (h) After consultation with the Chief Executive and the S.151 Officer, to notify the Police, the Council's Auditors and other regulatory agencies of concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions.
  - (i) To obtain, at the Council's expense, legal advice, either internally or from an independent external solicitor, barrister or forensic consultant, on any matter which it is believed may be a reportable incident.

#### 4. **Conflicts**

Where the Monitoring Officer is in receipt of a complaint or is aware of a potential reportable event relating to a matter upon which he/she has previously advised the Council, he/she must consult the Head of the Paid Service who may then either refer the matter to the Deputy Monitoring Officer for investigation and report back to the Head of the Paid Service or request a neighbouring authority to make their Monitoring Officer available to the Council to investigate the matter and report to the Head of the Paid Service and/or the Council as appropriate.

5. **Insurance and indemnity arrangements**

The S.151 Officer will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council, and the proper discharge of the Monitoring Officer role.

6. **Sanctions for breach of the Council's Codes of Conduct and this Protocol**

Complaints relating to any breach of the Council's Code of Conduct for Members must be dealt with in accordance with the arrangements adopted by Council. Complaints relating to any breach of this Protocol by a Member may be referred to the relevant leader and/ or whip of the political party group and as a breach of the members Code of Conduct to the Constitution and Standards Committee. Complaints relating to any breach of this Protocol by an officer may be referred for disciplinary action.



## CONSTITUTION OF THE COUNCIL

## Part 5 Section 7

### **WIRRAL CODE OF CORPORATE GOVERNANCE**

#### **FORWARD**

Wirral Council is required to operate within a governance framework, which is focussed around legislative requirements, principles of good governance, and management processes.

It is of paramount importance therefore, that the Council clearly demonstrates to its constituents what governance arrangements are in place and how they impact upon the manner in which the Council operates.

The Code of Corporate Governance is an accessible framework, which communicates that the Council's decision making process is based upon sound / clear principles.

#### **WHAT IS CORPORATE GOVERNANCE**

Governance comprises the arrangements (including political, economic, social, environmental, administrative, legal and other arrangements) put in place to ensure that the Council's intended outcomes for constituents and stakeholders are defined and achieved. To deliver good governance Councillors and Officers alike must aim to achieve the Council's objectives while acting in the public interest at all times.

The Council is committed to applying the seven core principles as set out in the Society of Local Authority Chief Executives (SOLACE)/Chartered Institute of Public Finance and Accountancy (CIPFA) Good Governance Framework which comprises the following key elements:



- A. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law:**
- B. Ensuring openness and comprehensive stakeholder engagement:**
- C. Defining outcomes in terms of sustainable economic, social, and environmental benefits:**
- D. Determining the interventions necessary to optimize the achievement of the intended outcomes:**
- E. Developing the Council’s capacity, including the capability of its leadership and the individuals within it:**
- F. Managing risks and performance through robust internal control and strong public financial management:**
- G. Implementing good practices in transparency, reporting, and audit to deliver effective accountability:**

## **MONITORING, REVIEW AND REPORTING**

Elected Members are collectively responsible for the governance of the Council. The Council by adopting this local code commits itself to continuously improving corporate governance in all of its activities. To ensure it keeps to this on-going commitment the Council has Committees that are responsible for monitoring and reviewing the Council’s Corporate Governance arrangements. These Committees and their functions are set out below. [In addition, the Council has an Independent Remuneration Panel to advise and make recommendations to the Council on the scheme of allowances.]

Policy and Resources Committee:



*Part 5 - Codes and Protocols  
Section 7 - Code of Corporate  
Governance*

*Pg 2  
(5 December 2022)*

The Policy and Resources Committee has two main areas of responsibility, which is to provide strategic direction to the operation of the Council, including making decisions on policies and co-ordinating spend not reserved to full Council, and to maintain a strategic overview of outcomes, performance, risk management and budgets. All Policy Committee Chairs will be represented on Finance and Policy Committee.

#### Audit and Risk Management Committee:

The Audit and Risk Management Committee is a key component of Wirral Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards. The Committee provides independent assurance on the adequacy of the risk management framework and the associated control environment, independent scrutiny of the Council's financial and non-financial performance to the extent that it affects the Council's exposure to risk and weakens the control environment, and to oversee the financial reporting process. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

#### Chief Finance (Section 151) Officer:

The Chief Finance Officer has responsibility for delivering and overseeing the financial management arrangements of the Council and is the responsible finance officer under all relevant legislation. The role conforms with the governance arrangements detailed in the CIPFA Statement 'The role of the Chief Financial Officer in Local Government' 2016.

The Chief Finance Officer will ensure the financial prudence of decision making.

The CFO chairs the Corporate Governance Group, which oversees the production of the Council's Annual Governance Statement.

### Monitoring Officer:

The Monitoring Officer is responsible for promoting and maintaining high standards of conduct in all matters affecting the Council ensuring decisions are made in accordance with the policy framework and, together with the Section 151 Officer, in accordance with the Budget Plan. The Monitoring Officer is also required to report to Council any actual or potential breaches of the law or maladministration.

The Monitoring Officer is responsible for the review and monitoring of the Council's Constitution, and able to make recommendations for changes, where reviewing the Constitution to Full Council.

### Corporate Governance Group

The Corporate Governance Group is made up of key members of the Senior Leadership Team and senior officers with particular responsibility for oversight of governance and risk management. They oversee the Council's governance systems and processes for their effectiveness in practice, keeping them under review to ensure that they are up-to-date, and implementing appropriate monitoring and reporting.

## **THE ANNUAL GOVERNANCE STATEMENT**

The Council has a responsibility for conducting an annual review of the effectiveness of its governance framework including the system of internal control in the form of an Annual Governance Statement. This will provide an overall assessment of the Council's Corporate Governance arrangements and an appraisal of the key controls in place to manage the Council's principal governance risks. The Statement will also provide details of where improvements need to be made.

The Annual Governance Statement will be published as part of the Council's





Annual Statement of Accounts and will be audited by our External Auditors

## **REGULAR REVIEW OF POLICIES AND PROCEDURES**

The Council recognises that Corporate Governance needs to be embedded in all the services it delivers. Therefore, it has identified all those strategies, policies and procedures which staff and Members need to be aware of and comply with to meet the required standards of corporate governance.

A copy of this Code of Corporate Governance will be made available to the public on the Council's website [LINK?]. A copy of the Annual Governance Statement will also be made available [LINK].

Wirral Council Code of Corporate Governance

Principle A: Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law.		
Sub-principle	Wirral Council is committed to achieving good governance and will	The Council's commitment to achieving good governance in practice is demonstrated by the following:
<b>Behaving with integrity</b>	<ul style="list-style-type: none"> <li>• Ensure members and officers behave with integrity and promote a culture where acting in the public interest is visibly and consistently demonstrated thereby protecting the reputation of the organisation</li> <li>• Ensure members take the lead in establishing specific standard operating principles or values for the organisation and its staff (building on the Seven Principles of Public Life - The Nolan Principles) and that they are communicated and understood</li> <li>• Lead by example and use the above standard operating principles or values as a framework for decision making and other actions</li> <li>• Demonstrate, communicate and embed the standard operating principles or values through appropriate policies and processes which are reviewed on a regular basis to ensure that they are operating effectively.</li> </ul>	<ul style="list-style-type: none"> <li>• Member's Code of Conduct / Protocol</li> <li>• Employee's Code of Conduct</li> <li>• Performance appraisal process</li> <li>• Policy and procedure for declaration of Conflict of Interest by Officers and Members</li> <li>• Policy and procedure for declaration of Gifts and Hospitality</li> <li>• Customer Access Strategy</li> <li>• ICT Security Policy</li> <li>• Elected Members – Information &amp; ICT Security Acceptable Use Policy</li> <li>• Equalities Impact Assessment Toolkit</li> <li>• The Council's Constitution</li> <li>• Public access to meetings and minutes</li> <li>• Role of Constitution and Standards Committee</li> <li>• Government guidelines for politically restricted posts.</li> <li>• Financial Regulations</li> <li>• Contract Procedure Rules</li> <li>• Freedom of Information, Environmental Information Regulations, Subject Access Requests</li> <li>• Dignity at work policy</li> <li>• Values and Behaviours statement</li> <li>• Whistleblowing policy / procedure</li> <li>• Anti-bribery policy</li> <li>• Anti-money laundering policy</li> <li>• Anti-fraud and corruption policy</li> <li>• Counter fraud and corruption strategy</li> <li>• Fraud response plan</li> <li>• Complaints policy</li> <li>• Grievance policy</li> <li>• Media Guidelines</li> <li>• Recommended code of practice for local authority publicity</li> </ul>
<b>Demonstrating strong commitment to ethical values</b>	<ul style="list-style-type: none"> <li>• Seek to establish, monitor and maintain the organisation's ethical standards and performance</li> <li>• Underpin personal behaviour with ethical values and ensure they permeate all aspects of the organisation's culture and operation</li> <li>• Develop and maintain robust policies and procedures which place emphasis on agreed ethical values</li> </ul>	<ul style="list-style-type: none"> <li>• The Wirral Plan</li> <li>• Members Code of Conduct / Protocol</li> <li>• Officer's Code of Conduct</li> <li>• Constitution and Standards Committee</li> <li>• Constitution</li> <li>• Scheme of Delegation</li> <li>• Wirral Partnership Framework</li> <li>• Dignity at work policy</li> <li>• Member training framework</li> </ul>

<b>Principle A: Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law.</b>		
	<ul style="list-style-type: none"> <li>• Ensure that external providers of services on behalf of the organisation are required to act with integrity and in compliance with ethical standards expected by the organisation</li> </ul>	<ul style="list-style-type: none"> <li>• Appraisal policy</li> <li>• Statement of business ethics communicates commitment to ethical values to external suppliers</li> <li>• Ethical values feature in contracts with external service providers</li> </ul>
<b>Respecting the rule of Law</b>	<ul style="list-style-type: none"> <li>• Ensure members and staff demonstrate a strong commitment to the rule of the law as well as adhering to relevant laws and regulations</li> <li>• Create the conditions to ensure that the statutory officers, other key post holders, and members, are able to fulfil their responsibilities in accordance with legislative and regulatory requirements</li> <li>• Strive to optimise the use of the full powers available for the benefit of citizens, communities and other stakeholders</li> <li>• Deal with breaches of legal and regulatory provisions effectively</li> <li>• Ensure corruption and misuse of power are dealt with effectively.</li> </ul>	<ul style="list-style-type: none"> <li>• Constitution</li> <li>• Legal advice</li> <li>• Recruitment / selection / job evaluation procedures</li> <li>• Appraisal processes</li> <li>• WeLearn training system</li> <li>• Monitoring officer provisions, review of reports by Legal and record of legal advice provided by officers</li> <li>• Review of reports by Finance and Compliance with CIPFA's Statement on the Role of the Chief Financial Officer in Local Government</li> <li>• Member's code of conduct and protocol</li> <li>• Officer's code of conduct</li> <li>• Anti-fraud policies.</li> <li>• Role of Constitution and Standards Committee</li> <li>• Processes for Gifts and Hospitality and Conflicts of Interest</li> </ul>

<b>Principle B: Ensuring openness and comprehensive stakeholder engagement.</b>		
<b>Sub-principle</b>	<b>Wirral Council is committed to achieving good governance and will:</b>	<b>The Council's commitment to achieving good governance in practice is demonstrated by the following:</b>
<b>Openness</b>	<ul style="list-style-type: none"> <li>• Ensure an open culture through demonstrating, documenting and communicating the organisation's commitment to openness</li> <li>• Make decisions that are open about actions, plans, resource use, forecasts, outputs and outcomes. The presumption is for openness. If that is not the case, a justification for the reasoning for keeping a decision confidential should be provided</li> <li>• Provide clear reasoning and evidence for decisions in both public records and explanations to stakeholders, being explicit about the criteria, rationale and considerations used. In due course, ensuring that the impact and consequences of those decisions are clear</li> <li>• Use formal and informal consultation and engagement to determine the most appropriate</li> </ul>	<ul style="list-style-type: none"> <li>• Engagement &amp; Stakeholder Relations Strategy</li> <li>• Wirral plan</li> <li>• Wirral Partnership Delivery Group and Partnership Framework</li> <li>• Wirral plan quarterly performance and update report</li> <li>• Minutes and reports of Council committees available on website</li> <li>• Records of decision making and supporting materials</li> <li>• Standard format for Committee reports</li> <li>• Options appraisal reports</li> <li>• Business case reports</li> <li>• Agreed programmes for scrutiny committees</li> <li>• Corporate Equality and Cohesion Strategy</li> <li>• Public Budget consultation</li> <li>• Statement of Accounts</li> <li>• FOI Act compliance publication</li> <li>• Environmental Impact Assessments as part of committee reports</li> <li>• Whistle Blowing policy / procedure</li> </ul>

<b>Principle B: Ensuring openness and comprehensive stakeholder engagement.</b>		
	and effective interventions/ courses of action	<ul style="list-style-type: none"> <li>• Annual Governance Statement</li> <li>• Arrangements to ensure compliance with Transparency Code</li> <li>• Neighbourhood working</li> </ul>
<b>Engaging comprehensively with institutional stakeholders</b>	<ul style="list-style-type: none"> <li>• Effectively engage with institutional stakeholders to ensure that the purpose, objectives and intended outcomes for each stakeholder relationship are clear so that outcomes are achieved successfully and sustainably</li> <li>• Develop formal and informal partnerships to allow for resources to be used more efficiently and outcomes achieved more effectively</li> <li>• Ensure that partnerships are based on trust, a shared commitment to change, a culture that promotes and accepts challenge among partners and that the added value of partnership working is explicit</li> </ul>	<ul style="list-style-type: none"> <li>• Engagement &amp; Stakeholder Relations Strategy</li> <li>• Wirral plan</li> <li>• Wirral Partnership Delivery Group, Partnership Summit and Partnership Framework</li> <li>• Wirral plan quarterly performance and update report</li> </ul>
<b>Engaging with individual citizens and service users effectively</b>	<ul style="list-style-type: none"> <li>• Establish a clear policy on the type of issues that the organisation will meaningfully consult with or involve communities, individual citizens, service users and other stakeholders to ensure that service (or other) provision is contributing towards the achievement of intended outcomes</li> <li>• Ensure that communication methods are effective and that members and officers are clear about their roles with regard to community engagement</li> <li>• Encourage, collect and evaluate the views and experiences of communities, citizens, service users and organisations of different backgrounds including reference to future needs</li> <li>• Implement effective feedback mechanisms in order to demonstrate how views have been taken into account</li> <li>• Balance feedback from more active stakeholder groups with other stakeholder groups to ensure inclusivity</li> <li>• Take account of the impact of decisions on future generations of tax payers and service users.</li> </ul>	<ul style="list-style-type: none"> <li>• Health and Wellbeing Board</li> <li>• Wirral plan</li> <li>• Wirral Partnership Delivery Group, Partnership Summit and Partnership Framework</li> <li>• Updates reports on Scrutiny work programmes</li> <li>• Engagement &amp; Stakeholder Relations Strategy</li> <li>• Residents' surveys</li> <li>• Equality impact assessments</li> <li>• Constitution</li> <li>• Committee reporting template</li> <li>• Joint Strategic Needs Assessment</li> <li>• Have Your Say website</li> </ul>

<b>Principle C: Defining outcomes in terms of sustainable economic, social and environmental benefits.</b>		
<b>Sub-principle</b>	<b>Wirral Council is committed to achieving good governance and will</b>	<b>The Council's commitment to achieving good governance in practice is demonstrated by the following:</b>
<b>Defining outcomes</b>	<ul style="list-style-type: none"> <li>• Have a clear vision, which is an agreed formal statement of the organisation's purpose and intended outcomes containing appropriate performance indicators, which provide the basis for the organisation's overall strategy, planning and other decisions</li> <li>• Specify the intended impact on, or changes for, stakeholders including citizens and service users. It could be immediately or over the course of a year or longer</li> <li>• Deliver defined outcomes on a sustainable basis within the resources that will be available</li> <li>• Identify and manage risks to the achievement of outcomes</li> <li>• Manage service users' expectations effectively with regard to determining priorities and making the best use of the resources available.</li> </ul>	<ul style="list-style-type: none"> <li>• Engagement &amp; Stakeholder Relations Strategy</li> <li>• Wirral plan</li> <li>• Wirral Partnership Delivery Group and Partnership Framework</li> <li>• Performance Management framework</li> <li>• Corporate risk management policy and strategy</li> <li>• Programme management strategy/processes</li> </ul>
<b>Sustainable economic, social and environmental benefits</b>	<ul style="list-style-type: none"> <li>• Consider and balance the combined economic, social and environmental impact of policies and plans when taking decisions about service provision</li> <li>• Take a longer-term view with regard to decision making, taking account of risk and acting transparently where there are potential conflicts between the organisation's intended outcomes and short-term factors such as the political cycle or financial constraints</li> <li>• Determine the wider public interest associated with balancing conflicting interests between achieving the various economic, social and environmental benefits, through consultation where possible, in order to ensure appropriate trade-offs</li> <li>• Ensure fair access to services.</li> </ul>	<ul style="list-style-type: none"> <li>• Revenue Monitor report</li> <li>• Capital Monitor report</li> <li>• Annual Governance Statement</li> <li>• Public Health prioritisation process</li> <li>• Wirral plan</li> <li>• Council Reports to support major decisions outline key implications (economic, social, environmental) as applicable</li> <li>• Communication and engagement strategy</li> <li>• Record of public consultations</li> <li>• Reports and minutes available on the website</li> <li>• Social Value Policy</li> </ul>

<b>Principle D: Determining the interventions necessary to optimise the achievement of the intended outcomes.</b>		
<b>Sub-principle</b>	<b>Wirral Council is committed to achieving good governance and will</b>	<b>The Council's commitment to achieving good governance in practice is demonstrated by the following:</b>
<b>Determining interventions</b>	<ul style="list-style-type: none"> <li>• Determining the right mix of corporate (legal, assurance, regulatory, and finance)</li> </ul>	<ul style="list-style-type: none"> <li>• Options appraisals</li> <li>• Council Reports, and underlying Business Case where appropriate, required to outline options</li> </ul>

<b>Principle D: Determining the interventions necessary to optimise the achievement of the intended outcomes.</b>		
	<p>interventions to ensure intended outcomes are achieved Decisions made need to be reviewed frequently to ensure that achievement of outcomes is optimised</p> <ul style="list-style-type: none"> <li>• Consider feedback from citizens and service users when making decisions about service improvements or where services are no longer required in order to prioritise competing demands within limited resources available including people, skills, land and assets and bearing in mind future impacts.</li> </ul>	<p>considered and inherent risks</p> <ul style="list-style-type: none"> <li>• Committee Co-ordination and Oversight Group</li> <li>• Medium Term Financial Strategy</li> <li>• Engagement &amp; Stakeholder Relations Strategy</li> </ul>
<b>Planning interventions</b>	<ul style="list-style-type: none"> <li>• Establish and implementing robust planning and control cycles that cover strategic and operational plans, priorities and targets</li> <li>• Engage with internal and external stakeholders in determining how services and other courses of action should be planned and delivered</li> <li>• Consider and monitor risks facing each partner when working collaboratively, including shared risks</li> <li>• Ensure arrangements are flexible and agile so that the mechanisms for delivering goods and services can be adapted to changing circumstances</li> <li>• Establish appropriate key performance indicators (KPIs) as part of the planning process in order to identify how the performance of services and projects is to be measured</li> <li>• Ensure capacity exists to generate the information required to review service quality regularly</li> <li>• Prepare budgets in accordance with objectives, strategies and the medium term financial plan</li> <li>• Inform medium and long term resource planning by drawing up realistic estimates of revenue and capital expenditure aimed at developing a sustainable funding strategy.</li> </ul>	<ul style="list-style-type: none"> <li>• Wirral Plan</li> <li>• Forward Plan</li> <li>• Directorate / Service Business Plans</li> <li>• Engagement &amp; Stakeholder Relations Strategy</li> <li>• Corporate risk management policy and strategy</li> <li>• Corporate Risk Register</li> <li>• Power BI Report</li> <li>• Performance appraisals</li> <li>• Performance management framework</li> <li>• Medium Term Financial Strategy</li> <li>• Budget and Policy Framework (Constitution)</li> <li>• Financial Regulations (Constitution).</li> </ul>
<b>Optimising achievement of intended outcomes</b>	<ul style="list-style-type: none"> <li>• Ensure the medium term financial strategy integrates and balances service priorities, affordability and other resource constraints</li> <li>• Ensure the budgeting process is all-inclusive, taking into account the full cost of operations over the medium and longer term</li> <li>• Ensure the medium term financial strategy sets</li> </ul>	<ul style="list-style-type: none"> <li>• Medium Term Financial Strategy</li> <li>• Wirral Plan</li> <li>• Budget and Policy Framework (Constitution)</li> <li>• Financial Regulations (Constitution)</li> <li>• Council Budget and Medium Term Financial Strategy reports</li> <li>• Power BI Report</li> </ul>

<b>Principle D: Determining the interventions necessary to optimise the achievement of the intended outcomes.</b>		
	<p>the context for ongoing decisions on significant delivery issues or responses to changes in the external environment that may arise during the budgetary period in order for outcomes to be achieved while optimising resource usage</p> <ul style="list-style-type: none"> <li>• Ensure the achievement of 'social value' through service planning and commissioning.</li> </ul>	
<b>Principle E: Developing the entity's capacity, including the capability of its leadership and the individuals within it.</b>		
<b>Sub-principle</b>	<b>Wirral Council is committed to achieving good governance and will</b>	<b>The Council's commitment to achieving good governance in practice is demonstrated by the following:</b>
<b>Developing the entity's capacity</b>	<ul style="list-style-type: none"> <li>• Review operations, performance and use of assets on a regular basis to ensure their continuing effectiveness</li> <li>• Improve resource use through appropriate application of techniques such as benchmarking and other options in order to determine how resources are allocated so that defined outcomes are achieved effectively and efficiently</li> <li>• Recognise the benefits of partnerships and collaborative working where added value can be achieved</li> <li>• Develop and maintain an effective workforce plan to enhance the strategic allocation of resources.</li> </ul>	<ul style="list-style-type: none"> <li>• Wirral Plan quarterly performance and update report</li> <li>• Wirral Plan Performance Management Framework</li> <li>• Wirral Plan</li> <li>• Wirral Partnership Framework</li> <li>• People Strategy / Organisational development plan</li> </ul>
<b>Developing the capability of the entity's leadership and other individuals</b>	<ul style="list-style-type: none"> <li>• Develop protocols to ensure that elected and appointed leaders negotiate with each other regarding their respective roles early on in the relationship and that a shared understanding of roles and objectives is maintained</li> <li>• Publish a statement that specifies the types of decisions that are delegated and those reserved for the collective decision making of the governing body</li> <li>• Ensure the leader and the chief executive have clearly defined and distinctive leadership roles within a structure whereby the chief executive leads in implementing strategy and managing the delivery of services and other outputs set</li> </ul>	<ul style="list-style-type: none"> <li>• Elected Member Training &amp; Development Programme</li> <li>• Wirral plan and Strategic Partnership frameworks</li> <li>• Constitution and Standards Committee</li> <li>• Constitution - including Financial Regulations, Schemes of Delegation, Protocol on Members and Officers relations</li> <li>• Induction programme</li> <li>• Performance appraisal procedure and linked development plans</li> <li>• Senior Manager meetings</li> <li>• Corporate Governance Group</li> <li>• Engagement &amp; Stakeholder Relations Strategy</li> <li>• Webcasting</li> <li>• Residents survey</li> <li>• External audit reports</li> <li>•</li> </ul>

Principle E: Developing the entity’s capacity, including the capability of its leadership and the individuals within it.		
	<p>by members and each provides a check and a balance for each other’s authority</p> <ul style="list-style-type: none"> <li>• Develop the capabilities of members and senior management to achieve effective leadership and to enable the organisation to respond successfully to changing legal and policy demands as well as economic, political and environmental changes and risks by: ensuring members and staff have access to appropriate induction tailored to their role and that ongoing training and development matching individual and organisational requirements is available and encouraged</li> <li>• Ensure members and officers have the appropriate skills, knowledge, resources and support to fulfil their roles and responsibilities and ensure that they are able to update their knowledge on a continuing basis</li> <li>• Ensure personal, organisational and system-wide development through shared learning, including lessons learnt from governance weaknesses both internal and external</li> <li>• Ensure that there are structures in place to encourage public participation</li> <li>• Take steps to consider the leadership’s own effectiveness and ensuring leaders are open to constructive feedback from peer review and inspection.</li> <li>• Hold staff to account through regular performance reviews which take account of training or development needs</li> <li>• Ensure arrangements are in place to maintain the health and wellbeing of the workforce and support individuals in maintaining their own physical and mental wellbeing.</li> </ul>	<ul style="list-style-type: none"> <li>• Employee assistance programme</li> <li>• Work Life Balance policy</li> <li>• Occupational Health policy / procedure</li> <li>• Attendance management policy / procedure</li> <li>• Employee benefits programme</li> <li>• Health and Well-Being Strategy</li> <li>• People strategy</li> </ul>

Principle F: Managing risk and performance through robust internal control and strong public financial management		
<b>Sub-principle</b>	<b>Wirral Council is committed to achieving good governance and will</b>	<b>The Council’s commitment to achieving good governance in practice is demonstrated by the following:</b>



<b>Principle F: Managing risk and performance through robust internal control and strong public financial management</b>		
<b>Managing Risk</b>	<ul style="list-style-type: none"> <li>• Recognise that risk management is an integral part of all activities and must be considered in all aspects of decision making</li> <li>• Implement robust and integrated risk management arrangements and ensure that they are working effectively</li> <li>• Ensure that responsibilities for managing individual risks are clearly allocated.</li> </ul>	<ul style="list-style-type: none"> <li>• Modgov system</li> <li>• Standard committee report template inc risk management section and guidance</li> <li>• Members' code of conduct Officers' code of conduct</li> <li>• Conflict of interest annual declaration.</li> <li>• Audit &amp; Risk Management Committee Terms of Reference.</li> <li>• Corporate risk management policy and strategy/framework</li> <li>• Risk management guidance on Wirral Intranet</li> <li>• Corporate and Directorate Risk Registers</li> <li>• Power BI reporting – Directorate Insights pack</li> <li>• Programme management - risk management arrangements, business cases and reporting</li> <li>• Health &amp; Safety Policy</li> </ul>
<b>Managing performance</b>	<ul style="list-style-type: none"> <li>• Monitor service delivery effectively including planning, specification, execution and independent post implementation review</li> <li>• Make decisions based on relevant, clear objective analysis and advice pointing out the implications and risks inherent in the organisation's financial, social and environmental position and outlook</li> <li>• Ensure an effective scrutiny or oversight function is in place which provides effective and constructive challenge and debate on policies and objectives before, during and after decisions are made thereby enhancing the organisation's performance and that of any organisation for which it is responsible</li> <li>• Provide members and senior management with regular reports on service delivery plans and on progress towards outcome achievement</li> <li>• Ensure there is consistency between specification stages (such as budgets) and post implementation reporting (e.g. financial statements).</li> </ul>	<ul style="list-style-type: none"> <li>• Complaints Procedure.</li> <li>• Committees and reports</li> <li>• Public access to meetings and minutes</li> <li>• Publication of agenda and minutes of scrutiny meetings (including calendar of dates for submitting, publishing and distributing reports)</li> <li>• Committee reports and Member briefings</li> <li>• ARMC Annual Self-Assessment against "A toolkit for Local Authority Audit Committees"</li> <li>• Monthly Capital and Revenue Monitoring</li> <li>• Performance Management Framework</li> <li>• Constitution</li> <li>• Corporate Risk Management Policy</li> <li>• Corporate, Directorate and Programme / Project Risk Registers</li> <li>• Whistle-blowing Policy &amp; Procedure</li> <li>• Medium Term Financial Strategy</li> <li>• Budget and Policy Framework (Constitution)</li> <li>• Financial Regulations (Constitution)</li> <li>• Power BI reporting – Directorate Insights pack</li> <li>• Organisational Performance Group (OPG) – monthly meetings</li> </ul>
<b>Robust internal control</b>	<ul style="list-style-type: none"> <li>• Align the risk management strategy and policies on internal control with achieving objectives</li> <li>• Evaluate and monitor risk management and internal control on a regular basis</li> <li>• Ensure effective counter fraud and anti-corruption arrangements are in place</li> <li>• Ensure additional assurance on the overall adequacy and effectiveness of the framework of governance, risk management and control is</li> </ul>	<ul style="list-style-type: none"> <li>• Annual governance statement</li> <li>• Corporate risk management policy</li> <li>• Annual internal audit review of the risk management framework</li> <li>• Internal Audit Reports</li> <li>• Internal Audit Plan</li> <li>• Internal Audit Progress Reports to Audit and Risk Management Committee</li> <li>• Chief internal auditor's annual report / annual audit opinion</li> <li>• Anti-Fraud and Anti-Corruption policy</li> </ul>

<b>Principle F: Managing risk and performance through robust internal control and strong public financial management</b>		
	<p>provided by the internal auditor</p> <ul style="list-style-type: none"> <li>• Ensure an audit committee which is independent of the executive and accountable to the governing body provides a further source of effective assurance regarding arrangements for managing risk and maintaining an effective control environment and that its recommendations are listened to and acted upon.</li> </ul>	<ul style="list-style-type: none"> <li>• Fraud awareness campaigns and proactive work</li> <li>• Annual programme of proactive and reactive internal audit work in respect of counter fraud &amp; corruption</li> <li>• Audit and Risk Management Committee's annual self-assessment against the "Internal Audit Toolkit for Local Authority Audit Committees"</li> <li>• Training for ARMC Members.</li> </ul>
<b>Managing data</b>	<ul style="list-style-type: none"> <li>• Ensure effective arrangements are in place for the safe collection, storage, use and sharing of data, including processes to safeguard personal data</li> <li>• Ensure effective arrangements are in place and operating effectively when sharing data with other bodies</li> <li>• Review and audit regularly the quality and accuracy of data used in decision making and performance monitoring.</li> </ul>	<ul style="list-style-type: none"> <li>• Information Governance policies</li> <li>• General Data Protection Regulations training</li> <li>• Performance Management Framework guidance</li> <li>• SIRO report – annual</li> <li>• Information Asset Owners and Administrators</li> <li>• Record of Processing Activity (RoPA)</li> <li>• Cyber Security training – annual requirement</li> </ul>
<b>Strong public financial management</b>	<ul style="list-style-type: none"> <li>• Ensure financial management supports both long term achievement of outcomes and short-term financial and operational performance</li> <li>• Ensure well-developed financial management is integrated at all levels of planning and control, including management of financial risks and controls.</li> </ul>	<ul style="list-style-type: none"> <li>• Medium Term Financial Strategy</li> <li>• Budget and Policy Framework Procedure Rules (Constitution)</li> <li>• Financial Regulations (Constitution)</li> <li>• Risk assessment within the medium term financial strategy.</li> </ul>

<b>Principle G: Implementing good practices in transparency, reporting and audit to deliver effective accountability</b>		
<b>Sub-principle</b>	<b>Wirral Council is committed to achieving good governance and will</b>	<b>The Council's commitment to achieving good governance in practice is demonstrated by the following:</b>
<b>Implementing good practice in transparency</b>	<ul style="list-style-type: none"> <li>• Write and communicate reports for the public and other stakeholders in a fair, balanced and understandable style appropriate to the intended audience and ensuring that they are easy to access and interrogate</li> <li>• Strike a balance between providing the right amount of information to satisfy transparency demands and enhance public scrutiny while not</li> </ul>	<ul style="list-style-type: none"> <li>• Conflict of interest annual declaration.</li> <li>• Complaints Procedure.</li> <li>• Overview &amp; Scrutiny Committees</li> <li>• Public access to meetings and minutes</li> <li>• Webcasting of Council meetings</li> </ul>

<b>Principle G: Implementing good practices in transparency, reporting and audit to deliver effective accountability</b>		
	being too onerous to provide and for users to understand.	
<b>Implementing good practices in reporting</b>	<ul style="list-style-type: none"> <li>• Report at least annually on performance, value for money and the stewardship of resources to stakeholders in a timely and understandable way</li> <li>• Ensure members and senior management own the results reported</li> <li>• Ensure robust arrangements for assessing the extent to which the principles contained in this Framework have been applied and publish the results on this assessment, including an action plan for improvement and evidence to demonstrate good governance (the annual governance statement)</li> <li>• Ensure that this Framework is applied to jointly managed or shared service organisations as appropriate</li> <li>• Ensure the performance information that accompanies the financial statements is prepared on a consistent and timely basis and the statements allow for comparison with other, similar organisations.</li> </ul>	<ul style="list-style-type: none"> <li>• Wirral Plan</li> <li>• Statement of Accounts</li> <li>• Annual Governance Statement and review process including review of Code of Corporate Governance.</li> <li>• Modgov system</li> <li>• Committee Report template.</li> </ul>
<b>Assurance and effective accountability</b>	<ul style="list-style-type: none"> <li>• Ensure that recommendations for corrective action made by external audit are acted upon</li> <li>• Ensure an effective internal audit service with direct access to members is in place, providing assurance with regard to governance arrangements and that recommendations are acted upon</li> <li>• Welcome peer challenge, reviews and inspections from regulatory bodies and implement recommendations</li> <li>• Gain assurance on risks associated with delivering services through third parties and that this is evidenced in the annual governance statement</li> <li>• Ensure that when working in partnership, arrangements for accountability are clear and the need for wider public accountability has been recognised and met.</li> </ul>	<ul style="list-style-type: none"> <li>• Internal Audit Annual Plan</li> <li>• Internal Audit Reports</li> <li>• Internal Audit Annual Report</li> <li>• Chief Internal Auditor's (CIA's) Progress update reports to ARMC</li> <li>•</li> <li>• Compliance with Public Sector Internal Audit Standards</li> <li>• External audit reports to ARMC</li> <li>• Annual Governance Statement</li> <li>• Communications &amp; engagement strategy</li> <li>• Wirral Plan</li> <li>• The Wirral Partnership Delivery Group and partnership framework</li> </ul>





# CONSTITUTION OF THE COUNCIL

## Part 5 Section 8

### **GOVERNANCE OF COUNCIL INTERESTS IN COMPANIES** **A CODE OF PRACTICE**

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## 1. **Introduction**

- 1.1 The purpose of this Code of Practice is to provide a reference point to the Council and interested parties (councillors, officers, company representatives and contractors) in understanding the requirements of the Council in setting up a local authority company, and in particular a local authority trading company (LATC), and how the governance arrangements for that company will work once set up.
- 1.2 The OECD/G20 helps define corporate governance by saying that it:
- *“involves a set of relationships between a company’s management, its board, its shareholders and other stakeholders; and*
  - *“provides the structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performance are determined”.*<sup>1</sup>
- 1.3 This Code of Practice therefore sets out how the Council will normally go about managing those relationships and ensuring that a company will go on to deliver the objectives established for it by the Council. It also briefly explains and makes reference to the law and basic requirements placed upon a local authority in establishing or owning companies.
- 1.4 The Code of Practice is set out as:
- an explanatory background;
  - a set of guiding principles; and then
  - a set of working expectations.
- 1.5 Attached, as appendices, are also key documents used in this process.

## 2. **Background**

### **(a) Local authority trading and the local authority trading company**<sup>2</sup>

- 2.1 There are long-established powers for councils to trade. Among the most important is the Local Authorities (Goods and Services) Act 1970, which authorises councils to enter into agreements with other local authorities and other designated public bodies, for the provision of goods, materials and administrative, professional and technical services, for the use of vehicles, plant and apparatus and associated staff, and for the carrying out of maintenance. Payment terms are set out in an agreement. These are not limited to cost recovery. The 1970 Act is the bedrock of trading within the public sector and there is substantial experience of its operation. But the Act is limited in scope. For example, it does not allow trading with the private sector or the public at large. Other established trading powers are specific in nature, such as the Local Government (Miscellaneous Provisions) Act 1976, which enables councils to

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<sup>1</sup> “G20/OECD Principles of Corporate Governance - OECD Report to G20 Finance Ministers and Central Bank Governors” - September 2015

<sup>2</sup> Source: Local Government Association Briefing

enter into agreements with anyone for the use of spare computer capacity.

- 2.2 The Local Government Act 2003 added new possibilities to charge for services, to both provide extra services at cost and to trade with the private sector. Under the 2003 Act, the Government authorizes trading by means of a trading order. The Trading Order currently in force was made in 2009<sup>3</sup>, which permits all councils in England to trade or "to do for a commercial purpose", anything which they are authorised to do for the purpose of carrying on their ordinary functions, which includes use of the granted general power of competence.
- 2.3 Under that 2003 Act and Trading Order, as augmented by the Localism Act 2011, for a local authority to exercise the power to do things for a commercial purpose (which the authority couldn't otherwise do), then it must be done through a company. Councils are thus enabled to establish a company by which they can trade with the private sector for a profit - that is to enter into commercial contracts. The profits may then go back to the council through dividends or service charges.
- 2.4 The reason given for this legislative requirement is that:  
*"local authorities and their trading arms have to be on a level playing field with the private and commercial sector in both a positive and negative way. They should not be at a disadvantage, but they should not have an outstanding advantage. Taxation is a particular issue. It is right to carry forward the requirement that such bodies should be companies and trading as such."*
- 2.5 To exercise the power to establish a company and trade, a local authority must first approve a business case ('a comprehensive statement') covering:
- the objectives of the business;
  - the investment and other resources required to achieve those objectives;
  - any risks the business might face and how significant these risks are; and
  - the expected financial results of the business, together with any other relevant outcomes that the business is expected to achieve.
- 2.6 That business case is then implemented and refreshed by way of a business plan, which should be updated and submitted for approval each year, to guide the company in carrying out its continuing activities.
- 2.7 The local authority must also recover the costs of any accommodation, goods, services, staff and anything else they supply to the company under any agreement or arrangement. This is an absolute requirement and distinct from the various rules on procurement or providing state aid.
- 2.8 Other important legal, commercial and financial considerations for councils (or combined authorities such as fire and rescue authorities) setting up a trading company include company law issues, the cost of bidding for contracts, tax liability (corporation tax and VAT), EU procurement law and state aid rules and employment law (TUPE and pensions).

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<sup>3</sup> The Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009

## **(b) The Local Authority Company**

- 2.9 The kind of company that must be utilized to enable the Council to trade in this way is defined in Part V of the Local Government and Housing Act 1989 ('LGHA 89'). That lists:
- a company limited by shares;
  - a company limited by guarantee and not having a share capital;
  - a company limited by guarantee and having a share capital;
  - an unlimited company;
  - a society registered or deemed to be registered under the Industrial and Provident Societies Act 1965.
- 2.10 The LGHA 89, and the current Order<sup>4</sup> made under it, places local authority companies into one of three categories, being controlled or influenced by the local authority (a regulated company) or a company in which the local authority has a minority interest. It then goes on to set out a number of additional restrictions and requirements to which the local authority and the companies must adhere.
- 2.11 The reasons for these limitations were described by the Government of the day, when setting out the reasons for the LGHA 89, as being that:
- "when a company is effectively under the control of a local authority... the most significant controls that Parliament has laid down for the conduct of local authorities should apply to that company."*
- 2.12 A regulated local authority company and any subsidiary of it, for example, is required to state on all correspondence that it is "**a local authority controlled company**" or "**a local authority influenced company**" (as the case may be) and name the relevant authority or authorities and is subject to rules concerning access by the Council's auditors and for delivery of information to the authority and its members.

## **(c) Other Local Authority Entities**

- 2.13 If it isn't needed as a means by which it can trade, a local authority is free to involve itself in any one of a number of different forms of sole and joint ventures to best assist it in achieving its goals and aims, which may or may not involve establishing an entity that has a separate legal personality. These may also be as above, companies as defined by the Companies Act and which can include an industrial or provident society or a community interest company. They may alternatively be established as a distinct trust, with the council or appointees as trustee. They may be embodied as limited liability partnerships. They may also exist simply as unincorporated partnerships, with other public bodies or private persons (that can often act as if they were a distinct entity), such as the Local Economic Partnership.
- 2.14 There are certain rules yet to be brought into force, and the Secretary of State holds reserve powers, that may require, prohibit or regulate the taking of specified actions by entities connected with a local authority and those appointed to or representing

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<sup>4</sup> The Local Authorities (Companies) Order 1995



the local authority at them<sup>5</sup>. In this respect:

- “entity” means any entity, whether or not a legal person, and
- an entity is stated to be “connected with” a local authority if financial information about that entity must be included in the local authority’s statement of accounts.

2.15 Whilst this Code of Practice will apply to all companies in which the Council has an interest, it may not be as appropriate for the governance of the Council’s relationship with other entities which it is connected to, is a member of or has an interest in. In these instances, regard will be had to this Code but its application will be determined on a case by case basis.

### **3. Guidance**

- 3.1 In exercising the power to establish a local authority trading company (LATC), local authorities were obliged under the 2003 Act to have regard to Statutory Guidance. The “*General Power for Local Authorities to Trade in Function Related Activities Through a Company*”<sup>6</sup> was issued and it is to this document that this and other councils in establishing the companies have had regard to.
- 3.2 That Statutory Guidance is now out of date, however, and was withdrawn as of 17<sup>th</sup> June 2014. Whilst new guidance is awaited, the withdrawn guidance nevertheless remains useful and largely very relevant. Where it is still relevant, this Code has had regard to it and, where associated with the principles of this Code, accompanying direct quotes from the Government Guidance are included throughout.
- 3.3 All listed companies are subject to the *UK Corporate Governance Code*<sup>7</sup>. The Council will expect all of its companies and their subsidiaries, and indeed any company with which it is associated, to adopt the “comply or explain” approach of the UK Corporate Governance Code as a demonstration of best practice in corporate governance.
- 3.4 The *Corporate Governance Guidance and Principles for Unlisted Companies in the UK*<sup>8</sup> and also the *Corporate Governance Handbook*<sup>9</sup> have additionally been utilised in the compiling of this Code of Practice.
- 3.5 The Council itself has adopted a Code of Corporate Governance and the approach of this Code of Practice will fall to be associated with the provisions of that Code.

### **4. Principles of Governance of Council Companies**

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<sup>5</sup> S.212 Local Government and Public Involvement in Health Act 2007

<sup>6</sup> First published: 29 July 2004: UK Govt Archive

<sup>7</sup> September 2014: Financial Reporting Council

<sup>8</sup> First edition: November 2010: Institute of Directors (IoD) and European Confederation of Directors’ Associations (ecoDa)

<sup>9</sup> Third edition 2013: Institute of Chartered Secretaries and Administrators (ICSA)

- 4.1 In setting out the governance relationship between the Council and its companies, group of companies and organisations it has invested in, this Code has three key underpinning principles. These are as follows, preceded by a relevant quote on the subject from the Government Guidance.

### **I. Controls and Freedoms**

#### The Guidance:

- 4.2 *“A successful company will be one that works alongside the authority in delivering joint objectives. The authority will have to consider how to balance the need to assist the company to achieve its trading objectives with the principles of transparency, accountability and probity.”*

#### The Principles

- 4.3 It is recognised that, whilst appreciating this should not be unfettered, a trading company needs to be given commercial freedoms to enable it to succeed.
- 4.4 Accordingly, governance arrangements will seek to ensure that:
- the company will be provided with sufficient freedoms to achieve its objectives; and
  - the Council will retain sufficient controls to ensure that its investment is protected, that appropriate social and financial returns on investment can be obtained and that the trading activities of the companies are conducted in accordance with the values of the Council.

### **II. Relationship, Integrity and Accountability**

#### The Guidance:

- 4.5 *“It is important that trading companies can operate on an equal footing with their competitors, but it is equally important that they are not used as a device for inhibiting legitimate public access to information about local government and local government services.”*

#### The Principles

- 4.6 It is recognised that, whilst appreciating its procedures operate in a way that protects the company’s commercial interests, those procedures should ensure that the Council can carry out its functions as an investor, as a trustee of public funds and a local authority committed to both due responsibility for the exercise of its functions and for providing a vision for the locality.
- 4.7 Accordingly, governance arrangements will seek to ensure that:
- the Council can make investment decisions based upon complete and accurate



- consideration of business cases and business plans;
- the Council can evaluate social and financial benefits and returns on investment; and
- the Council’s committees are able to exercise their powers in relation to the reviewing of decision making

in a manner that ensures the companies can provide full and frank financial and business reporting against their business plans and be open to an appropriate level of scrutiny without fear of commercial confidentiality being breached.

### **III. Understanding of role**

#### **The Guidance:**

- 4.8 *“A trading company will be a separate legal entity from a local authority. It will derive its legal authority from its Memorandum of Association and the Companies Acts. Its directors and officers will derive their authority from the articles of association and the law relating to companies.*

...

*“Those “who are appointed directors will participate directly in the activities of the company and are answerable to the company and have the powers and duties of company directors whilst they do so.*

...

*“Local authority members and officers should be aware of potential conflicts of interest when carrying out their roles for their authorities, or when acting as directors of trading companies.”*

#### **The Principles**

- 4.9 It is recognised that, as company ventures have a separate legal personality to the local authority, the success and good governance of the company venture depends upon those involved understanding their role and responsibilities collectively and individually.
- 4.10 Accordingly, governance arrangements will seek to ensure that there is sufficient induction, training and other materials in place so that:
- their legal duties;
  - stewardship of assets;
  - the provisions of the governing documents;
  - the external environment; and
  - the total structure of the organizations and the venture
- are appropriately understood by Members of the Council in their role as part of the Council, by officers of the Council associated with these duties and by the directors of the companies.

## 5. Ownership and control of the company

- 5.1 Wirral Borough Council, the local authority as a corporate body, will be a member of the company. The membership will be as guarantor if a company limited by guarantee or, as will be the norm if a LATC, the holder of shares (perhaps the only share) in a company limited by shares.
- 5.2 The rights and duties as a member of the company will, however, almost always fall to be exercised as a corporate responsibility. This means that decisions to be taken by the Council as a member of the company (as shareholder) fall to be decided on in the normal way. That is, that these functions may be delegated by the Council to a committee, sub-committee or an officer and will be subject to access to information rules and review by the Council or appropriate overseeing committee.
- 5.3 The authority of the shareholder is exercised where decisions of the company are reserved for approval of the Council before they can be implemented, but also directly in the form of a shareholder's written resolution or at the company's general meetings.
- 5.4 At the company general meetings the Council will be present and voting as a member of the company, where this presence and voting will be in the form of a single person known as the 'shareholder representative'.
- 5.5 Decisions to be made by the Council, rather than left to the company itself, are known as 'reserved matters'. Reserved matters cover such things as the approval of the company's annual business plan or mid-year amendments to it, the appointment of directors, certain key financing decisions and so forth. These are established either through agreement with the company, known as a shareholders' agreement, or as set out in the company's governing articles of association.
- 5.6 The relationship between the local authority (and the companies it is a member of) is governed by these and other key documents that are required to establish a local authority company, and a trading company in particular. In establishing the local authority's company and then in governing the relationship with what is now a separate legal personality, the Council will need to put in place the following documents:
- The **business case** which assesses the risk involved in the proposed trading enterprise and decides whether or not it should be established and proceed to trade. It starts the process of business planning.
  - The **articles of association**, or the memorandum and articles of association as it used to be called, which is the constitution of the company. This is the legal documents required to set up a limited company and give details of its name, aims and authorised share capital, conduct of meetings, appointment of directors and registered office.
  - The **shareholders agreement**, or management agreement, which sets out the rights of the Council as the sole or co-shareholder and how it can exercise those

rights. It details the powers of the board of the company and how and when the shareholder might influence those powers. It is important to note that the shareholder agreement is capable of being developed and added to as the company develops.

- The **financial agreements** which are the commercial agreements that set out what assistance is to be provided and on what terms. This may be purely financial, such as a direct loan or a facility such as a parental guarantee, and made on commercial terms. It may also be in the form of goods, services or staff to be provided and set out in a resourcing agreement or a service level agreement, which is likely to be on a service charge or cost recovery basis. The agreements may require regular and detailed access to information and financial reporting to the Council and/or holding company.
- The **business plan** which sets out the objectives of the business, how they are to be achieved and standards met adjusted in the light of experience and changing circumstances. It is a comprehensive analysis of the business situation at a particular point in time. It is often referred to as the annual business plan because it is expected to be submitted for shareholder approval annually.

5.7 A model shareholder agreement for use with the holding company, setting out the principal decisions reserved for the Council's approval, including subsidiaries of the company as a group, is outlined at Appendix 2.

## **6. The Council's Shareholder Board**

6.1 The structure described above creates a governance process whereby, so far as appropriate under this Code's Principles, the company is left to get on with its business. Following the UK Corporate Governance Code, the companies will utilise a unified board, with appropriate non-executive directors providing outside expert help and with board committees (such as an audit committee) to provide oversight and ensure delivery.

6.2 The Council, in turn, will seek to inform decision making and holding the company to account utilising a reflection of the company board structure in the form of a Shareholder Board. Alongside the formal sub-committee structure when meeting in public, the Board may also invite independent advisors, appointed from time to time as may be required, brought in to provide their expertise in the commercial sector and the business of the trading company or companies concerned. The role of this group is to provide the necessary oversight from a shareholder's perspective that the parameters, policies and boundaries that the Council as the shareholder has established for the company are being adhered to. In it, the Shareholder Board Sub-Committee remains the decision maker but the wider Shareholder Board act as advisors in the making of those decisions.

6.3 Such a Shareholder Board, acting as a mixture of formal Sub-Committee meeting in public for decision-making purposes and as a working group meeting in private to consider regular performance reporting, is considered to be an effective means of governance of the companies. This is because it allows for decision making and

discussion in an informed atmosphere, which also provides the Council with:

- a mechanism to communicate the shareholders' views to the company; and
- a means to evaluate the effectiveness of the company board and the delivery of the company performance against strategic objectives.

- 6.4 Decisions to be made as shareholder representative in, for example, an annual meeting of a company will be delegated to the responsible Director or a Member of the Council.
- 6.5 Within the context of this arrangement, the Sub-Committee, will remain the sole decision maker, meeting in public and subject to Access to Information Rules, but the wider Board will act as advisors in the making of those decisions and working group style meetings may be in private. As described above, the role of the shareholder representative is to:
- (a) exercise the Council's vote at general meetings of the company;
  - (b) determine those matters that are reserved to the shareholder to decide upon; and
  - (c) hold the companies to account on a day to day basis for:
    - performance against their agreed business plan;
    - contractual matters between the Council and the company;
    - the company's state of financial health; and
    - the social and financial return the company provides on the Council's investment.
- 6.6 The Terms of Reference for the Shareholder Board are set out at Appendix 1.

## **7. Relationships**

- 7.1 The Policy and Resources or other Committees of the Council are responsible for approving the business case to establish a company, of setting the right balance between the economic, social and environmental objects of a company when it is established and of subsequently overseeing and scrutinising the exercise the Council's powers as shareholder
- 7.2 It is the Sub-Committee, advised within the remainder of the Shareholder Board, who will ensure that the company is able, and the Council has properly required the company, to make sufficient returns for the investment to be worthwhile and, indeed, ensure that the social objects set for it are not lost in the drive towards the overriding and essential requirement for the company to be economically successful.
- 7.3 Once established, the company must then get on with the business of delivering the objectives with which it has been tasked, within the parameters set for it. It must be otherwise free, however, to operate in its own best interests and to compete on an even basis with its competitors in the marketplace.
- 7.4 This creates a flow of information and accountability, in which
- the company needs to get on with the business of delivery;

- the Council needs to make the company decisions reserved to it and to hold the company to account for performing against them; and
- Members as part of their overview role within committee need to advise on or scrutinise the decisions made on the Council's behalf.

This needs to be done in a trading environment that requires them all to make speedy and reactive commercial decisions and to handle often highly valuable and commercially sensitive information.

- 7.5 Members, to fulfil their role within committee and Council, require a means of access to the sensitive information and debate that inform the Sub-Committee and Director's decision making, without either oppressing that process or endangering its own strictly non-Council role.
- 7.6 It is worth noting that the legal framework for local authority companies includes an express requirement concerning the provision of information to Members of the Council, which reflects the similar provision in relation to local authorities generally. This states that a local authority regulated company "shall provide to a Member of the Council such information about the affairs of the company as the member reasonably requires for the proper discharge of his duties."
- 7.7 The exception here is that the company cannot be required to provide information in breach of any enactment, or of an obligation owed to any person.
- 7.8 It is also worth noting that, where a Member or an officer has become a member or director of a local authority company, the local authority must make arrangements for them to be open to questioning about the company's activities by Members of the Council at a meeting of the authority or a committee or sub-committee. In the course of proceedings of the committee, the Member or officer is not required to disclose confidential information about the company.

## **8. Investment and Finance**

- 8.1 The balance of how each company venture may be financed will be assessed and set out in the business case, required at the very beginning of the venture and the incorporation of the company as described above, and in business plans as made or amended and agreed by the Council. Each decision will take into account state aid implications and such matters as where legislative and regulatory requirements demand full cost recovery or standard commercial terms to be applied.
- 8.2 Where the purpose of a company is to better utilise assets owned by the Council, for example, the principal investment in the company is likely to be those assets. The assets may then be made use of by the company through their being transferred in their entirety from the Council to the company or by being provided to the company by the Council under a lease, loan or use agreement.
- 8.3 Investment at the initial stage of a trading company will normally be by way of purchase of share capital, often together with a loan or loan facility on commercial

terms. This is to fund those costs which arise at the start of the company or company joint venture, including the holding company and its subsidiaries, to cover initial set up costs, working capital costs and collateral costs. For purchased company interests, share value should reflect the fair value of the going concern.

- 8.4 Direct investment may well also be by various other forms of agreement. This may be for the supply of monies, directly as a loan or under a parental guarantee, credit agreement, facility and so forth, which should be on standard commercial terms. It may also be for the supply of goods, property or staff, as described above and at section 12 below.

## **9. Companies Structure**

- 9.1 Wherever advantageous and reasonably practicable to do so, the Council's companies and any subsidiary companies will be expected to adopt a common 'group' approach. Especially where a Teckal company, this will involve the companies using existing Council policies and strategies where appropriate and, in particular, the Council will require the company and its subsidiaries to adopt a common approach across the group on branding and its finance, ethics and procurement policies and practices wherever practicable. For example, the Council will require a Teckal and potentially other companies owned by the Council to approve the procurement and authorisation of spend levels set by each company for its directors and staff.
- 9.2 More detailed matters may also be set as a common approach by the Council, where it considers that that will increase effectiveness, efficiency and engender common understanding. This is likely to include such things as group financial procedure rules, fraud and whistle-blowing policies, decision making levels and procedures, capability and disciplinary procedures, health and safety practices and so forth.
- 9.3 The Council and any holding company may similarly provide a natural home and conduit for support and control roles that will be common across the group, such as company secretarial services, procurement, finance and human resources. These fall into two groups. The first is those services that would be better employed directly by the company within any group structure, such as financial and payroll systems for example. The other are those provided as managed services to the companies by the Council, under a resourcing agreement (or service level agreement), because this is more cost effective, appropriate or is a demand of the shareholder, such as HR or company secretarial and legal services. (This is described further at section 12 below).
- 9.4 The secondary purpose is financial, in that a range of company activities can share VAT registration where appropriate and more than one company, one arranged as a subsidiary to another, can be treated as holding group accounts. The latter means that reporting is as one set of accounts and that profit and loss can be distributed across the group, setting one off against another, as might be desired to meet the aims and values set for the group.



9.5 The Council will approve the appointment of auditors for any company and its accounts may be required to appear as part of the Council's financial statements.

## **10. The Company's Board**

10.1 The Government Guidance advised that a local authority company will be run by its board of directors answerable to the shareholders, in accordance with the articles of association, and goes on to suggest that a board of between 3 and 8 directors is most likely to be practical (although this will be dependent on the circumstances of each company). The participating Local Authority should be represented on the board of its company.

10.2 The representatives who are appointed directors by the Council will participate directly in the activities of the company and are answerable to the company and have the powers and duties of company directors whilst they do so. Accordingly, the Government Guidance goes on to suggest that this requirement in a trading company and the accompanying conflict of interests that may arise means that officers are better placed to fulfil this role.

10.4 Specific arrangements may be required outside of the norm in certain circumstances. For example, the Council may require that it appoints the Chair of the board of directors and that the Chair will have a deciding say to be exercised through means of a 'golden vote' procedure on the board. This approach may be needed in a specific kind of company, for instance, to ensure that the Council's officers will always be able to out-vote the directly appointed directors on the holding company. Such matters as the quorum requirement for board meetings of the company and the like will be expected to reflect that objective.

10.5 A Council owned company will normally be required to have two standing committees, which will be as follows:

- The Remuneration Committee, which will conduct appointments and remuneration decisions and recommendations to the Council (where an appointment is not wholly reserved to the Council).
- The Audit Committee, which will fulfil the same role and function as the Council's Audit Committee, the outputs of which will feed into the holding company board, the company business plans and the Council's own statement of accounts and Annual Governance Statement.

10.6 In respect of the individual wholly owned trading companies, non-trading (Teckal) companies and joint ventures, the appointment of directors of the company will be as are considered best to meet the requirements of the subsidiary or venture concerned.

10.7 Where an officer is placed on a company board, he or she will be provided with an indemnity for their actions in that role. This is provided for under the Local Authorities (Indemnities for Members and Officers) Order 2004. It should be noted, however, that any such indemnity only covers actions taken honestly and in good faith.

- 10.8 Appointments to company director will be of the relevant post or office of the Council, not as an individual. This will be reflected within each of the companies' articles in that if any one of the Council appointed directors ceases to be an employee or office holder of the Council, then they automatically also cease to be a director of the company.
- 10.9 The remuneration of Council appointed directors to a company controlled or influenced by the Council, other than permitted expenses, will be met by the Council and not the company. This is because, whilst that director's overriding duty is to the company, that person's role as director on the company board is only because of, and in fulfilment of, their employment as an officer of the Council, for which they are remunerated by the Council under that contract of employment. The position on the company is an inherent part of their job, for which payment is not to be made twice, directly or by different persons, for the same work
- 10.10 That is not to say that the Council would fail to recognise that the position of an officer appointed as a company director or company officer will include distinct and potentially onerous additional responsibilities. Rather, it is that it is the Council that needs to recognise the value of those responsibilities, through a job evaluation process or other means by which the Council sets salaries, in considering any review of an officer's remuneration. To do otherwise risks a future action against the officer or the Council and, if a payment were made to a Council officer by the company that was considered to be a fee or reward accepted under the colour of his or her office or employment other than his proper remuneration, that officer may also have committed a criminal offence<sup>10</sup>.
- 10.11 For the purposes of completeness, where a Member of the Council is a director of a regulated company the law only permits such a Member to receive payment for that directorship up to the amount payable for that role under the authority's Special Responsibility Allowance (SRA)<sup>11</sup>, set as a result of the recommendation of the Independent Remuneration Panel<sup>12</sup>. These payments may be made by the company directly or, more normally and as would be the case here, by the Council for reasons of simplicity, accounting and accountability.
- 10.12 The view behind this is that the regulated company is, in fact, simply a part of the Council. In the same way that there is a bar on Members of the Council being employees, the philosophy runs akin to that for officers in that the Council may not pay a councillor for any other activities they may carry out as a Member of the Council other than through their SRA.

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<sup>10</sup> s117(2) of the Local Government Act 1972

<sup>11</sup> Article 5 of the Local Authorities (Companies) Order 1995

<sup>12</sup> Reg 21 of the Local Authorities (Members' Allowances) (England) Regulations 2003.

## **11. Conflicts of interest**

- 11.1 The Government Guidance states that “*Local authority members and officers should be aware of potential conflicts of interest when carrying out their roles for their authorities, or when acting as directors of trading companies.*”
- 11.2 There will always arise a point where, in matters of reporting, contractual discussion, investment requests or resourcing agreements, there is potential for the same person to be a decision maker or advisor both for the Council and the company.
- 11.3 This is a reflection of the position of each company as a separate legal entity and that the directors of each company are subject to. As the Corporate Governance Guidance and Principles puts it:

*‘An important principle of Company Law is that directors have a duty to promote the success of the company as a whole. They are specifically prohibited from directing the activities of the company in favour of themselves or particular shareholders and/ or stakeholders’.*

- 11.4 Appendix 3 sets out a briefing for directors’ duties.
- 11.5 An essential element of this in terms of this Code is that, whilst changes to the Companies Act and current articles of association allow for appropriate provisions dealing with conflicts of interest and the ability of company directors to authorise them, an officer of the Council or a Member can never waive their duty to act in the public interest in exercising their responsibility for functions of the Authority. This will, on occasion therefore, create an inescapable conflict of interest between someone’s role as a Member or, more likely, as an officer of the Council and as a director of a company, of which those involved need to be aware.
- 11.6 There are also natural points where it is expected that the Council and one of its trading companies will take a different approach. In this respect, the Government Guidance states that:

*“The local authority should consider appointing a ‘contract officer’ and/or ‘contract member’ with primary responsibility for liaison between the company and the authority, and for access to information about it. It might wish to place limitations on these individuals to ensure that they are fully accountable to the authority as a whole and to ensure that the Section 151 Officer/Monitoring Officer countersigns major decisions about the company’s operations.”*

- 11.7 This is the role of the Shareholder Board. In support of that function, the Council will appoint a lead authority and client-side officer to lead on managing contractual arrangements with the companies and in holding of the companies to account.
- 11.8 A certain form of wholly owned local authority also exist to provide services directly to or for the Council (known as a ‘Teckal’ company). The relationship between the authority and the company are set out in a contract for services In this scenario, clear separation is required between commissioner and provider and there will be a requirement for further support to be provided, beyond the position of lead authority



and client officer.

11.9 Officers placed into any of these roles are, at some point, likely to find themselves in a position where they are, or are negatively seen to be, acting against the interest of their own authority and also challenging the Council as their employers or senior managers to whom they might normally answer to. As a result of such activities, their performance in the company or actions they feel are required of them by the company, some of those officers may even find themselves in a position where it is no longer felt tenable that they can be appointed by the authority as a director of a company. The Council as an employer, from the viewpoint of both the shareholder and possible contractor or client, wholly recognises these unusual positions that such officers may find themselves. The Council therefore undertakes that no officer will suffer any ill affect to his or her employment or career with the authority for fulfilling these activities to the best of their ability or in undertaking these actions asked of them.

## **12. Managed Services, Support Arrangements and Employees**

12.1 The authority is required under the 2009 regulations to recover the costs of any accommodation, goods, services, staff or any other thing it supplies to a company in pursuance of any agreement, or arrangement in place. It cannot subsidise the operation of the company in this way.

12.2 The Government Guidance in addition clarifies that

*“Because the power to trade is subject to a restriction requiring it to be exercised through a company, it follows that the authority has the requisite power to enter into arrangements with a company in order for the trading power ... to be exercised. It is not necessary therefore, for the company to be expressly designated as a public body under the Local Authorities (Goods and Services) Act 1970, in order for the authority to be able to provide it with staff, goods etc, for the purpose of exercising the power to trade.”*

12.3 This means that the authority may enter into an agreement with the companies to provide services at cost or as a surplus service charge and that staff time and resources utilized for company purposes should be carefully accounted for. Where this is done at cost, which shall be the norm, it is helpfully stated in the Guidance that the approach should be in accordance with the CIPFA definition of ‘whole cost’.

12.4 Referred to above as the ‘managed services’, those areas of the authority’s resources so utilized might include project management, initial set-up staff, human resources, audit, business continuity, communications, procurement, legal or finance and so on. It is for the company and the Council to agree what is the appropriate level of authority led resource that is appropriate, should or can be delivered to the company in each case. The parameters of those services can be agreed through a Resourcing Agreement or what is known as a Service Level Agreement (SLA).

12.5 The authority as shareholder, however, does need to be assured that there are effective and robust support services in place in certain areas. This is to satisfy itself

that sufficient standards of operational governance, legal and company secretarial compliance and effective financial management within the company are adhered to. The authority will reserve to itself the ability under the Shareholder Agreement to insist on supplying these services to a controlled company, at cost, if it feels that these standards are not otherwise being met or are not in its opinion likely to be met.

- 12.6 In particular, the Company Secretary role should have a consistent approach across all of the Council owned companies or group of companies. This is to ensure consistent interpretation of the compliance standards across the companies and of the governance relationship between the companies and between the companies and the Council. In addition, it ensures that appropriate and proper intelligence is shared across the companies and the authority. In relation to all authority-controlled companies and their subsidiaries, therefore, the position of company secretary as an officer (not a director) of each company in the group is to be fulfilled by the Council's Monitoring Officer, being the equivalent corporate governance, assurance and general counsel position for the Council. All company secretarial and general counsel duties for the companies will then be carried out through that office, either directly or through the position of an assistant company secretary, with the exception of where a conflict of interest is identified and is acknowledged by that officer.
- 12.7 In relation to company staffing, it is expected that staff of the local authority trading companies will be directly recruited and employed by the companies themselves, with the exception of those support staff supplied by or seconded from the authority as described above. Where the business case includes that staff are transferred, however, this will be subject to full reporting and then consultation and requirements under TUPE legislation and guidance.

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*(Based on the LLG Guidance Note for England & Wales February 2018)*

## **APPENDIX 1**

### **SHAREHOLDER BOARD - TERMS OF REFERENCE**

#### **Composition**

This is a sub-committee of the Policy and Resources Committee and comprises five elected members appointed on a politically proportional basis.

#### **Purpose**

To exercise responsibility for the Council's functions as corporate shareholder of a company, or group of companies.

#### **Relationships**

The Shareholder Board as it considers appropriate in accordance with its functions, may:

- report and make formal recommendations to the full Policy and Resources Committee of the Council;
- make reports to and consult other committees of the Council; or
- make reports to and consult the Council's Audit and Risk Management Committee, in relation to that Committee's particular functions.

#### **Function**

1. Monitor the performance of a company in relation to its Business Plans and, in particular, the company's performance:
  - (a) in financial matters
  - (b) against the social goals of the company as set out in the company's Objects, Business Case or Business Plans; and
  - (c) against the values of the Council.
2. Evaluate and monitor via periodic reports (including annual reports):
  - (a) performance and progress against business plans;
  - (b) financial and social returns on investment (be that shareholding, loans or direct investment); and
  - (c) risks and opportunities including those arising from joint ventures or new opportunities.
3. Consider matters reserved to the Council for shareholder approval, such as those listed below but more particularly set out in a company's Articles of Association or Shareholder Agreement:
  - (a) Varying Articles of Association
  - (b) Varying ownership and structure
  - (c) Variations to shares (number of, rights, etc.
  - (d) Entering contracts that:
    - (i) have a material effect on council business (including other companies within the group)
    - (ii) are outside of the business plan or do not relate to the business

- (iii) significant in relation to the size of the business, the business plan, etc.
  - (e) Material legal proceedings outside of ordinary business
  - (f) Adopting and amending business plans each year and strategic plans (3 years)
  - (g) Appointment, removal and the remuneration of directors (members of the company board)
  - (h) Selection of the chair of the board
  - (i) Appointment of auditors
  - (j) Issue of dividends
- as more particularly set out in a company's Articles of Association or Shareholder Agreement

4. Consider proposals that might be outside of the agreed operational parameters and business plans.
5. Exercise oversight on decision making and assurance that the statutory functions of the companies are being properly discharged.

### **Decision making by the shareholder representative**

Where a reserved matter is considered by the Chief Executive to necessitate a shareholder decision before the next scheduled meeting of the Shareholder Board, the Chief Executive, or their appointed nominee, is authorised to perform all functions within the duties and powers of the Shareholder Board in accordance with provisions set out below and as shareholder representative.

The Chief Executive is authorised, subject to consultation with the Chair of the Shareholder Board or, in his/her absence, the Vice-Chair, and the consultation of a member of each political group proportionately represented on the sub-committee, to perform all functions within the powers and duties of that Shareholder Board in any case in which the prompt performance of any of the Council's shareholding functions is desirable and necessary, subject to the action taken being reported through delegated decision notices.

The Chief Executive, or his/her nominee, is further authorised to exercise the Council's vote as shareholder at general meetings of a company.

The following matters to be determined by the Council as shareholder are reserved for decision by the Shareholder Board only:

- Annual business plan (adopt or amend);
- Annual report and accounts;
- Change of auditor;
- Dismissal of director;
- Engaging in any business other than as contemplated by the business plan;
- Formation of a subsidiary;
- Listing or trading of shares;
- Variation of the rights attached to shares;
- Winding up or administration.

## APPENDIX 2

### OUTLINE OF THE SHAREHOLDER AND COMPANY AGREEMENT

1. DEFINITIONS AND INTERPRETATION
2. FINANCING THE COMPANY
3. DIVIDEND POLICY
4. SUBSIDIARIES
5. MANAGEMENT OF THE COMPANY
6. SHAREHOLDER GROUP
7. THE BUSINESS PLAN AND COMPLIANCE WITH THE BUSINESS PLAN
8. REPORTING AND ACCOUNTING MATTERS
9. BANKING ARRANGEMENTS
10. TERMINATION
11. UNLAWFUL FETTER ON THE COMPANY'S POWERS
12. ASSIGNMENT AND SUB-CONTRACTING
13. FURTHER ASSURANCE
14. REMEDIES AND WAIVERS
15. ENTIRE AGREEMENT
16. VARIATION
17. CONFLICT WITH THE ARTICLES
18. SEVERANCE
19. CONFIDENTIALITY
20. NOTICES
21. NO PARTNERSHIP OR AGENCY
21. COUNTERPARTS
22. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999
23. GOVERNING LAW AND JURISDICTION





## WHISTLEBLOWING POLICY

### Introduction

All of us at one time or another has a concern about what is happening at work. Usually these are easily resolved. However, when the concern feels serious because it is about a possible fraud, danger or malpractice that might affect others or the Council itself, it can be difficult to know what to do.

You may be worried about raising a concern and may think it best to keep it to yourself, perhaps feeling it's none of your business or that it's only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or to the Council. You may decide to say something but find that you have spoken to the wrong person or raised the issue in the incorrect way and are not sure what to do next.

The Council are committed to running the organisation in the best way possible. This policy seeks to reassure you that it is safe and acceptable to speak up and to enable you to raise any concern that you may have at an early stage and in the right way. Rather than wait for proof, the Council would prefer you to raise your concern as soon as you feel able to do so.

This policy applies to all those who work for the Council; whether full-time or part-time, employed, subcontracted, working as a consultant, through an agency or as a volunteer. If you have a whistleblowing concern, you are encouraged to notify us of the same as soon as is practicably possible.

### Are you using the correct policy?

If something is troubling you and you think that the Council should know about or investigate it, please use this policy. If, however, you wish to make a complaint about your employment or how you have been treated, you are encouraged to use the grievance or dignity at work policies, which are available on the People pages of the Council's Intranet site:

<https://wbcnet.wirral.gov.uk/people-standards-and-conduct/dignity-work>  
<https://wbcnet.wirral.gov.uk/people-standards-and-conduct/grievance>

If you have a concern that relates to financial misconduct or fraud, you are advised to refer to the Anti-Fraud and corruption policy, which is available on the Internal Audit page of the Council's Intranet site:

<https://wbcnet.wirral.gov.uk/news/news/2019/11/18/fraud-awareness-week>

The Whistleblowing Policy is primarily for concerns where there is a risk that is in the public interest. This includes risks to the wider public, customers, staff or to the Council itself.

### **Public Interest Disclosure Act (1998) (PIDA)**

This policy is drafted in line with the provisions of the Public Interest Disclosure Act (1998) (PIDA). The Act protects you from detrimental treatment or victimization by your employer if, in the public interest, you disclose a concern regarding any wrongdoing.

Examples of concerns that you may raise include:

- Data protection issues
- Fraud/Theft
- Breaches of the council's policies and procedures.
- Conflicts of interest
- Safeguarding issues
- Health and safety

### **Policy Aims**

**This policy aims to:**

- Encourage you to feel confident in raising concerns and to question concerns that you may have about perceived wrong doings
- Provide a clear process in which you can communicate your concerns
- Ensure that you receive a response to your concerns and are aware of how you can pursue the same if you are not satisfied with the Council's response
- Reassure you that if your disclosure is genuine, you will be protected from harassment, reprisals or victimisation by anyone working for or with the Council

### **Victimisation**

The Council is committed to this policy. Provided you are raising a genuine concern, it does not matter if you are mistaken. Of course, the Council does not extend this assurance to someone who maliciously raises a matter they know is untrue.

If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any form of reprisal as a result. The Council will not tolerate the harassment or victimisation of anyone raising a genuine concern and we consider it a disciplinary matter to victimise anyone who has raised a genuine concern.

### **Confidentiality**

With these assurances, we hope that you will raise your concern openly. However, the Council recognise that there may be circumstances when you would prefer to speak to someone confidentially first. If this is the case, you are requested to advise the Council of your concern at the outset. If you ask the Council not to disclose your

identity, it will not be disclosed without your consent (unless required by law). You should understand that there may be times when the Council is unable to resolve a concern without revealing your identity, for example where personal evidence is essential or in an investigation report to provide context. In such cases, the Council will discuss with you whether and how the matter can be best progressed.

Please remember that if you do not identify yourself (and therefore are raising a concern anonymously) it may be difficult for the Council to investigate the matter. The Council will not be able to protect your position or provide feedback, as it can when a whistle-blower's identity is disclosed at the outset.

### **How to raise a concern internally**

When raising your concern, you need not have firm evidence of malpractice. However, the Council does request that you explain as fully as you can, the information or circumstances that have given rise to your concern.

If you wish to raise the matter confidentially, you are requested to advise the Council of this at the outset, so that appropriate arrangements can be made.

#### **Step one**

If you have a concern about malpractice, the Council hopes that you will feel able to raise it first with your manager or team leader. This may be done verbally or in writing in open correspondence or by using the Council's Confidential Reporting Form (CRF1) (Appendix 1), which is available on Whistleblowing page of the Council's Intranet site: <https://wbcnet.wirral.gov.uk/people-standards-and-conduct/whistleblowing>

#### **Step two**

If you feel unable to raise the matter with your manager, for whatever reason, you are encouraged to use the Council's Confidential Reporting Form (CRF1) and send the same to one of the Council's Designated Officers. The list of Designated Officers, with their contact details is available both on the Whistleblowing page of the Council's Intranet site and at Appendix 2 of this policy.

These people have been given special responsibility and training for dealing with whistleblowing concerns.

#### **Step three**

If you feel unable to raise your concerns with any of the Council's Designated Officers, you can communicate your concerns by completing the Council's CRF1 form and sending it directly to the Council's Director of Law & Governance (the Monitoring Officer).

#### **Step four**

If your concern relates to the Council's Director of Law & Governance (the Monitoring Officer) then you should communicate directly with the Council's Chief Executive, again utilising the Council's CRF1 form.

### **How the Council will respond**

Where a concern has been raised under step one or two (above), it will be acknowledged within 5 working days and communicated to the Director of Law & Governance (the Monitoring Officer).

Upon receipt of the concern details, the Director of Law & Governance (the Monitoring Officer) or their appointed representative will write to you, acknowledging your concern and undertake a preliminary investigation.

If the Director of Law & Governance (the Monitoring Officer) is satisfied that the concern raised requires a formal investigation, it will be referred to the Council's Whistleblowing Board.

The Whistleblowing Board consists of senior officers from Law & Governance, Internal Audit and Human Resources.

As soon as is practicably possible, the Whistleblowing Board will consider the concern raised and instruct either an internal or external investigator.

The Whistleblowing Board will write to you to confirm:

1. The details of the appointed investigator
2. Details of how your concern will be investigated
3. Details of the support mechanisms available to you during the investigation

During the investigation the investigator will maintain regular contact with you and where possible, provide a timetable for the investigation.

At the conclusion of the investigation, a report will be sent to the Director of Law & Governance (the Monitoring Officer), outlining the findings of the investigation and provide any recommendations.

Recommendations are sometimes provided to assist the Council in addressing findings that are reported during the investigation.

The Director of Law & Governance (the Monitoring Officer) will then write to you with details of his/her findings.

### **Additional support for employees**

Any employee who raises a concern or is the subject of an investigation under the Whistleblowing Policy can access confidential counselling through the Employee Assistance Programme.

The Employee Assistance Programme is an independent organisation that provides confidential help and assistance including counselling for employees for any personal or work-related issue. Further details are available on the Intranet under 'Employee Assistance Programme':

<https://wbcnet.wirral.gov.uk/people-health-and-safety/employee-assistance-programme>

## **External Disclosures and Independent Advice**

It is the aim of the Whistleblowing Policy to provide you with the reassurance and information that you need to raise your concern internally.

If you would prefer to report your concern externally, you may wish to seek advice from your Trade Union, your regulatory / professional body or from the whistleblowing charity PROTECT. What is most important, is that your concern is raised and considered.

PROTECT can be contacted by telephone on 020 3117 2520 or by email [whistle@protect-advice.org.uk](mailto:whistle@protect-advice.org.uk) and more information about what they do can be found by visiting [www.protect-advice.org.uk](http://www.protect-advice.org.uk)

## **Commitment to Equality**

This policy addresses the following equality duties:

- Eliminate unlawful discrimination, harassment and victimisation
- To advance equality of opportunity
- To foster good relations between different groups of people

## **Supporting Documentation**

- Confidential Reporting Form (CRF1) (Appendix 1)
- Designated Officer contact details (Appendix 2)

## **Related Policies**

- Grievance
- Bullying / Harassment
- Dignity at Work
- Complaints
- Anti-Fraud
- Information Governance

## Consultation

Consultation has been undertaken with the Trade Unions.

## Communication and Awareness

This policy is considered:

- Internal (for members, officers, consultants, contractors and volunteers)

All staff must be made aware of and understand the need for this Policy. The Council will send out a clear message about its commitment to ensuring that any concerns raised are investigated and dealt with appropriately. All staff and managers are expected to comply with the terms of this Policy.

Managers will receive training on the management of whistleblowing concerns.

## Monitoring and Review

The Whistleblowing Policy will be reviewed every three years by the Whistleblowing Board. However, the Policy may be reviewed as and when required, for example, due to legislative changes or if an issue arises around its effectiveness.

The Director of Law & Governance (Monitoring Officer) has overall responsibility for the maintenance and operation of the Whistleblowing Policy.

The Director of Law & Governance (Monitoring Officer) has responsibility to ensure all issues raised under this Whistleblowing Policy are investigated thoroughly and in a timely manner.

The Whistleblowing Board will convene bimonthly, to discuss the progress of investigations and identify and address any issues that arise that may hinder or otherwise prevent the timely investigation of the concern(s) raised.

To ensure appropriate Committee oversight, a quarterly report will be prepared by the Whistleblowing Board for the Audit & Risk Management Committee. This report will communicate:

1. The number and nature of whistleblowing concerns raised in the municipal year
2. That the investigations are being effectively monitored / progressed

The Director of Law & Governance (Monitoring Officer) will review the system referred to above and produce and present an annual report detailing any relevant matters and issues arising in connection with the Whistleblowing Policy to the Council's Senior Leadership team and to the Audit and Risk Management Committee.

The report prepared will not disclose details of any staff (or other confidential information) but will summarise (so far as is possible without undermining or exposing the Council to unacceptable risk or challenge) the number / nature of the concerns

raised under the Whistleblowing Policy, details of the service(s) to which the concerns relate and the subsequent outcomes.

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## Protocol for determining whether the Freedom of the Borough should be conferred

### 1.0 Introduction

Section 249 of the Local Government Act 1972 empowers a local authority to confer the “Freedom of the Borough” to persons of distinction, who have in the opinion of the Council, rendered eminent services to the Borough.

1.1 The Freedom of the Borough is the highest honour that the Council can grant. It will only be used sparingly and awarded on merit to exceptional persons. It should not be given too often. The overriding principle **must be** that this award should be made on merit, defined as:

- Achievement
- Exceptional Service

1.2 Awards should not be for a job well done or because someone has reached a particular level. They should be awarded because an individual has, ‘gone the extra mile’ in the contribution they have made or stand out ‘head and shoulders’ above others in what has been achieved.

### 2.0 Background

2.1 It is important that, if a nomination to confer an Honorary Freedom is to be considered, that all Members of the Council will be in possession of sufficient facts in order to make a decision as to whether the honour should be conferred. Furthermore, there may be instances where there are strongly held views for and against and these need to be addressed as far as possible in advance of an Extraordinary Council meeting called for the purpose. The Council will want to meet with the clear consensus that the person of distinction is to be honoured and not humiliated by the proceedings. A unanimous decision is desirable, but the absence of unanimity cannot prevent the nomination coming forward for consideration by the Council.

2.2 To be granted, the title of Honorary Freeman/woman is a mark of distinction upon the person whom the Council wishes to honour. Conferring the Freedom of the Borough does not grant the title holder any privileges, legal rights or responsibilities. For example they have no rights to attend Council or Committee meetings, nor can they be paid an allowance. However, it does maintain a symbolic connection with the Council and it is hoped that those who are awarded this honour will support the Office of the Civic Mayor at civic events and functions.

### **3.0 Criteria for conferring the Freedom of the Borough**

3.1 It is in the interests of transparency and public confidence that the Council adopts clear criteria for conferring the Freedom of the Borough. It is proposed that one or more of the following are used as the criteria for the award: The person has

- demonstrated exceptional achievement or service to the community which is outstanding in its field;
- made a real difference in their field of work or their community;
- brought distinction to the Borough or enhanced its reputation;
- given outstanding military service;
- demonstrated innovation, entrepreneurship or exceptional business acumen which has delivered benefits to the Borough;
- evidenced exceptional charitable service to the Borough, though either a national or locally based charity;
- evidenced exceptional voluntary service to the Borough or any part of it or community within it;
- carried the respect of and inspired his/her peers;
- significantly improved the lot of those less able to help themselves or suffering disadvantage;
- promoted community cohesion;
- displayed moral courage and vision in making and delivering tough choices;
- contributed to the Borough beyond the call of duty in a way that stands out above others.

3.2 Only in exceptional circumstances should consideration be given to the admission of organisations.

3.3 As this is the highest honour that a Borough Council can grant, it should be used sparingly and should not be given too often in order to preserve its status and value.

3.4 The awarding of the Freedom of the Borough to Service Units “to march through the streets of the Borough with bayonets fixed, drums beating and Colours flying” is really an empty grant. The practice has been generally accepted and provides a dignified and satisfactory means of enabling a Borough to honour a distinguished unit of Her Majesty’s forces.

### **4.0 Procedure to be adopted on receipt of a Motion to confer the Freedom of the Borough**

4.1 Nominations for persons or organisations to be granted the Freedom of the Borough, may be made by any Elected Member to the Director: Law and Governance and Monitoring Officer on the appropriate form (see appendix A). Each nomination must contain the support of the Elected Member’s Group Leader and where appropriate, the Member should first raise the matter for discussion within their Political Group. An Elected Member who is not a member of a Political Group must have the support of at least one of the Political Group Leaders.

4.2 The Director: Law and Governance and Monitoring Officer will write to all Elected Members once during the Municipal year, to draw their attention to the opportunity to make nominations.

- 4.3 On receipt of the Nomination form the Director: Law and Governance and Monitoring Officer will ensure that sufficient information has been provided on the form. Full reasons why the person should be considered must be included:
- a person of distinction; or
  - a person who has rendered eminent services to the Borough.
- 4.4 **The Freedom Panel** - When in possession of sufficient information, the Director: Law and Governance and Monitoring Officer will convene a Panel of each of the Leaders of the Political Groups on the Council (Deputy Leaders can substitute if their Leader is unable to attend), with relevant officers (The Freedom Panel) to consider:
- whether they have sufficient information on which to form a view and, if not, to instruct officers to seek further information;
  - once satisfied that they have adequate information, whether there is sufficient support for the matter to go on to the Council for decision.
- 4.5 In the event that the Freedom Panel concludes that it is unlikely that the nomination will receive sufficient support, the Director: Law and Governance and Monitoring Officer will advise the Elected Member who made the nomination of this conclusion and the reasons for reaching it. The Elected Member will then be given the opportunity to withdraw his/her nomination, although the Member will still be entitled to have his/her nomination considered by the Council.
- 4.6 **Extraordinary Council Meeting** - Should the Freedom Panel conclude that it is likely that there will be a two thirds majority voting in favour of the nomination, the Director: Law and Governance and Monitoring Officer will convene an Extraordinary meeting of the Council specifically for the consideration of the one item of business. The timing of the meeting will be such as, so far as it practicable, to meet the availability of the individual concerned to attend and to concord with the Council's diary commitments.
- 4.7 The subject of the nomination will be invited to attend the Extraordinary meeting of the Council where the nomination is to be considered.
- 4.8 At the Extraordinary meeting of the Council, there will be only the one item of business and Director: Law and Governance and Monitoring Officer will submit a report setting out the matters considered by the Freedom Panel and the recommendation of the Panel to Council to approve the nomination.
- 4.9 The resolution should recite the grounds upon which the recommendation is being made, and details of the public services rendered by the nominee should be included.
- 4.10 The Civic Mayor will take a vote on the recommendation of the Freedom Panel and a two-thirds majority of those present and voting is required.
- (Note: abstentions do not count as a vote and the required majority will be deduced from the number of Members actually voting on the item).
- 4.11 The Mayor will then immediately close the meeting.

## 5.0 The Ceremony

- 5.1 Arrangements for the ceremonial award of the Freedom Scroll will be made by the Committee and Civic Services Manager after liaising with the Civic Mayor, Political Group Leaders and the individual concerned. This can be done at either at the Extraordinary Council meeting and be followed by a Civic reception or at a Civic reception at a later date arranged specifically for that purpose.
- 5.2 The new Freeman/woman's name will be added to the Freedom Roll that hangs on the wall in the foyer of Wallasey Town Hall.



## LICENSING CODE OF GOOD PRACTICE

### Introduction

**The aim of this Code of Good Practice:** to ensure that decisions made as part of the Licensing process are evidence based and that there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

**Your role as a Member of the Licensing Authority is** to make decisions openly, impartially, with sound judgement and for justifiable reasons. You are also a democratically accountable decision-taker who has been elected to provide and pursue policies.

### When the Code of Good Practice applies:

this code applies to Members at all times when involving themselves with the Licensing process. This includes when taking part in the decision making meetings of the Council in exercising the functions of the Licensing Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings. It applies as equally to Licensing Enforcement matters as it does to Licensing applications.

**If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.**

### 1. Relationship to the Members' Code of Conduct

- **Do** apply the rules in the Authority's Code of Conduct first, which must always be complied with. This relates to both the rules on interest, Disclosable Pecuniary Interests (DPIs) and any other interests identified by the Authority, and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- **Do** then apply the rules in this Members' Licensing Code, which seek to explain and supplement the Members' Code of Conduct for the purposes of Licensing. If you do not abide by this Members' Licensing Code, you may put:
  - the Council at risk of proceedings on the legality or maladministration of the related decision; and
  - yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the interest provisions of the Localism Act 2011, a complaint being made to the police to consider criminal proceedings.
- **Do** be aware that, like the Authority's Code of Conduct, this Licensing Code is a reflection and summary of the law on decision making and not a direct replication of it. If in doubt, seek the advice of your monitoring officer or their staff advising at the meeting.

### 2. Interests under the Members' Code

- **Do** disclose the existence and nature of your interest as required by your members Code of Conduct.
- **Do take into account when approaching a decision that** the Principle of Integrity is defined, by the Committee on Standards in Public Life in 2013, in terms that -

*“Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships**”.*

It is therefore advisable that you:

- **Do not** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable or other personal conflict of interest in an application, using your position to discuss that application with officers or Members when other members of the public would not have the same opportunity to do so.
- **Do** note that you are not prevented from seeking to explain to an appropriate officer that you may have a conflict of interest in an application, in person or in writing, but that the Members’ Code of Conduct may place additional limitations on you in making representations in respect of that application.
- **Do** notify the Monitoring Officer in writing where it is clear to you that you have a disclosable pecuniary interest or other personal conflict of interest and note that:
  - you should send the notification no later than submission of that application where you can;
  - you must not get involved in the processing of the application; and
  - it is advisable that you employ an agent to act on your behalf in respect of the proposal when dealing with officers and in public speaking at Committee.

### 3. **Fettering Discretion in the Licensing Process**

(natural justice, predisposition and predetermination)

- **Do not** fetter your discretion and therefore your ability to participate in Licensing decision making by approaching the decision with a closed mind or clearly appearing to have made up your mind prior to hearing the representations and evidence on both sides. Fettering your discretion in this way and taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of bias, pre-determination or a failure to take into account all of the factors enabling the application to be considered on its merits.
- **Do** keep at the front of your mind that, when you come to make the decision, you
  - must keep an open mind and hear all of the evidence before you, the officers’ presentation of the facts, their advice and the representations from all parties.
  - are only entitled to take account of the evidence presented and must disregard considerations irrelevant to the circumstances of the application.
  - are to come to a decision after giving what you feel is the right weight to the evidence presented in respect of the application.
- **Do not** fetter your discretion by failing to declare a personal and/or prejudicial

interest.

- **Do not** sit as a member of a Sub-committee to consider an application if the applicant lives or the premises are situated in the Ward that you represent or if an application is made to review a Premises Licence or Club Premises Certificate held by a resident or premises in your Ward.
- **Do** be aware that you can be biased where the Council is the landowner or applicant and you have acted as, or could be perceived as being, a chief advocate for the application. Members who were part of the Authority's decision to apply for the licence, or who express a firm view in respect of such an application, should not sit on the Licensing Sub-Committee to determine the application.
- **Do** take the opportunity if you are not sitting on the Committee determining the application to exercise your separate speaking rights as a Ward/Local Member where you have represented your views or those of local electors and fettered your discretion, but do not have a disclosable or other personal conflict of interest. Where you do:
  - advise the proper officer or Chair that you wish to speak in this capacity before commencement of the item;
  - ensure that your actions are recorded in accordance with the Authority's committee procedures.

#### 4. Contact with Applicants, Interested Parties and Objectors

- **Do** refer those who approach you for Licensing, procedural or technical advice, to officers.
- **Do not** agree to any formal meeting with applicants, interested parties or objectors. Where you feel that a formal meeting would be useful in clarifying the issues, you should seek to arrange such a meeting through the Licensing Manager. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered and determined by the appropriate Committee of the Licensing Authority.
- **Do** meet with an applicant, interested party or objector if you are considering representing their interests or speaking on their behalf at a hearing of a sub-committee.
- **Do** otherwise:
  - follow the Authority's rules on lobbying;
  - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
  - report to the Licensing Manager any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the Licensing file.

#### Presentations by Applicants

- **Do not** attend a presentation relating to a Licensing application without requesting an officer to be present.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.

- **Do** remember that the presentation is not part of the formal process of determination of any subsequent application, this will be carried out by the appropriate Committee of the Licensing Authority.
- **Do** be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at a Committee.

## 5. Lobbying of Councillors

If a Member of a Licensing Sub Committee is approached by a person(s) wishing to lobby him/her on a licence application then that Member should explain that they cannot discuss the matter and refer the lobby person(s) to the Licensing Officer or his/her Ward Member who can explain the process of decision making.

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in decision making to express an intention to vote one way or another or formulate such a firm point of view that it amounts to the same thing.
- **Do** remember that, as a member of the Licensing Committee, you will probably be unaware whether an application will be determined by a sub-committee or whether you will be a member of that determining sub-committee until you have been notified by officers. If you have been lobbied by an applicant or interested party, you should notify officers as soon as it comes to your attention that you have been invited to sit on a relevant sub-committee. In such circumstances, you should consider whether it is still appropriate to take part in the hearing having regard to Section 25 of the Localism Act 2011.
- **Do not** feel constrained, if you are not a member of a sub-committee considering a particular application, to receive an approach from an applicant, interested party or objector and, having considered the information that they have supplied, to agree to speak or make representations on their behalf at a meeting of a sub-committee.
- **Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- **Do not** accept gifts or hospitality from any person involved in or affected by a Licensing application. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible, including its addition to your register of interests where relevant.
- **Do** copy or pass on any lobbying correspondence you receive to a Licensing Officer at the earliest opportunity. Any written representations received by a Member of the Licensing Committee should be passed to the Licensing Officer and reported at the hearing at which the application is being determined. Requests for procedural advice with regards to licensing applications should be referred to Council Officers for advice and information.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches, including inappropriate offers of gifts or hospitality, who will in turn advise the appropriate officers to follow the matter up.
- **Do** note that, unless you have a disclosable or overriding other personal conflict of interest, you will not have fettered your discretion or breached this Licensing Code of Best Practice through:



- seeking information through appropriate channels; or
- being a vehicle for the expression of opinion of others in your role as a Ward Member.

## 6. Lobbying by Councillors

- **Do not** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose Licensing applications. If you do, you will be seen to have fettered your discretion on the grounds of bias.
- **Do not** 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 Licensing decision is to be taken
- **Do** be aware of the power of social media posts or re-posting and be careful not to give the impression that you will definitively vote in a certain way or act with a closed mind if you intend to participate in the decision making on behalf of the Licensing Authority.
- **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. Site Visits/Inspections

The Licensing Sub-Committee may undertake a site visit to the premises which are the subject of an application. If required, the site visit may occur prior to the hearing or the Licensing Sub-Committee may adjourn the hearing part way through to undertake a site visit. The Chair of the Licensing Sub-Committee shall give reasons justifying the need for a site visit and these shall be notified to the Parties. A record should be kept of those attending the visit, the questions asked, and answers given.

- **Do** attend site visits organised by the Council where possible.
- **Do** ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all Members of the Committee
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Do not** hear representations from any other party. Where you are approached by the applicant or an Interested Party, direct them to or inform the officer present.
- **Do not** express opinions or views on the likely outcome of the application.
- **Do not** enter a site which is subject to an application other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
  - you feel it is essential for you to visit the site other than through attending the official site visit,
  - you have first spoken to the Licensing Manager about your intention to do so and why which will be recorded on the Licensing file and

- you can ensure you will comply with these good practice rules on site visits.

## 8. Public Speaking at Meetings

- **Do not** allow members of the public to communicate with you during the Committee's proceedings orally, in writing or by social media other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.
- **Do not** participate in social media or exchanges by texting as a member of the committee during the committee's proceedings as this may give the impression of undue external influence and may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

## 9. Officers

- **Do** recognise that officers are part of a management structure and only discuss an application, outside of any arranged meeting, with the Licensing Manager or those officers who are authorised to deal with the application at a Member level.
- **Do** recognise and respect that officers involved in the processing and determination of licence applications must act in accordance with the Council's Code of Conduct for Officers.

## 10. Decision Making

- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** comply with the relevant licensing legislation.
- **Do** have regard to:
  - the material relevant facts in light of the evidence presented
  - the relevant statutory provisions
  - the relevant national guidance and the relevant council policy statement
  - the relevant licensing objectives
  - the individual merits of the case.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest any new information presented at a meeting to determine an application you may request that the meeting be adjourned or deferred to a future date.
- **Do** disregard any information or evidence given which is not relevant to the application, representations or notice; or to the promotion of the licensing objectives.
- **Do not** be influenced by any political party direction whether given at a previous party group meeting or otherwise.
- **Do not** vote or take part in the meeting's discussion on an application unless you have been present to hear the entire debate, including the officers' introduction to

the matter. Where a matter is adjourned and its consideration recommences at a subsequent meeting, only Members who were present at the previous meeting will be able to vote. If this renders the Committee inquorate then the item will have to be considered afresh and this would include public speaking rights being triggered again.

- **Do** have recorded the reasons for a Committee decision to defer any determination

## 11. Training

- **Do not** participate in decision making at meetings dealing with Licensing matters if you have not attended the mandatory Licensing training prescribed by the Council.
- **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of Licensing law, regulations, Statutory Guidance and Best Practice guides produced by Government Departments, beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

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# CONSTITUTION OF THE COUNCIL

## Part 6(a)

### Wirral Council – Elected Members Leave Policy

#### **Introduction**

This Policy sets out Members' entitlement to, parental leave, shared parental leave and adoption leave and allowances.

This policy is to ensure that insofar as possible Members are able to take appropriate leave at the time of birth or adoption, new parents are able to take leave, and that reasonable and adequate arrangements are in place to provide cover for portfolio-holders and others in receipt of Special Responsibility Allowances (SRA) during any period of leave taken.

Improved provision for new parents will contribute towards increasing the diversity of experience, age and background of local authority councillors.

It will also assist with retaining experienced councillors – particularly women – and making public office more accessible to individuals who might otherwise feel excluded from it. The Parental Leave Policy constitutes best practice and will be reviewed in line with changes to national legislation.

#### **Leave Periods**

Members giving birth are entitled to up to 6 months leave from the due date, with the option to extend up to 52 weeks by agreement of Council if required.

In addition, where the birth is premature, the Member is entitled to take leave during the period between the date of the birth and the due date in addition to the 6 months' period. In such cases any leave taken to cover prematurity of 28 days or less shall be deducted from any extension beyond the initial 6 months.

In exceptional circumstances, and only in cases of prematurity of 29 days or more, additional leave may be taken by agreement, and such exceptional leave shall not be deducted from the total 52-week entitlement.

#### **Shared Parental Leave**

A Member who has made Shared Parental Leave arrangements through their employment is requested to advise the Council of these at the earliest possible opportunity. Every effort will be made to replicate such arrangements in terms of leave from Council.

Where both parents are Members, leave may be shared up to a maximum of 24 weeks for the first six months and 26 weeks for any leave agreed thereafter, up to a

maximum of 50 weeks. Special and exceptional arrangements may be made in cases of prematurity.

### **Adoption Leave**

A Member who adopts a child through an approved adoption agency shall be entitled to take up to six months adoption leave from the date of placement, with the option to extend up to 52 weeks by agreement if required.

### **Attendance at meetings**

Any Member who takes maternity, shared parental or adoption leave is still required under the Local Government Act 1972 to attend a meeting of the Council within a six-month period unless the Council Meeting agrees to an extended leave of absence prior to the expiration of that six-month period.

Any Member intending to take parental leave, shared parental or adoption leave will be responsible for ensuring that they comply with the relevant notice requirements of the Council, both in terms of the point at which the leave starts and the point at which they return.

Any Member taking leave should ensure that they respond to reasonable requests for information as promptly as possible, and that they keep their Group Leader (if applicable) and Head of Legal and Democratic Services informed and updated in relation to intended dates of return and requests for extension of leave.

### **Basic Allowance**

All Members shall continue to receive their Basic Allowance in full whilst on maternity, paternity or adoption leave.

### **Special Responsibility Allowances**

Members entitled to a Special Responsibility Allowance (SRA) shall continue to receive their allowance in full in the case of maternity, paternity, shared parental or adoption leave.

Where a replacement is appointed to cover the period of absence that person shall receive an SRA on a pro-rata basis for the period of the temporary appointment.

The payment of Special Responsibility Allowances, whether to the primary SRA holder or a replacement, during a period of maternity, paternity, shared parental or adoption leave shall continue for a period of six months; or until the date of the next Annual General Meeting of the Council; or until the date when the Member taking leave is up for election (whichever is soonest). At such a point, the position will be reviewed, and will be subject to a possible extension for a further six-month period.

Should a Member appointed to replace the Member on parental leave, shared parental or adoption leave already hold a remunerated position, the ordinary rules relating to payment of more than one Special Responsibility Allowances shall apply.

Unless the Member taking leave is removed from their post at an Annual General Meeting of the Council whilst on leave, or unless the Party to which they belong loses control of the Council during their leave period, they shall return at the end of

their leave period to the same post, or to an alternative post with equivalent status and remuneration which they held before the leave began.

### **Resigning from Office and Elections**

If a Member decides not to return at the end of their maternity, paternity, shared parental or adoption leave they must notify the Council at the earliest possible opportunity. All allowances will cease from the effective resignation date.

If an election is held during the Member's parental, shared parental or adoption leave and they are not re-elected, or decide not to stand for re-election, their basic allowance and Special Responsibility Allowance if appropriate will cease from the Monday after the election date when they would technically leave office.

### **Practical Arrangements**

A Member intending to take parental leave must in the first instance inform their group leader (if applicable) and the Head of Democratic & Member Services in writing. Members are asked to provide notice of their intention to take parental leave in accordance with the timescales set out below:

(a) Pregnant Members should give notice by no later than 28 days before they want to commence their maternity leave. Confirmation of the pregnancy and the expected week of childbirth is usually via a MAT B1 certificate (a form given to a woman by their doctor or midwife after the 20th week of pregnancy and shows the expected date of childbirth). As soon as practicable after the birth they should notify the same of the baby's date of birth in writing.

(b) A Member who is a primary adopter should give notice within 7 days of being told they have been matched with a child and provide confirmation of the adoption through the provision of a matching certificate, and the date the child is to be placed with the Member.

(c) For paternity leave a Member should give notice by the 15th week before the Expected week of childbirth.

(d) A Member who is intending to take Shared parental leave must advise of their intention at least 8 weeks before.

Any Member taking leave for more than a 2-month period must meet with the Head of Democratic & Member Services and Group Leader (if applicable) to discuss practical issues including how to keep in touch and about expected dates of return.

The Head of Democratic & Member Services will ensure that business support and payroll are informed of arrangements to ensure that allowances are paid in accordance with the Policy.

Any requests for special or exceptional circumstances, or extensions in line with the policy will be agreed by the Head Democratic & Member Services in consultation with the Leader of the Council, and the group leader (if applicable).

If a Member is independent and not part of a group, the Head of Democratic & Member Services will liaise with that member and any other independent Members as to who is best placed to take on the “caretaking” role.

Appointments to cover areas of special responsibility whilst a Member is on parental leave will be made in accordance with the relevant procedures for appointments.





# CONSTITUTION OF THE COUNCIL

## Part 6

### MEMBERS' SCHEME OF ALLOWANCES

Wirral Borough Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003, hereby makes the following scheme:

1. This scheme may be cited as the Wirral Borough Council Members' Allowances Scheme and shall have effect from the Annual Council Meeting on 28 September 2020

2. In this scheme, "councillor" means a member of the Wirral Borough Council who is a councillor;

"total estimated allowances" means the aggregate of the amounts estimated by the Director of Finance at the time when a payment of basic allowance and special responsibility allowances is made, to be payable under this scheme in relation to the relevant year, and for this purpose any election under paragraph 6 (Renunciation) shall be disregarded;

"year" means the 12 months ending with 31 March.

#### 3. Basic Allowance

3.1 Subject to paragraph 7, for each year a basic allowance of £9684.22 shall be paid to each councillor. This allowance shall be revised annually in accordance with the index linked to the annual pay award for local government employees under the National Joint Council for Local Government Services national agreement.

#### 4. Special Responsibility Allowances

4.1 For each year a special responsibility allowance shall be paid to those councillors who hold the special responsibilities in relation to the authority that are specified in schedule 1 to this scheme. These allowances shall be revised annually in accordance with the index linked to the annual pay award for local government employees under the National Joint Council for Local Government Services national agreement.

4.2 Subject to paragraph 6, the amount of each such allowance shall be the amount specified against that special responsibility in that schedule.

4.3 No councillor shall be entitled to receive more than one payment by way of special responsibility allowance.

#### 5. Childcare and Dependants' Carers' Allowance

5.1 An allowance not exceeding £10.42 per hour (or such other sum as may be prescribed as the National Minimum and National Living Wage) shall be payable towards or in respect of actual expenses necessarily incurred in arranging for the care of a child or other dependant by virtue of a member's attendance at a meeting of the authority, or any other meeting that is authorised by the authority, or designated as an approved duty under this Scheme, provided that no such payment shall be made to a relative or a member of the claimant's own household.

## 6. Renunciation

6.1 A councillor may by notice in writing to the Director of Law and Governance (or an officer authorised on their behalf) elect to forego any part of their entitlement to an allowance under this scheme.

## 7. Part-year Entitlements

7.1 The provisions of this paragraph shall have effect to regulate the entitlements of a councillor to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that councillor becomes, or ceases to be, a councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.

7.2 If an amendment to this scheme changes the amount to which a councillor is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods:

(a) beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or

(b) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year,

the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of days in the period bears to the number of days in the year

7.3 Where the term of office of a councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that councillor to a basic allowance shall be to the payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which their term of office subsists bears to the number of days in that year.

7.4 Where this scheme is amended as mentioned in sub-paragraph (7.1), and the term of office of a councillor does not subsist throughout the period mentioned in sub-paragraph (7.2) (a), the entitlement of any such councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days

during which their term of office as a councillor subsists bears to the number of days in that period.

- 7.5 Where a councillor has during part of, but not throughout, a year such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which they have such special responsibilities bears to the number of days in that year.
- 7.6 Where this scheme is amended as mentioned in sub-paragraph (7.2), and a councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph (7.2) (a) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which they have such special responsibilities bears to the number of days in that period.

## **8. Travel and Subsistence**

### **Travel Costs**

- 8.1 Travel costs incurred by members in performing “approved duties” as specified in Schedule 2 to this Scheme shall be reimbursed at the prevailing public transport rates, provided that the use of taxis or members’ private motor vehicles may be permitted where public transport is either not available, or the journey by public transport would be likely to result in unreasonable delay.
- 8.2 Payment for the use of members’ private motor vehicles shall be made at the rate of 45 pence per mile.
- 8.3 The allowance payable for the use of motorcycles or bicycles shall be in accordance with the rates prescribed by the scheme of conditions of service applicable to the authority’s employees generally.

### **Subsistence Payments**

- 8.4 Members necessarily absent from home for a period in excess of four hours (but not including absence overnight) shall be entitled to receive a payment in respect of the purchase of meals at the following rates relevant to the time of day:-

Breakfast allowance (before 11 a.m.)	£7.00
Lunch allowance (12 noon to 2 p.m.)	£10.00
Tea allowance (3 p.m. to 6 p.m.)	£3.00
Evening meal allowance (after 7 p.m.)	£12.00

- 8.5 Notwithstanding the rates specified at (8.4) above, members shall be entitled to claim reimbursement of the actual cost of meals taken on trains provided this is reasonable and supported by an official receipt, subject to the following limitations:

4-8 hours	cost of 1 main meal
8-12 hours	cost of 2 main meals
Over 12 hours	cost of 3 main meals

8.6 In cases where a meal is provided free of charge by an outside organisation, the entitlement to a subsistence payment shall be reduced by an amount equivalent to the rate prescribed for a meal relevant to the time of day, namely:

Breakfast	£7.00
Lunch	£10.00
Tea	£3.00
Evening Meal	£12.00

8.7 Members absent from home for a continuous period of 24 hours or more (necessarily including an overnight stay) shall be entitled to claim, in respect of the purchase of meals and overnight accommodation, reimbursement of the actual costs incurred (where supported by receipts) up to a maximum of:

Standard rate	£148.00
Central London/LGA Annual Conference Rate	£185.00

For the purposes of this section “Central London” is defined as the City of London and the London Boroughs of Camden, Greenwich, Hackney, Hammersmith and Fulham, Islington, Kensington and Chelsea, Lambeth, Lewisham, Southwark, Tower Hamlets, Wandsworth and Westminster.

8.8 The rates of allowances set out in clauses 8.4 to 8.7 above shall be revised from time to time in accordance with the rates prescribed by the scheme of conditions of service applicable to the authority’s employees generally.

## 9. Payment of Allowances

9.1 Allowances payable under this scheme shall be paid in equal monthly instalments of one-twelfth of the annual amounts specified in paragraph 3 above and Schedule 1 hereto.

9.2 Payment of allowances and expenses under this scheme shall be made by the Director of Finance by Bankers’ Automated Clearing Services (or such other method of payment as may be acceptable to the Council) on the 18<sup>th</sup> day of every month (except on Bank Holidays, when arrangements for earlier payment may be made).

9.3 Where a payment of one-twelfth of the amount specified in this scheme in respect of a basic allowance or a special responsibility allowance would result in the councillor receiving more than the amount to which, by virtue of paragraph 7, they are entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which they are entitled.

## 10. Other Allowances

10.1 Remuneration for Independent Persons sitting on the Constitution and Standards Committee will be as follows:-

Four Persons: payment of £60 per meeting or per three hours.

10.2 Remuneration for Independent Persons sitting on the Audit and Risk Management Committee will be as follows:-

Two Persons: payment of £60 per meeting or per three hours.

# SCHEDULE 1

The following are specified as the special responsibilities in respect of which special responsibility allowances are payable, and the amounts of those allowances.

	£
Leader of the Council (Chair of P&R)	25,938.42
Deputy Leader of the Council (Vice Chair of P&R)	12,969.21
Leader of the Largest Group (if not Leader of the Council)	15,563.05
Leader of the Second Largest Group (Comprising of at least 4 members and if not Leader of the Council)	15,563.05
Leader of the Third Largest Group (Comprising of at least 4 members and if not Leader of the Council)	7,781.52
Leader of the Fourth Largest Group (Comprising of at least 4 members and if not leader of the Council)	5,187.68
Leader of Other Groups (Comprising of at least 4 members and if not Leader of the Council)	1,296.92
Deputy Leader of the Largest group (if not Deputy Leader of the Council)	12,969.21
Deputy Leader of the Second Largest group (Comprising of at least 6 members and if not Deputy Leader of the Council)	7,781.52
Deputy Leader of the third largest group (Comprising at least 6 members and if not Deputy Leader of the Council)	3,890.76
Deputy Leader of the fourth largest group (comprising of at least 6 members and if not Deputy Leader of the Council)	2,593.84
Deputy Leader of Other Groups (Comprising of at least 6 Members and if not Deputy Leader of the Council)	648.46

In the event of political groups having an equality in number of members, the total of the combined leaders' allowances should be shared between the group leaders, i.e. if there were two groups with the same number of members, the leaders of those groups would each receive 50% of the combined total for leaders of those groups. The same principle would apply to deputy group leaders allowances. However, this would not apply if one of the group leaders or deputy group leaders was the Leader of the Council or Deputy leader of the Council.

Mayor of Wirral	12,969.21
Deputy Mayor of Wirral	2,593.84

## Committee Chairs:

Chairs of the Policy and Services Committees (x5)	10,375.36
Finance Sub Chair	5,187.68
Chair of Planning Committee	5,187.68
Chair of Regulatory and General Purposes Committee / Licensing Act Committee (combined Chair role)	5,187.68
Chair of Audit and Risk Management Committee	5,187.68
Chair of Constitution and Standards Committee	5,187.68
Chair of Pensions Committee	3,890.76

Outside Organisations:

Merseyside Recycling and Waste Authority representative (x2) 1,908.09

Liverpool City Region Transport Committee\*(x4) 5,904.27

\* Increase this SRA by 10,325.58 if also made Chair

Increase this SRA by 5,162.79 if also made Vice-Chair

Increase this SRA by 4,612.09 if also made a Lead Member

OR increase this SRA by 2,767.46 if made Opposition Spokesperson

### APPROVED DUTIES

Attendance at any of the following is designated as an approved duty for the purpose of the payment of travel and subsistence allowances:-

- (a) meetings of the Council, committees (including advisory committees), subcommittees, member panels or working parties;
- (b) meetings of associations of local authorities (including committees, special interest groups or working parties) of which the council is a member;
- (c) meetings of the Merseyside Recycling and Waste Authority;
- (d) meetings (including annual site inspections) authorised from time to time by the Cabinet and to which representatives of more than one political group have been invited;
- (e) formal site visits (organised in addition to the annual tour of inspection) by members of the Planning Committee;
- (f) meetings by the Party Leaders or their nominees with Government Ministers where at least two political groups have been invited;
- (g) meetings by the Party Leaders or their nominees at offices of the European Union in pursuit of Council policies (and when accompanied by officers);
- (h) attendance by, Party Leaders or Deputies and Committee Chairs or spokespersons (or their nominees) at briefings, meetings and events convened by a Chief Officer to deal with Council business;
- (i) Court hearings (e.g. on Licensing or other matters) where the member is attending on behalf of the Council;
- (j) Public Inquiries (when the member is representing the Council);
- (k) Training courses for Councillors included in an approved programme, as agreed by the Standards and Constitutional Oversight Committee;
- (l) attendance at seminars or presentations where this is authorised by a committee (for members of that committee only);
- (m) meetings of the bodies to which the Council makes appointments or nominations.





# CONSTITUTION OF THE COUNCIL

## Part 7

### COUNCIL MANAGEMENT STRUCTURE

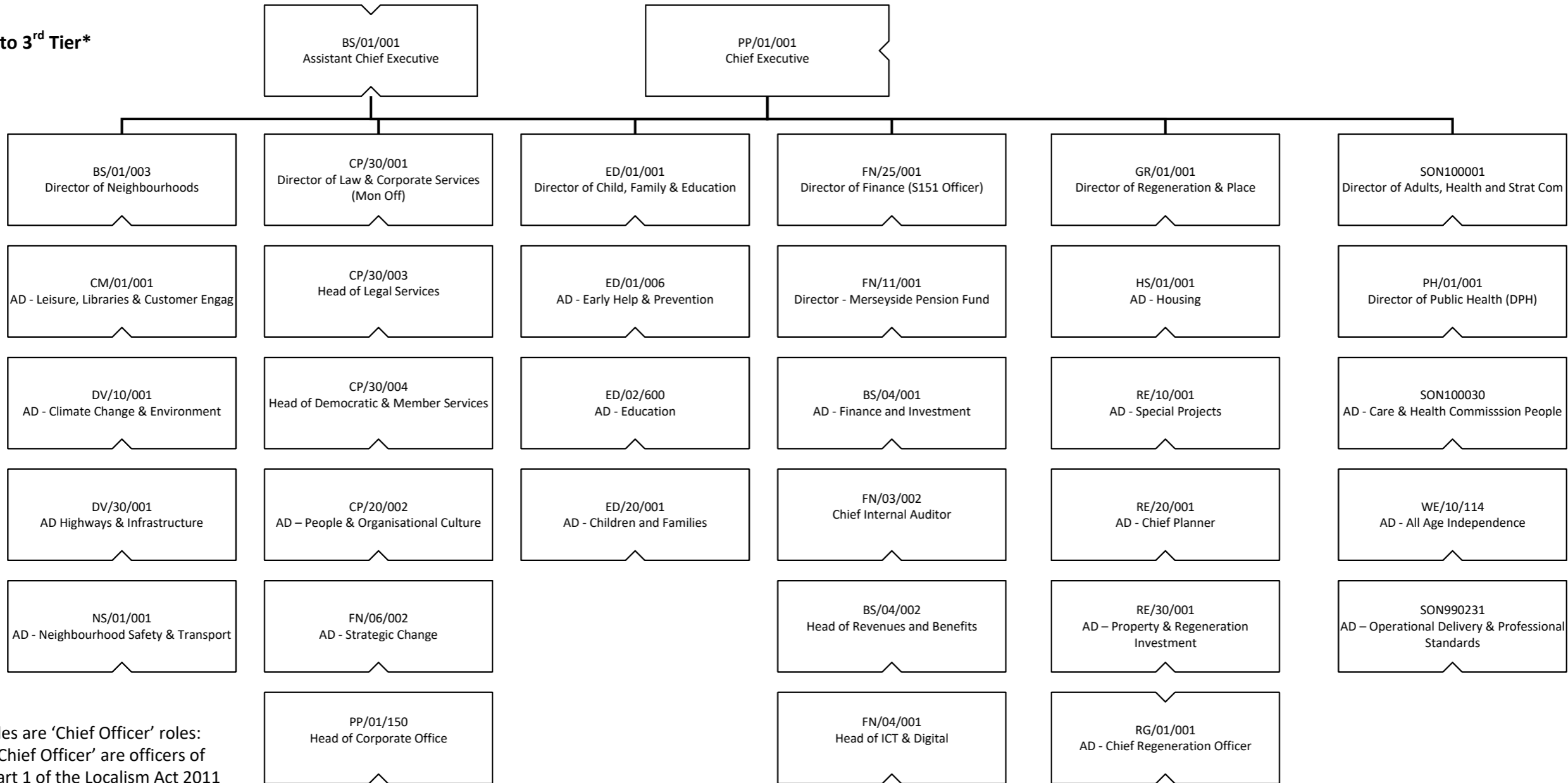
The chart on the following page sets out the Council's chief officers. This diagram includes all of the posts within the Council's staffing structure that are classed as statutory and non-statutory 'chief officers' and 'deputy chief officers', as defined by section 43(2) of the Localism Act 2011.

Statutory chief officers are those posts to which the Council is required by law to appoint to as chief officers and these officers hold specific functions and responsibilities to fulfil. Currently, the Council appoints to the following statutory chief officer posts:

Head of Paid Service	(s.4, Local Government & Housing Act 1989)
Chief Finance Officer	(s.151, Local Government Act 1972)
Monitoring Officer	(s.5, Local Government & Housing Act 1989)
Director of Children's, Families and Education	(s.18, Children Act 2004)
Director of Care and Health	(s.6, Local Authority Social Services and Adults' Services Act 1970)
Director of Public Health	(s.73A, National Health Service Act 2006)

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**Chief Officer Structure to 3<sup>rd</sup> Tier\***



\*Please note that not all roles are 'Chief Officer' roles: 'Chief Officer' and 'Deputy Chief Officer' are officers of the Council as defined by Part 1 of the Localism Act 2011 and as listed in Article 12 of the Council's Constitution.

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