

METROPOLITAN BOROUGH OF WIRRAL

CONSTITUTION OF THE COUNCIL

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THE COUNCIL'S CONSTITUTION

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

The Constitution is divided into 16 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols later on in the document. These rules and protocols may be changed more frequently.

What's in the Constitution?

[Article 1](#) of the Constitution commits the Council to exercising all its powers and duties in accordance with the law and this Constitution.

Articles 2 - 16 explain the rights of citizens and how the key parts of the Council operate. These are:

- [Members of the Council \(Article 2\)](#)
- [Citizens and the Council \(Article 3\)](#)
- [The Council meeting \(Article 4\)](#)
- [Chairing the Council \(Article 5\)](#)
- [Overview and scrutiny of decisions \(Article 6\)](#).
- [The Executive \(Article 7\)](#)
- [Other Committees \(Article 8\)](#)
- [The Standards Committee \(Article 9\)](#)
- [Area Forums \(Article 10\)](#)
- [Joint arrangements \(Article 11\)](#)
- [Officers \(Article 12\)](#)
- [Decision making \(Article 13\)](#)
- [Finance, contracts and legal matters \(Article 14\)](#)
- [Review and revision of the Constitution \(Article 15\)](#)

- [Suspension, interpretation and publication of the Constitution \(Article 16\)](#)

HOW THE COUNCIL OPERATES

The Council is composed of 66 Councillors with one third elected three years in four. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the code of conduct.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council will appoint the Leader and Cabinet (the Executive) and hold the Executive to account. There will be an opportunity for members of the public to ask questions at Council meetings.

HOW DECISIONS ARE MADE

The Executive and its Committee is the part of the Council which is responsible for most day-to-day decisions. The Executive is made up of the Leader, who is elected by all Councillors and a Cabinet of 9 Councillors appointed by the Leader. When major decisions are to be discussed or made, these are published in the Executive's Forward Plan in so far as they can be anticipated. If these major decisions are to be discussed with Council officers at a meeting of the Executive, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide. Throughout this constitution document the terms "Leader and Cabinet" or "Cabinet" are used rather than "Executive".

OVERVIEW AND SCRUTINY

There are four Policy and Performance committees who support the work of the Executive and the Council as a whole. They allow citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. These Committees also monitor the decisions of the Cabinet. They

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can 'call in' a decision which has been made by the Cabinet or the Executive Board but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

CONSTITUENCY COMMITTEES

In order to give local citizens a greater say in Council affairs four constituency committees have been created. These are primarily consultative. They involve Councillors and community representatives for each particular area and are held in public.

COUNCIL STAFF

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between officers and members of the Council.

CITIZENS' RIGHTS

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

Where members of the public use specific Council services, for example as a parent of a school pupil, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council, Cabinet and its Committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of Executive;
- submit petitions generally to Councillors or officers on matters of local concern;

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- participate in the Council's question time and contribute to investigations by the Policy and Performance committees;
- find out, from the Leader and Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or officers, and comment accordingly;
- see reports and background papers, and any record of decisions made by the Council and Cabinet, either on paper or electronically where reports and decision records are displayed on the Council's website;
- complain to the Council about any of the Council's services;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor .

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Head of Law and Member Services, Town Hall, Brighton Street, Wallasey, Wirral, CH44 8ED, telephone number 0151-638 7070, who can let you have a statement of your right to inspect agendas and reports and attend meetings.

Article 1 - The Constitution

1.1 Powers of the Council

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

1.2 The Constitution

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

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- (1) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (2) support the active involvement of citizens in the process of local authority decision making;
- (3) help Councillors represent their constituents more effectively;
- (4) enable decisions to be taken efficiently 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 identified to local people and that they explain the reasons for decisions; and
- (8) provide a means of improving the delivery of services to the community.

1.4 Interpretation and Review of the Constitution

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

The Council will monitor and evaluate the operation of the Constitution as set out in [Article 15](#).

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

Election and terms - The ordinary election of a third (or as near as may be) of all Councillors will be held on the first Thursday in May in each year except that in 2013 and every fourth year after there will be no regular election. The terms of office of Councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

2.3 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) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
 - (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
 - (iv) balance different interests within the ward and represent the ward as a whole;
 - (v) be involved in decision-making;
 - (vi) be available to represent the Council on other bodies;

- (vii) maintain the highest standards of conduct and ethics; and
- (viii) take part in member development and training.

(b) Rights and duties

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

2.4 Conduct

Councillors will at all times observe the [Members’ Code of Conduct](#) and the [Protocol on Member/Officer Relations](#) set out in Part 5 of this Constitution, and comply with any reasonable request of the Council’s Standards Committee.

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.

Article 3 - Citizens and the Council

3.1 Citizens' Rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the [Access to Information Rules](#) in Part 4 of this Constitution.

- (a) **Voting and petitions** - Citizens on the electoral 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, Cabinet and its 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 Cabinet and when;
 - (iii) see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
 - (iv) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation** - Citizens have the right to participate in the Council's question time and contribute to investigations by Policy and Performance Committees. Citizens have the right to submit petitions to Councillors or officers about matters that are of local concern.
- (d) **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.

3.2 Citizens' responsibilities

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- (a) Citizens must not be violent, abusive or threatening to Councillors or officers and must not wilfully harm things owned by the Council, Councillors or officers.
- (b) Citizens are legally required to register to vote and actively encouraged to exercise their vote as part of their commitment to citizenship and local democracy.

Article 4 - The Full Council

4.1 Meetings

The full Council will decide the Council's budget and policy framework.

(a) **Policy Framework** - The policy framework means the following plans and strategies:

- Council's Corporate Plan;
- Children and Young People's Plan;
- Sustainable Community Strategy;
- Crime and Disorder Reduction Strategy;
- Licensing Authority Policy Statement & Statement of Principles
- Local Transport Plan;
- Plans and strategies which together comprise the Local Development Framework;
- Youth Justice Plan;

(b) **Budget** - The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base, setting the Council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

(c) **Housing Land Transfer** - Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under section 32 or 43 of the Housing Act 1985.

4.2 Functions of the full Council

Only the Council will exercise the following functions:

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- (a) adopting and changing the Articles of the Constitution;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the [Access to Information Procedure Rules](#), making decisions about any matter in the discharge of an Executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to, or not wholly in accordance with, the budget;
- (d) appointing the Leader;
- (e) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council;
- (g) adopting an allowances scheme;
- (h) changing the name of the area or conferring the title of Honorary Alderman or the Freedom of the Borough;
- (i) confirming the appointment of the Head of Paid Service;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all [local-choice functions](#) set out in Part 3 of the Constitution which the Council decides should be undertaken by itself rather than the Executive; and
- (l) all other matters which, by law, must be reserved to Council.

4.3 Council meetings

There are three types of Council meeting:

- (a) the annual meeting;
- (b) the ordinary meetings;

(c) extraordinary meetings;

and they will be conducted in accordance with the [Council Procedure Rules](#) in Part 4 of the Constitution.

4.4 Responsibility for functions

The Council will maintain the tables in Part 3 of the Constitution setting out the [responsibilities for the Council's functions](#) which are not the responsibility of the Executive.

Article 5 - Chairing the Council

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:

- (1) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (2) 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;
- (3) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Executive or do not hold committee chairs are able to hold the Executive and committee chairs to account;
- (4) to promote public involvement in the Council's activities;
- (5) 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.

Article 6 – Policy and Performance committees

6.1 Appointment

The council will annually constitute and appoint four Policy and Performance Committee, comprising at least seven councillors, to discharge the functions conferred by the Local Government Act 2000 for overview and scrutiny, as subsequently amended and associated regulations.

6.2 The four committees will be comprised as follows:

- (i) One committee known as the coordinating Committee which will be responsible for:
 - a. Determining the Overview and Scrutiny Rules and operational protocols set out in Part 4 insofar as they have not otherwise been determined by statute or reserved to the Council.
 - b. Determining the overall work programme of the Policy and Performance Committees, including ensuring there is an overall planned approach to in-depth reviews generated by the 3 committees.
 - c. Allocating responsibilities to the Policy and Performance Committees where there is ambiguity or a matter is the concern of more than one committees.
 - d. Considering any matter affecting the area or its inhabitants including matters referred by constituency committees and councillor calls for action, and exercise the right to call in, for reconsideration, decisions made but not yet implemented by the Cabinet.
 - e. Approving an overview and scrutiny forward work programme, including the programme of any sub-committees it appoints so as to ensure that committees' and sub-committees' time is effectively and efficiently utilised.
- (ii) Three committees, to be called Policy and Performance Committees, responsible for scrutinising the work of the three strategic directorates in accordance with the approved overview and scrutiny forward work programme at 6.2(i)(e) above.

6.3 The Policy and Performance Committees will:

- (i) perform all overview and scrutiny functions on behalf of the council, including

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- (a) the review or scrutiny of decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive,
- (ii) The power of an Policy and Performance committee to review or scrutinise a decision made but not implemented includes power
 - (a) to recommend that the decision be reconsidered by the person who made it, or
 - (b) to arrange for its function under subsection 6.3(ii)(a), so far as it relates to the decision, to be exercised by the authority.
 - (c) to make reports or recommendations to the council or the executive with respect to the discharge of any functions which are the responsibility of the executive,
 - (d) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive,
 - (e) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the executive,
 - (f) to make reports or recommendations to the authority or the executive on matters which affect the authority's area or the inhabitants of that area,
- (iii) appoint such sub-committees, task groups and representatives on major project boards as it considers appropriate to fulfil those functions
- (iv) make reports and recommendations to the Full Council and the Cabinet and any relevant partner in connection with the discharge of any functions
- (v) foster and encourage an inclusive, structured, non-partisan and non-adversarial approach to overview and scrutiny which is reliant on evidence rather than anecdote
- (vi) In addition to the above the Policy and Review Committee responsible for health scrutiny will:
 - (a) review and scrutinise any matter relating to the planning, provision and operation of health services in The Borough, including significant change to service provision and those jointly commissioned or delivered by the council

- (b) require the attendance of an officer of a local NHS body to answer questions and provide explanations about the planning, provision and operation of health services in the Borough
- (c) require a local NHS body to provide information about the planning, provision and operation of health services in the Borough, subject to the exemptions outlined in the Health and Social Care Act 2001
- (d) participate in cross-boundary overview and scrutiny of health services with other local authorities; including the establishment of joint committees; or the delegation of functions to another local authority
- (e) report to the secretary of state for health:
 - (i) where the committee is concerned that consultation on substantial variation or development of services has been inadequate
 - (ii) where the committee considers that the proposal is not in the interest of the local health service.
- (f) maintain an overview of the council's responsibilities and role in relation to health and wellbeing
- (vii) The Co-ordinating Committee shall appoint at least two but not more than five parent governor representatives to any Forum dealing with education matters. When the Forum deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

6.4 Finance

The Co-ordinating Committee will exercise overall responsibility for the finances made available to it.

6.5 Proceedings of Policy and Performance Committees

The Co-ordinating Committee and Forums will conduct their proceedings in accordance with the overview and scrutiny procedure rules set out in Part 4 of this constitution.

Article 7 - The Cabinet

THE ROLE OF THE CABINET

7.1 Role

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

7.2 Form and composition

The Cabinet will consist of the –

- (i) The Leader of the Council (“the Leader”); and
- (ii) at least two but not more than nine Councillors (“other Cabinet Members”) appointed from time to time by the Leader, none of whom may be either the Mayor or Deputy Mayor at any time while being the Leader or other Cabinet Members

7.3 Leader

- (i) The Leader will be a Councillor elected to the position of Leader by the Council at the Annual Meeting of the Council following elections, if any.
- (iii) The Leader will hold office as such until or unless –
 - (a) he/she resigns from the office; or
 - (b) he/she is suspended from being a Councillor pursuant to Part III (Conduct of local government members and employees) of the Local Government Act 2000,
 - (c) he/she ceases to be a Councillor (whether or not by virtue of any enactment relating to the duration, expiry of the term of office or retirement of councillors) [see Note below]; or
 - (d) The Council passes a resolution expressly to remove him/her from the office of Leader

7.4 Other Cabinet Members.

- (i) Other Cabinet Members shall be appointed and their portfolios and functions shall be determined from time to time by the Leader.
- (ii) The power of appointment by the Leader as respects other Cabinet Members shall include the power to remove any of them from the Cabinet and to determine whether or not to appoint one or more other

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Councillors in their places (subject in all such circumstances to the limitations upon numbers in paragraph 7.2 (ii) above)

- (iii) The Leader may from time to time appoint a Cabinet Member to be his/her deputy and the person so appointed shall be known and referred to as the Deputy Leader of the Council (“the Deputy Leader”).
- (iv) The power of appointment by the Leader of the Deputy Leader shall include power to remove him/her from the office of Deputy Leader and to determine whether or not to appoint another Cabinet Member thereto.
- (vi) Subject to paragraphs (i), (ii), (iv) and (v) above, a Cabinet Member shall hold office as such until or unless -
 - (a) he/she resigns from such office; or
 - (b) he/she is suspended from being a councillor pursuant to Part III (Conduct of Local Government Members and Employees) of the Local Government Act 2000) (although he/she shall be eligible to resume such office on appointment by the Leader at the expiry of the period of suspension); or
 - (c) he/she is no longer a Councillor, whether or not by virtue of any enactment relating to the duration, expiry of the term of office or retirement of councillors”

7.5 Proceedings of the Cabinet

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

7.6 Responsibility for functions

- (i) The Leader may discharge any executive function, or
- (ii) may arrange for the discharge of any of those functions –
 - (a) by the executive,
 - (b) by another member of the executive,
 - (c) by a committee of the executive,
 - (d) by an area committee, or
 - (e) by an officer of the authority.
- (iii) Where any functions may be discharged by the cabinet, then, unless the leader otherwise directs, the cabinet may arrange for the discharge of any of those functions –
 - (a) by a committee of the executive,
 - (b) by an area committee, or
 - (c) by an officer of the authority

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- (iv) where any functions may be discharged by a member of the cabinet, then, unless leader otherwise directs, the member who may discharge the functions may arrange for the discharge of any of those functions –

by an area committee, or
by an officer of the authority.
- (v) Where any functions may be discharged by an area committee, then, unless the leader otherwise directs, the committee may arrange for the discharge of any of those functions by an officer of the authority.
- (vi) Any arrangements made by the leader, executive, member or committee for the discharge of any functions by an executive, member, committee or officer are not to prevent the leader, executive, member or committee by whom the arrangements are made from exercising those functions.
- (vii) In this section “area committee”, means
 - (a) a committee or sub-committee established to discharge functions in respect of part of the area of the authority, and
 - (b) the members of the committee or sub-committee are members of the authority are elected for electoral divisions or wards which fall wholly or partly within that part.

7.7 Responsibility for Executive functions when no Leader is in post and no quorate Cabinet is in office

- (i) This paragraph shall apply for any period during which;
 - (a) no Councillor holds the position of Leader; and
 - (b) Fewer than three Councillors (or such other number of Councillors as from time to time shall be the quorum for a meeting of the Cabinet) hold the position of Cabinet Member
- (ii) In the circumstances to which sub-paragraph (i) above applies, the Chief Executive (or in his/her absence, the Deputy Chief Executive) in consultation with the leaders of all political groups represented on the Council, shall have delegated authority to act in respect of any Executive Function, provided that the Chief Executive or Deputy Chief Executive (as the case may be) is of the opinion that to delay acting until after the likely conclusion of the period specified in sub-paragraph (i) above would not be in the public interest
- (iii) All decisions or other action taken by the Chief Executive or the Deputy Chief Executive pursuant to sub-paragraph (ii) above shall be promptly set out in a written record which shall include the reasons for the decision or other action and the conclusions as to the public interest which caused such decision or other action to be taken AND all such records shall be submitted to the Councillor who next holds the position

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of Leader as soon as is reasonably practicable after his or her election as Leader.

Article 8 - Regulatory and other committees

8. Regulatory and other committees

- 8.1 The Council will appoint the committees set out in the left hand column of [Table 2 \(Responsibility for Council Functions\)](#) in Part 3 of this Constitution to discharge the functions described in column 3 of that table.
- 8.2 Proceedings of regulatory or other committees: the committees will conduct their proceedings in accordance with the relevant provisions of the [Council Procedure Rules](#) set out in Part 4 of this Constitution.

Article 9 - The Standards Committee

9.1 Standards Committee

The Council meeting will establish a Standards Committee, to be known as the Standard and Constitutional Oversight Committee.

9.2 Composition

(a) Membership

The Standards Committee will be composed of:

- nine Members, not more than one of whom is a member of the Executive (other than the Leader) and
- three persons who are not Members or officers of the Council (independent persons).

(b) Independent persons

Independent members will not be entitled to vote at meetings.

(c) Chairing the Committee

The committee chairperson shall be determined by the Standards Committee at its first meeting in the Municipal Year.

9.3 Role and Function

The Standards Committee will:-

- (a) promote and maintain high standards of conduct by Members, Co-Opted Members and church and parent governor representatives;
- (b) to advise and recommend to Council the adoption, revision or replacement of the Code(s)_of Conduct for Members, Co-Opted Members and Officers.
- (c) assist the Members and Co-Opted Members and church and parent governor representatives to observe the [Members' Code of Conduct](#);
- (d) monitor and review the complaints made under the Members Code of Conduct; including the operation of the [Members' Code of Conduct](#);

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- (e) advise, train or arrange to train Members, Co-Opted Members and church and parent governor representatives on matters relating to the [Members' Code of Conduct](#);
- (f) establish, amend or revise arrangements under which allegations that an elected or co-opted Member of the Council has failed, or may have failed, to comply with the Council's Code of Conduct for Members can be investigated (which shall include but not limited to developing and adopting procedures and protocols and authorising the Council's Monitoring Officer to make such changes to the arrangements as are considered necessary for the effective and timely investigation of allegations.
- (g) establish, amend or revise arrangements under which decisions on allegations that an elected or co-opted Member of the Council has failed, or may have failed, to comply with the Members' Code of Conduct can be made (which shall include but not limited to developing and adopting procedures and protocols and authorising the Council's Monitoring Officer to make such changes to the arrangements as are considered necessary for effective and timely decision making.
- (h) support the Monitoring Officer in the exercise of that Officer's ethical standards functions, in particular the duty to establish and maintain registers of interests for the Council.
- (j) in relation to Members or Co-Opted Members or church and/or parent governor representatives with pecuniary interests, putting in place arrangements to grant dispensations, in appropriate cases, from the restrictions on speaking and/or voting.
- (j) to exercise all other functions of the Council in relation to ethical standards, in particular those under Chapter 7 of the Localism Act 2011.
- (k) monitoring and reviewing as necessary the operation of whistle-blowing procedures;
- (l) considering 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;
- (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;

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- (n) approve the payment of compensation involving sums in excess of £5,000 (or less, if considered appropriate) to settle complaints of maladministration.
- (o) establishing such sub-committees and/or panel as are required to discharge its role and the functions as set out in these Terms of Reference;-
- (p) To keep the councils constitutional arrangements under review and to make such recommendations to the council as it considers appropriate for ways in which it should be amended in order better to achieve the purposes set out in Article 1, (set out below at paragraph 2.23).
- (q) To oversee and agree such minor and consequential changes to the councils constitutional arrangements as are recommended by the Monitoring officer from time to time.

10.0 Establishment of Panels

- (a) The Standards Committee will establish a:

Standards Panel; and a

Standards Appeals Panel

Terms of Reference of the Standards Panel

- 1. The Standards Panel will:
 - (a) Consider only those allegations that an elected or co-opted Member of the Council has failed, or may have failed, to comply with the Council's Code of Conduct for Members that are specified in the arrangements established under paragraph 9.3(f) above.
 - (b) Consider and take into account the views of at least one independent person before making a decision on an allegation (falling within its remit) that the Members' Code of Conduct has been breached.
 - (b) The Standards Panel after consideration of a complaint may (pursuant to paragraph 9.3(g) above):-
 - (i) ask for additional information on the allegation before reaching a decision;
 - (ii) determine that no action should be taken in respect of the allegation(s) made;

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- (i) determine that the Members' Code of Conduct has been proved to have been breached;
- (c) Where the Standards Panel determines that the Members' Code of Conduct has been breached, it may:
- (i) instruct the Monitoring Officer to write a formal warning letter to the Member reminding him/her of the need to comply with the Members' Code of Conduct; and/or
 - (ii) require the Member(s) to apologise to the complainant (whether verbally or in writing) for breaching the Members' Code of Conduct. Should the Member in question fail or refuse to do so promptly, the Monitoring Officer shall report this fact to the Member's Political Group Leader*; and/or
 - (iii) report the Panel's decision to a public meeting of the Standards Committee for reference/consideration; and/or
 - (iv) recommend to the Member's Political Group Leader* that disciplinary action should be taken against the Member in question and/or that he/she be removed from all (or some) outside bodies to which the Member has been appointed; and/or
 - (v) instruct the Monitoring Officer to arrange training for the Member in question who shall be required to attend. Should the Member fail to attend the training arranged, the Monitoring Officer shall report this fact to the Member's Political Group Leader*.

* In the event that the Member in question is the Political Group Leader, the recommendation shall be referred to the relevant Deputy Political Group Leader; in the event that the Members in question are both the Political Group Leader and Deputy Political Group Leader, the recommendation shall be referred to the next most relevant senior Political Group Official/Spokesperson.

- (d) Where the Standards Panel determines that the Members' Code of Conduct has NOT been breached, it may:
- (i) recommend, subject to the agreement of the Member against whom the allegation(s) has been made, that a Council media statement be issued upon the Council's website detailing the nature and outcome of the investigation into the allegations made and the decision of the Panel.

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- (ii) subject to the agreement of the Member against whom the allegation(s) has been made, report the Panel's decision to a public meeting of the Standards Committee;
- (e) The Standards Panel shall also consider under Sections 1 and 2 of the Local Government and Housing Act 1989: -
 - (a) any application received from any officer of the Council for exemption from political restriction in respect of the post held by that officer and may direct the Council that the post shall not be considered to be a politically restricted post and that the post be removed from the list maintained by the Council under Section 2(2) of that Act; and
 - b) upon the application of any person or otherwise, consider whether a post should be included in the list maintained by the Council under Section 2(2) of the 1989 Act, and may direct the Council to include a post in that list.

6. Composition

The Standards Panel shall comprise of 3 Members (one Member from each of the three main political parties) who shall be members of the Council's Standards Committee (unless an Alternate Member is nominated (see below)).

The spokesperson for each political group may nominate an 'Alternate Member' from his/her political group to sit on a Standards Panel, providing that the Member nominated has undertaken the requisite training on the Members' Code of Conduct (and any other training required by the Standards Committee).

No Member shall sit on the Standards Panel where he/she has a conflict of interest.

7. Chair

The Chair shall be appointed by the Standards Panel at each meeting.

Where the Standards Panel is considering an allegation of a breach of the Members' Code of Conduct, the Chair shall not be a Member of the same political party of the Member against whom the allegation(s) have been made.

8. Quorum

The quorum for a meeting of the Standards Panel shall be the 3 Members that make up its composition.

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9. **Frequency of Meetings** - The Standards Panel will only meet when required to undertake its role and discharge its functions as set out in these Terms of Reference.
10. **Access to Information** – Where the Standards Panel is considering allegations that an elected or co-opted Member of the Council has failed, or may have failed, to comply with the Council’s Code of Conduct for Members under 1 (a) above, the matter shall be exempt from disclosure under paragraph 7C of the Council Access to Information Procedure Rules unless the Standards Panel at its meeting considers that the public interest in lifting the exemption outweighs maintaining the continued application of the exemption.

B. Terms of Reference of the Standards Appeal Panel

1. Where a complainant or Member or Co-opted Member is dissatisfied with the determination of a complaint by the Standards Panel, the Standards Appeal Panel will convene to re-consider the complaint providing that:
 - a. A request for permission to appeal is first made in writing, within 14 days of receipt of the Standards Panel’s Decision Notice, to the Monitoring Officer which details the procedural, legal and/or evidential issues relied upon in support of the request for permission; and
 - b. The Monitoring Officer being satisfied, having considered the views of the independent person, that (i) the request for permission raises valid procedural, legal and/or evidential issues and matters not previously considered by the Standards Panel, and/or that (ii) it is reasonable and equitable in all the circumstances of the case that permission to appeal be granted.
2. Where the Standards Appeal Panel has been convened pursuant to paragraph 1 above, the Standards Appeal Panel shall:
 - i. Consider the complaint/allegations that an elected or co-opted Member of the Council has failed, or may have failed, to comply with the Council’s Code of Conduct for Members.
 - ii. Consider and take into account the views of at least one independent person before making a decision on an allegation (falling within its remit) that the Members’ Code of Conduct has been breached.
3. (a) The Standards Appeal Panel after consideration of a complaint may (pursuant to paragraph 9.3(g) above:-

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- (i) ask for additional information on the allegation before reaching a decision;
 - (ii) determine that no action should be taken in respect of the allegation(s) made;
 - (ii) determine that the Members' Code of Conduct has been proved to have been breached;
- (b) Where the Standards Appeal Panel determines that the Members' Code of Conduct has been breached, it may:
- (i) instruct the Monitoring Officer to write a formal warning letter to the Member reminding him/her of the need to comply with the Members' Code of Conduct; and/or
 - (ii) require the Member(s) to apologise to the complainant (whether verbally or in writing) for breaching the Members' Code of Conduct. Should the Member in question fail or refuse to do so promptly, the Monitoring Officer shall report this fact to the Member's Political Group Leader*; and/or
 - (iii) report the Panel's decision to a public meeting of the Standards Committee for reference/consideration; and/or
 - (iv) recommend to the Member's Political Group Leader* that disciplinary action should be taken against the Member in question and/or that he/she be removed from all (or some) outside bodies to which the Member has been appointed; and/or
 - (v) instruct the Monitoring Officer to arrange training for the Member in question who shall be required to attend. Should the Member fail to attend the training arranged, the Monitoring Officer shall report this fact to the Member's Political Group Leader*.

* In the event that the Member in question is the Political Group Leader, the recommendation shall be referred to the relevant Deputy Political Group Leader; in the event that the Members in question are both the Political Group Leader and Deputy Political Group Leader, the recommendation shall be referred to the next most relevant senior Political Group Official/Spokesperson.

(c) Where the Standards Appeal Panel determines that the Members' Code of Conduct has NOT been breached, it may:

- (iii) recommend, subject to the agreement of the Member against whom the allegation(s) has been made, a Council

press release be issued detailing the nature and outcome of the investigation into the allegations and the decision of the Panel.

- (iv) subject to the agreement of the Member against whom the allegation(s) has been made, report the Panel's decision to a public meeting of the Council and/or the Standards Committee;

4. Composition

The Standards Appeal Panel shall comprise of 3 Members (one Member from each of the three main political parties) who shall be members of the Council's Standards Committee (unless an Alternate Member is nominated (see below)).

The spokesperson for each political group may nominate an 'Alternate Member' from his/her political group to sit on a Standards Appeal Panel, providing that the Member nominated has undertaken the requisite training on the Members' Code of Conduct (and any other training required by the Standards Committee).

No Member shall sit on (or otherwise attend, engage or interfere with) the Standards Appeal Panel where he/she has a conflict of interest.

- 5. **Chairperson** – The Chairperson shall be appointed by the Standards Appeal Panel at each meeting. Where the Standards Appeal Panel is considering an allegation of a breach of the Members' Code of Conduct, the Chairperson shall not be a member of the same political party of the Member against whom the allegation(s) have been made.

7. Quorum

The quorum for a meeting of the Standards Panel shall be the 3 Members that make up its composition.

- 9. **Frequency of Meetings** - The Standards Appeal Panel will only meet when required to undertake its role and discharge its functions as set out in these Terms of Reference.

- 10. **Access to Information** – Where the Standards Appeal Panel is considering allegations that an elected or co-opted Member of the Council has failed, or may have failed, to comply with the Council's Code of Conduct for Members under 1 (a) above, the matter shall be exempt from disclosure under paragraph 7C of the Council Access to Information Procedure Rules unless the Standards Panel at its meeting considers that the public interest in lifting the exemption outweighs maintaining the continued application of the exemption..

Article 10 - Constituency Committees

10.1 Area Committee

- (i) The Council will appoint 4 area committees co-terminus with the four constituency boundaries to discharge functions in respect of that area of the authority as set out below.
- (ii) The area committees will be known as Constituency Committees.
- (iii) The members of the committee will be members of the authority who are elected for electoral divisions or wards which fall wholly or partly within the wards comprising the area of the committee.
- (iv) The council will at the annual general meeting determine the number of members on each area committee and appoint members to the committee in accordance with paragraph (iii) above.

10.2 Terms of Reference

- (i) To discharge such functions as may be delegated to them from time to time by the Executive and/or the Council.
- (ii) To act as a voice for the community with respect to:-
 - (a) the development of area action plans which reflect the needs and priorities of the area;
 - (b) issues concerning the environment, traffic, policing, education, jobs, health;
 - (c) development of the Borough's Community Strategy
 - (d) the quality, range and level of services provided in the area by public bodies;
 - (e) to provide public bodies with an opportunity to consult with local people on the development and delivery of plans, programmes and services
 - (f) to make recommendations to the Executive in respect of the expenditure of any funds allocated to them.
- (iii) The Constituency Committees have an advisory role. They may submit reports on matters of concern locally to the Cabinet or Coordinating Committee as the committee deems necessary.

Article 11 - Joint Arrangements

11.1 Arrangements to promote well-being

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

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

11.2 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions which are not Executive functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Executive may establish joint arrangements with one or more local authorities to exercise functions which are Executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Executive may appoint only Executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Executive may appoint members to a joint committee from outside the Executive in the following circumstances:
 - where the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Executive may appoint to the joint committee any Councillor who is a member of a ward which is wholly or partly contained within the area;

the political balance requirements do not apply to such appointments.

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

11.3 Delegation to and from other local authorities

- (a) The Council may delegate non-Executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
- (b) The Executive may delegate Executive functions to another local authority or the Executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

11.4 Contracting out

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

Article 12 - Officers

12.1 Management structure

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

Chief Executive
Strategic Director Families and Wellbeing
Strategic Director Transformation and Resources
Strategic Director Regeneration and Environment
Deputy Chief Executive
Director of Children's Services
Director of Public Health
Director of Adult Social Services
Director of Technical Services

- (c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer**

The Council will designate the following posts as shown:-

Post	Designation
Chief Executive	Head of Paid Service
Head of Legal/Member Services	Monitoring Officer
Director of Finance	Chief Finance Officer

Such posts will have the functions described in Article [12.2-12.4](#) below.

Protocols will be developed to ensure that the Leader and Chief Executive negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained. In addition a protocol relating to the role of the Monitoring Officer will also be developed.

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

the Council showing the management structure and deployment of officers. This will be published on the Council's website.

12.2 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council** - The Head of Paid Service where he considers it appropriate to do so in respect of any proposals of his will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on functions** - The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

12.3 Functions of the Monitoring Officer

The Monitoring Officer will:

- (a) maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public;
- (b) make such minor changes to the constitution as are necessary to give effect to organisational changes from time to time provided the same are reported to the Standards Committee at the first available opportunity.
- (c) after consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an Executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise of maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered;
- (d) contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee;

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- (e) ensure that Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible;
- (f) advise whether decisions of the Cabinet are in accordance with the budget and policy framework;
- (g) provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, and budget and policy framework issues to all Councillors;

The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

12.4 Functions of the Chief Finance Officer

The Chief Finance Officer will:

- (a) after consulting with the Head of Paid Service and the Monitoring Officer, report to the full Council, or to the Cabinet in relation to a Cabinet function, and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account which is unlawful;
- (b) have responsibility for the administration of the financial affairs of the Council;
- (c) contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and the elected Leader and will support and advise Councillors and officers in their respective roles.
- (e) provide financial information to the media, members of the public, relevant third parties and the community.

12.5 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

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

12.6 Conduct

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

12.7 Employment

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

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 which 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 will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the consideration of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) Wednesbury reasonableness (i.e. the decision must 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 Types of decision

- (a) Decisions reserved to full Council. Decisions relating to the functions listed in [Article 4.2](#) will be made by the full Council and not delegated.
- (b) **Key decisions are those as defined in regulation 8 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations**
 - (i) A “key decision” means an Executive decision, which is likely -
 - (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant authority’s

budget for the service or function to which the decision relates; or

- (b) to be significant in terms of its effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority;

subject to any guidance issued by the Secretary of State in relation to the meaning of significant.

- (ii) In the absence of such guidance, a key decision is
 - (a) any decision of the Cabinet incurring expenditure or making savings in excess of 10% of the relevant budget head or £500,000, whichever is the smaller, unless
 - (i) the specific expenditure or saving has previously been agreed in full Council or
 - (ii) it is a decision taken in accordance with the Council's Treasury Management Policy

OR

- (b) any decision of the Cabinet which, in the view of the Leader, will have a significant effect on a significant number of people.

In addition to the above, and for the avoidance of doubt, any decision approving proposals for the making of a plan or budget which requires the approval of full Council shall be treated as a key decision.

- (iii) A decision-taker may only make a key decision in accordance with the requirements of the [Executive Procedure Rules](#) set out in Part 4 of this Constitution.

13.4 Decision making by the full Council

Subject to Article 13.8, the Council meeting will follow the [Council Procedures Rules](#) set out in Part 4 of this Constitution when considering any matter.

13.5 Decision making by the Executive

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Subject to Article 13.8, the Executive will follow the [Executive Procedure Rules](#) set out in Part 4 of this Constitution when considering any matter.

13.6 Decision making by Policy and Performance Committees

Policy and Performance Committees will follow the [Overview and Scrutiny Procedures Rules](#) set out in Part 4 of this Constitution when considering any matter.

13.7 Decision making by other committees and sub-committees established by the Council

Subject to Article 13.8, other Council committees and sub-committees will follow those parts of the [Council Procedure Rules](#) set out in Part 4 of this Constitution as apply to them.

13.8 Decision making by Council bodies acting as tribunals

The Council, a committee or sub-committee, councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

Article 14 - Finance, Contracts and Legal Matters

14.1 Financial Management

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

14.2 Contracts

Every contract made by the Council will comply with the [Contracts Procedure Rules](#) set out in Part 4 of this Constitution.

14.3 Legal proceedings

The Head of Legal/Member Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where he/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 Head of Legal/Member Services 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 as specified in the [Contract Procedure Rules](#) entered into on behalf of the local authority in the course of the discharge of an Executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the Council attested by at least one officer.

14.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal/Member Services. A decision of the Council, or 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 Head of Legal/Member Services should be sealed. The affixing of the Common

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Seal will be attested by the Head of Legal/Member Services or some other person authorised by him/her.

Article 15 - Review and Revision of the Constitution

15.1 Duty to Monitor and Review the Constitution

The Head of Legal/Member Services (Monitoring Officer) in association with the Cabinet or the Executive Board will 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:

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

15.3 Changes to the Constitution

- (a) **Approval** - Changes to the Articles of the constitution will only be approved by the full Council after consideration of a proposal by the Monitoring Officer, and the Audit and Risk Management Committee or Standards of Governance Committee as appropriate. Amendments will be submitted to and considered by the annual meeting of the Council, unless otherwise required by the Monitoring Officer, after consultation with the Cabinet or the Executive Board and/or the relevant Policy and Performance Committee.
- (b) **Change from a Leader and Cabinet form of Executive to alternative arrangements** - The Council must take reasonable

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steps to consult with local electors and other interested parties in the area when drawing up proposals.

Article 16 - Suspension and Interpretation and Publication of the Constitution

16.1 Suspension of Constitution

- (a) **Limit to suspension** - The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend** - Any suspension of any of the Rules must be in accordance with the Council's Procedural Rules.

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) Head of Legal and Member Services will give a printed copy of this Constitution to each member of the Authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) Head of Legal and Member Services will ensure that it will be available electronically on the Council's website and copies can be purchased by members of the local press and the public on payment of a reasonable fee.

Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute the Executive Arrangements:-

1. [Article 6 \(Policy and Performance Committees\)](#) and the [Overview and Scrutiny Procedure Rules](#);
2. [Article 7 \(The Executive\)](#) and the [Executive Procedure Rules](#);
3. [Article 10 \(Area Committees and Forums\)](#) - Councils should make clear the extent to which they apply, i.e. where area committees have functions delegated to them by the Executive;
4. [Article 11 \(Joint Arrangements\)](#) - Councils should make clear the extent to which they apply, i.e. where joint committees have functions delegated to them by the Executive;
5. [Article 13 \(Decision Making\)](#) and the [Access to Information Procedure Rules](#);
6. [Part 3 \(Responsibility for Functions\)](#).

Responsibility for Functions

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended specify which functions are not to be the responsibility of the Executive, which may (but need not) be the responsibility of the Executive (the 'local choice functions') and which are to some extent the responsibility of the Executive. All other functions not so specified are to be the responsibility of the Executive. The executive arrangements in the Constitution indicate how the responsibility for all these functions is allocated so that it is clear whether:

- (iii) they are the responsibility of the Council and/or its Committees; or
- (iv) they are the responsibility of the Executive; or
- (v) they are, or are not, the responsibility of the Executive to a specified extent.

The tables below provide a means of meeting this requirement. [Table 1](#) covers local choice functions. [Table 2](#) covers functions which are not the responsibility of the Executive. [Table 3](#) covers Executive responsibilities.

Table 1.

RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

The detailed functions in Table 1 and those which are delegated on to a committee of the Executive, a committee of the Council or any officer are set out in the [Schedules](#) to Part 3 of the Constitution.

Function	Decision Making Body	Membership	Delegation of Functions
1. Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of the Functions Regulations.	The Council		Functions which are delegated onwards are set out in the Schedules to Part 3.
2. The determination of an appeal against any decision made by, or on behalf, of the Authority.	The Council		Functions which are delegated onwards are set out in Table 4 .
3. Making arrangements for school admission appeals.	Parental Appeals Panel	3 Independent Members	To promote parental choice and ensure that as many parents as possible are offered a school place which they will consider satisfactory for their child. Where parents are dissatisfied they have a right of appeal.
4. Making arrangements for appeals against exclusion of pupils.	Parental Appeals Panel	3 Independent Members	To hear appeals against the permanent exclusion of a pupil from any maintained school.
5. Questions on Police matters (Section 20 Police Act 1996).	The Council		
6. Arrangements for the appointment of members of Police Authorities.	The Council		

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Function	Decision Making Body	Membership	Delegation of Functions
7. Any function relating to contaminated land.	The Executive		Details of onward delegation are shown in the Schedules to Part 3 .
8. The discharge of any function relating to the control of pollution or management of air quality.	The Executive		Details of onward delegation are shown in the Schedules to Part 3 .
9. The service of an abatement notice in respect of a statutory nuisance.	The Council		Details of onward delegation are shown in the Schedules to Part 3 .
10. The passing of a resolution that Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply to the authority's area.	The Executive		Details of onward delegation are shown in the Schedules to Part 3 .
11. The inspection of the authority's area to detect any statutory nuisance.	The Council		Details of onward delegation are shown in the Schedules to Part 3 .
12. The investigation of any complaint as to the existence of a statutory nuisance.	The Council		Details of onward delegation are shown in the Schedules to Part 3 .
13. The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.	The Council		Details of onward delegation are shown in the Schedules to Part 3 .
14. The obtaining of particulars of persons interested in land under Section 16 of the Local	The Council		Details of onward delegation are shown in the Schedules to Part 3 .

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Function	Decision Making Body	Membership	Delegation of Functions
Government (Miscellaneous Provisions) Act 1976.			
15. The making of agreements for the execution of highways works.	The Executive		Details of onward delegation are shown in the Schedules to Part 3 .
<p>16. The appointment of any individual:-</p> <p>(a) to any office other than an office in which he is employed by the authority;</p> <p>(b) to any body other than:- (i) the authority; (ii) a joint committee of two or more authorities; or</p> <p>(c) to any committee or sub-committee of such a body,</p> <p>and the revocation of any such appointment.</p>	The Council		Details of onward delegation are shown in Table 4 and the Schedules to Part 3 .
17. The making of agreements with other local authorities for placing of staff at the disposal of other local authorities.	The Executive		Details of onward delegation are shown in the Schedules to Part 3 .
18. To consider and determine statutory proposals relating to the establishment and discontinuance of schools, prescribed alterations and transitional	The Executive		

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Function	Decision Making Body	Membership	Delegation of Functions
arrangements in accordance with the Education and Inspections Act 2006			

Table 2

RESPONSIBILITY FOR COUNCIL FUNCTIONS

It is a matter for local choice having regard to the statutory Guidance whether the Council has separate committees for the functions below.

The detailed functions in this table and those which are delegated on to an officer are set out in the [Schedules](#) to Part 3 of this Constitution.

The detailed functions in this table and those which are delegated on to an officer are set out in the Schedules to Part 3 of this Constitution.

Committee	Membership	Functions	Onward Delegation of Functions
Planning	11 Members of the Authority	Planning and conservation Functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) (the “Functions Regulations”).	Functions which are delegated on to an officer and the limits of that delegation are set out in the Fourth Schedule to this Part.
Licensing, Health and Safety and General Purposes Committee	11 Members of the Authority	Commons registration The registration of common land or town and village greens and to register the variation of rights of common as set out in paragraphs 37 and 38 of Part B of Schedule 1 to the Functions Regulations. Highways use and regulation The exercise of powers relating to Public Rights of Way as set out in paragraphs 1 to 34, 41 and 46 - 47 of Part I and paragraphs 47 to 55 of Part B of Schedule 1 to the Functions Regulations. Taxi, food and miscellaneous licensing Functions relating to licensing and registration as set out in Part B (excluding paragraphs 37 and 38) and paragraph 42 of Part I of Schedule 1 to the	Functions which are delegated on to an officer and the limits of that delegation are set out in the Schedules to this Part.

Committee	Membership	Functions	Onward Delegation of Functions
		<p>Functions Regulations;</p> <p>Health and Safety at Work Functions relating to health and safety as set out in Part C of the Functions Regulations under any 'relevant statutory provision' within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as employer.</p> <p>Electoral matters Functions relating to Elections, making recommendations to Council or Cabinet relating to Bills and name and status of the Borough and individuals.</p>	
Licensing Act 2003 Committee	15 Members of the Authority	To discharge the functions set out in Section 7 of the Licensing Act 2003 and Section 154 of the Gambling Act 2005.	
Audit and Risk Management Committee	9 Members of the Authority	<p>Accounts Approval of Council's Statement of Accounts and Section 151 responsibilities</p> <p>To consider and make recommendations to Council or Cabinet as appropriate on;</p> <ul style="list-style-type: none"> (i) the annual Audit Report and the Management Letter of the external auditor; (ii) any other statutory report of the external auditor; <p>and other financial and risk management matters (see Schedule 2 of Part 3 below). To keep Financial Regulations and Contract Procedure Rules under review and agreed revisions.</p>	

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Committee	Membership	Functions	Onward Delegation of Functions
Standards & Governance Committee	9 Members of the authority (other than the Mayor or Leader) and 4 voting co-optees.	<p>To keep the Constitution under review and make recommendations to Council on proposals for improvements</p> <p>Promoting and maintaining high standards of conduct by Councillors and voting co-opted members (including church and parent governor representatives)</p> <p>Advising the Council on the adoption or revision of the Members' Code of Conduct; Assisting Councillors and voting co-opted members (including church and parent governor representatives) to observe the Members' Code of Conduct;</p> <p>Monitoring the operation of the Members' Code of Conduct, in the light of best practice, changes in the law, guidance from the Standards Board for England and recommendations from Case Tribunals;</p> <p>Advising, training or arranging to train Councillors and voting co-opted members including church and parent governor representatives on matters relating to the Members' Code of Conduct;</p> <p>Granting dispensations to Councillors and voting co-opted members including church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;</p> <p>Dealing with any reports from a Case Tribunal or Interim Case</p>	

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Committee	Membership	Functions	Onward Delegation of Functions
		<p>Tribunal, or from the Standards Board and any report from the Monitoring Officer on any matter which is referred by an Ethical Standards Officer to the Monitoring Officer;</p> <p>Other functions relating to standards of conduct of members assigned to Standards Committees under any Regulations under the Local Government Act 2000, including any Regulations made under Section 66.</p> <ul style="list-style-type: none"> • To consider Ombudsman’s reports in cases of maladministration; (Section 92, Local Government Act 2000) • Whistle-blowing • Strategic overview of Employees’ Code of Conduct; • Overview of reports from External Auditors; • Dealing with breaches of protocols. 	
Pensions Committee	11 Council members plus 5 employer representatives	The powers and duties of the Council in relation to its functions as administering authority of the County of Merseyside Pension Fund	Functions delegated to officers and the limits of that delegation are set out in the Fourth Schedule to this Part.
Employment and Appointments	9 Members of the Authority	Appointment of Chief Officers and Deputies.	

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Committee	Membership	Functions	Onward Delegation of Functions
Committee			
		To act as the Appeals Body in respect of misconduct of chief officers.	
		Functions relating to Pensions as an Employer.	
Chief Officers Employment Disciplinary Sub-Committee		To receive reports from a designated independent person investigating allegations of misconduct against the Head of Paid Service, the Monitoring Officer or Chief Finance Officer To investigate and take disciplinary action in respect of allegations of misconduct against Chief Officers.	
Coordinating Committees	Members of the Authority (plus 4 voting and 1 other co-opted Members)	The statutory functions of an Policy and Performance Committee with the terms of reference set out in Article 6.	
3 Policy and Performance Committees	Members of the Authority		

Table 3

RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

- 3.1 The Cabinet has all those functions not allocated above together with those local choice functions assigned to the Executive in [Table 1](#).
- 3.2 The Cabinet must not make final decisions on the functions assigned to the Council by the Functions Regulations or any other statutory provision.

Table 4

STATUTORY AND ADVISORY BODIES

<p>Adoption Panel</p>	<p>1 member of the Authority plus up to 9 other qualified persons (with a quorum of 5) as set out in the Adoption Agencies Regulations 2005 (<u>Note</u>: The member of the authority should either be a member of the Executive or of the Children’s Services and Lifelong Learning Policy and Performance Committee)</p>	<p>To make recommendations to the Adoption Agency in respect of children and prospective adopters.</p>
<p>Fostering Panel</p>	<p>3 members of the Authority plus other representatives.</p>	<p>The Fostering Panel is an advisory body that makes recommendations to the Director of Children’s Services in respect of fostering.</p>
<p>Review Panel (Complaints Procedure)</p>	<p>3 members from pool of independent members</p>	<p>Under the NHS and Community Care Act, 1990 and the Children Act 1989, to consider the Investigating Officers’ reports into complaints where the complainant is dissatisfied with the response of the Adult Social Services Department or Children’s and Young People’s Department.</p> <p>Comments made by the Director of Adult Social Services or Director of Children’s Services in response to the Review Panel’s decisions shall be considered by the relevant Cabinet member, Policy and Performance Committee Chair and party spokespersons (unless any of them were members of the Review Panel in question).</p>

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<p>Independent Remuneration Panel</p>	<p>At least 3 persons who are not members of the Council (and who are not disqualified from being a member) including a representative of the business community and the voluntary sector</p>	<p>To make recommendations to the Council on Members' remuneration and allowances and any proposals for amendments to the Scheme of Members' Allowances, including:-</p> <p>(iii) The amount of basic allowances;</p> <p>(iv) The duties of Councillors that should be the subject to a special responsibility allowance;</p> <p>Whether child care and dependent care allowances should be available for Councillors.</p>
<p>Standing Advisory Council on Religious Education</p>	<p>7 Members of the Council as local education authority and 6 teacher representatives, 6 Church of England representatives and 7 representatives of other religions</p>	<p>To advise the LEA on religious worship and education and to determine applications made by Headteachers under Section 394 of the Education Act 1996.</p>
<p>Housing Review Panel</p>	<p>3 members of the Council</p>	<p>(a) To determine requests by Introductory Tenants for a review of decisions to seek an order for possession.</p> <p>(b) To determine requests for a review of decisions in relation to homelessness.</p>
<p>Unified Waiting List Steering Group</p>	<p>2 representatives of the Council and representatives of each of the participating Housing Associations</p>	<p>(a) To consider and determine appeals from persons on the Unified Waiting List against decisions made by the Agency Manager on the application of the Allocations Scheme to their particular case.</p> <p>(b) To consider and determine whether a person should be excluded or removed from the Unified Waiting List</p>

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<p>The Unified Waiting List Advisory Panel</p>	<p>5 members of the Council and a member of each of the participating Housing Associations</p>	<p>(a) To consider and determine appeals from persons on the Unified Waiting List against decisions made by the Steering Group on the application of the Allocations Scheme to their particular case.</p> <p>(b) To consider and determine appeals against decisions made by the Steering Group to exclude or remove persons from the Unified Waiting List.</p>
<p>Wirral Schools Forum: Funding Consultative Group</p>	<p><u>Schools Group</u> (20):</p> <p>5 Primary school headteachers 4 Secondary school headteachers 1 Special School Headteacher 5 Primary school governors 4 Secondary school governors 1 Special school governor</p> <p><u>Non-Schools Group</u> (8)</p> <p>1 Church of England representative 1 Roman Catholic representative 1 The 14-19 Partnership 1 Teacher representative 1 Non-teacher representative 2 The PVI Early Years Providers 1 LSC observer</p>	<p>To advise the Council on financial issues affecting schools and, in particular, the amount of funding made available to schools and the way it is shared among them.</p>
<p>School Admissions Forum</p>	<p>Membership to be determined by the Cabinet, within the following limits:</p> <p>1 to 5 representatives of the LEA 1 to 3: community and voluntary controlled schools 1 to 3: foundation schools 1 to 3: voluntary aided schools 1 to 3: Church of England Diocese 1 to 3: Catholic Diocese 1 to 3: parent governors Up to 3 from local community The Forum can also ask for</p>	<p>To advise the Council on arrangements for the admission of pupils to the various categories of schools.</p>

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	other representation	
Children and Young People's Strategic Management Board	Chair (Executive Member for Children's Services) Wirral Council (2 plus the Chair) Wirral PCT* (2) Wirral Hospital Trust (1) Cheshire & Wirral Partnership Trust (1) Connexions (1) Police (1) Schools (Headteachers) (2) Learning and Skills Council (1) Voluntary and Community Sector (3) Director of Children's Services (ex officio)	To co-ordinate services for children and young people and to make recommendations to appropriate partner organisations with respect to the measures that are needed to improve children's well-being.

PART 3 - SCHEDULE 1 - THE PORTFOLIOS

TERMS OF REFERENCE OF PORTFOLIO HOLDERS

The portfolios of the members of the Cabinet will be determined by the Leader from time to time and will be listed here.

PART 3 - SCHEDULE 2

SCHEME OF DELEGATION OF (NON-EXECUTIVE) FUNCTIONS TO COMMITTEES

1. The Council delegates under Section 101 of the Local Government Act 1972 to the Committees set out below all those non-Executive functions vested in it, identified in the terms of reference for each Committee.
2. This Scheme delegates powers and duties within broad functional descriptions and includes 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 in this Scheme.
3. Any exercise of responsibility for functions or delegated powers shall comply with:
 - (i) any statutory requirements;
 - (ii) the Council's Constitution;
 - (iii) the Council's [Budget and Policy Framework](#) and approved budget;
 - (iv) the [Members Code of Conduct](#);
 - (v) the Code of Recommended Practice on local authority publicity;
 - (vi) the agreed arrangements for recording decisions;
4. This scheme does not delegate any matters reserved by law to the full Council or assigned to the Executive.

5. PLANNING COMMITTEE

Planning Functions

Within approved Council policy and in accordance with the overall aims and objectives of the Council, this Committee shall exercise the following delegated functions and powers:

- (1) The powers and duties of the Council as Local Planning Authority as set out below:

A. Functions relating to town and country planning and development control	
1. Power to determine application for planning permission.	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990 (c.8).
2. Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990.
3. Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990.
4. Power to decline to determine application for planning permission.	Section 70A of the Town and Country Planning Act 1990
5. Duties relating to the making of determinations of planning applications.	Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made there under.
6. Power to determine application for planning permission made by a local authority, alone or jointly with another person.	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492).
7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418).
8. Power to enter into agreement regulating development or use of land.	Section 106 of the Town and Country Planning Act 1990.
9. Power to issue a certificate of existing or proposed lawful use or development.	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990.
10. Power to serve a completion notice	Section 94(2) of the Town and Country Planning Act 1990.

11. Power to grant consent for the display of advertisements.	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992.
12. Power to authorise entry onto land.	Section 196A of the Town and Country Planning Act 1990.
13. Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990.
14. Power to serve a planning contravention notice, breach of condition notice or stop notice.	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990.
14A Power to issue a temporary stop notice	Section 171E of the Town and Country Planning Act 1990.
15. Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990.
16. Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990.
17. Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990.
18. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 and paragraph 6(5) of Schedule 14 to that Act.
19. Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990.
20. Power to determine application for listed building consent, and related powers.	Sections 16(1) and (2), 17, 27(2) and 33(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
21. Power to determine applications for conservation area consent.	Section 16(1) of the Planning (Listed Buildings and Buildings in Conservation Areas Act 1990, as applied by section 74(3) of that Act.

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<p>22. Duties relating to applications for listed building consent and conservation area consent.</p>	<p>Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 and regulations 3 to 6 and 13 of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations 1990 and paragraphs 8, 15 and 22 of Department of the Environment Circular 14/97.</p>
<p>23. Power to serve a building preservation notice, and related powers.</p>	<p>Sections 3(1) and 4(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.</p>
<p>24. Power to issue enforcement notices in relation to demolition of unlisted buildings in conservation area.</p>	<p>Section 38 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.</p>
<p>25. Powers to acquire a listed building in need of repair and to serve a repairs notice.</p>	<p>Sections 47 and 48 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.</p>
<p>26. Power to apply for an injunction in relation to a listed building.</p>	<p>Section 44A of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.</p>
<p>27. Power to execute urgent works.</p>	<p>Section 54 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.</p>
<p>28. Powers relating to the protection of important hedgerows.</p>	<p>The Hedgerows Regulations 1997 (S.I. 1997/1160)</p>
<p>29. Powers relating to complaints about high hedges.</p>	<p>Part 8 of the Anti-Social Behaviour Act 2003.</p>
<p>30. Powers relating to the preservation of trees</p>	<p>Sections 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999 (S.I. 1999/1892)</p>
<p>31. Power to make limestone pavement order</p>	<p>Section 34(c) of the Wildlife and Countryside Act 1981.</p>
<p>32. Power to authorise stopping-up or diversion of highway</p>	<p>Section 247 of the Town and Country Planning Act 1990.</p>

33. Power to authorise stopping-up or diversion of footpath or bridleway or restricted byway.	Section 257 of the Town and Country Planning Act 1990.
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34. Power to extinguish public rights of way over land held for planning purposes.	Section 258 of the Town and Country Planning Act 1990.
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- (2) The issuing of planning policy directions as may be considered appropriate.
- (3) In consultation with the relevant Policy and Performance Committee to make appropriate recommendations to the Cabinet on the formulation of the Local Development Framework for the Borough.
- (4) To carry into effect Sections 222 and 223 of the Local Government Act 1972 so far as they affect this committee and to exercise the powers of the Council in relation thereto and in particular to authorise any appropriate officer to institute or defend on behalf of the Council proceedings before any court or tribunal or to appear on behalf of the Council before any such court or tribunal in any proceedings instituted by the Council or on its behalf or against it.
- (5) To obtain information as to interests in land under S.330 Town & Country Planning Act 1990
- (6) To obtain particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- (7) To appoint proper officers and deputies where required by an Act of Parliament for the discharge of the functions of the Council delegated to this Committee;
- (8) To carry into effect so much of any Act of Parliament relating to any of the functions set out above and any Orders, Regulations, Schemes or Bye-Laws made under or in pursuance thereof and to exercise non-executive powers of the Council in relation thereto;

6. LICENSING ACT 2003 COMMITTEE

Functions relating to Licensing matters in accordance with the Licensing Act 2003 and the Gambling Act 2005.

7 LICENSING, HEALTH AND SAFETY AND GENERAL PURPOSES COMMITTEE

- (1) The Committee shall exercise the following functions:

A Highways Functions

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1. Power to create footpath or bridleway or restricted byway by agreement.	Section 25 of the Highways Act 1980.
2. Power to create footpaths and bridleways and restricted byways.	Section 26 of the Highways Act 1980.
3. Duty to keep register of information with respect to maps, statements and declarations.	Section 31A of the Highways Act 1980.
4. Power to stop up footpaths and bridleways and restricted byways.	Section 118 of the Highways Act 1980.
5. Power to determine application for public path extinguishment order.	Sections 118ZA and 118C(2) of the Highways Act 1980.
6. Power to make a rail crossing extinguishment order.	Section 118A of the Highways Act 1980.
7. Power to make a special extinguishment order.	Section 118B of the Highways Act 1980.
8. Power to divert footpaths and bridleways and restricted byways.	Section 119 of the Highways Act 1980.
9. Power to make a public path diversion order.	Sections 119ZA and 119C(4) of the Highways Act 1980.
10. Power to make a rail crossing diversion order.	Section 119A of the Highways Act 1980.
11. Power to make a special diversion order.	Section 119B of the Highways Act 1980.
12. Power to require applicant for order to enter into agreement.	Section 119C(3) of the Highways Act 1980.
13. Power to make an SSSI diversion order.	Section 119D of the Highways Act 1980.
14. Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.	Section 121B of the Highways Act 1980.
15. Power to decline to determine certain applications.	Section 121C of the Highways Act 1980.
16. Duty to assert and protect the rights of the public to use and enjoyment of highways.	Section 130 of the Highways Act 1980.
17. Duty to serve notice of proposed action in relation to obstruction.	Section 130A of the Highways Act 1980.
18. Power to apply for variation of order under section 130B of the Highways Act	Section 130B(7) of the Highways Act 1980.

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1980.	
19. Power to authorise temporary disturbance of surface of footpath or bridleway or restricted byway.	Section 135 of the Highways Act 1980.
20. Power temporarily to divert footpath or bridleway or restricted byway.	Section 135A of the Highways Act 1980.
21. Functions relating to the making good of damage and the removal of obstructions.	Section 135B of the Highways Act 1980.
22. Powers relating to the removal of things so deposited on highways as to be a nuisance.	Section 149 of the Highways Act 1980.
23. Power to extinguish certain public rights of way.	Section 32 of the Acquisition of Land Act 1981
24. Duty to keep definitive map and statement under review.	Section 53 of the Wildlife and Countryside Act 1981
25. Power to include modifications in other orders.	Section 53A of the Wildlife and Countryside Act 1981.
26. Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981.	Section 53B of the Wildlife and Countryside Act 1981.
27. Power to prepare map and statement by way of consolidation of definitive map and statement.	Section 57A of the Wildlife and Countryside Act 1981.
28. Power to designate footpath as cycle track.	Section 3 of the Cycle Tracks Act 1984
29. Power to extinguish public right of way over land acquired for clearance.	Section 294 of the Housing Act 1981
30. Power to enter into agreements with respect to means of access.	Section 35 of the Countryside and Rights of Way Act 2000.
31. Power to provide access in absence of agreement.	Section 37 of the Countryside and Rights of Way Act 2000.
32. Power to permit deposit of builder's skip on highway.	Section 139 of the Highways Act 1980.
33. Duty to publish notice in respect of proposal to grant permission under section 115E of the Highways Act 1980.	Section 115G of the Highways Act 1980.
34. Power to license planting, retention and maintenance of trees, etc. in part of highway	Section 142 of the Highways Act 1980.
35. Power to authorise erection of stiles, etc. on footpaths or bridleways.	Section 147 of the Highways Act 1980.
36. Power to license works in relation	Section 169 of the Highways Act

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to buildings, etc. which obstruct the highway.	1980.
37. Power to consent to temporary deposits or excavations in streets.	Section 171 of the Highways Act 1980.
38. Power to dispense with obligation to erect hoarding or fence.	Section 172 of the Highways Act 1980.
39. Power to restrict the placing of rails, beams, etc. over highways.	Section 178 of the Highways Act 1980.
40. Power to consent to construction of cellars, etc. under street.	Section 179 of the Highways Act 1980.
41. Power to consent to making of openings into cellars, etc. under streets and pavements lights and ventilators	Section 180 of the Highways Act 1980
42. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to: (a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to the Acquisition of Land Act 1981 or an order under section 147 of the Inclosure Act	Regulation 6 of the Commons Registration (New Land) Regulations 1969
43. Power to register variation of rights of common.	Regulation 29 of the Commons Registration (General) Regulations 1966 (S.I. 1966/1471)
44. Power to grant permission for provision, etc of services, amenities, recreation and refreshment facilities on highway, and related powers.	Sections 115E, 115F and 115K of the Highways Act 1980.
45. To approve the making of Gating Orders.	Section 129A of the Highways Act 1980.

B. Licensing and registration functions

1. Power to issue licences authorising the use of land as a caravan site ("site licences").	Section 3(3) of the Caravan Sites and Control of Development Act 1960.
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2. Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936.
3. Power to license hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act, as extended by section 171 of the Public Health Act 1875, and section 15 of the Transport Act 1985; and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976; (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
4. Power to license drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
5. Power to license operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
6. Power to appoint and revoke Hackney Carriage stands on the highway and on non-adopted roads (with consent) for part of or the whole day to include the number of Hackney Carriages permitted on a stand and times of usage.	Section 63 of the Local Government (Miscellaneous Provisions) Act 1976
7. Power to license sex shops and sex cinemas.	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.
8. Power to license performances of hypnotism.	The Hypnotism Act 1952.
9. Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.
10. Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907.
11. Power to license market and street trading.	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982.
12. Duty to keep list of persons entitled to sell non-medicinal poisons.	Sections 3(1)(b)(ii), 5, 6 and 11 of the Poisons Act 1972.

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13. Power to license dealers in game and the killing and selling of game.	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831; sections 2 to 16 of the Game Licensing Act 1860, section 4 of the Customs and Inland Revenue Act 1883, sections 12(3) and 27 of the Local Government Act 1874, and section 213 of the Local Government Act 1972.
14. Power of register and license premises for the preparation of food.	Section 19 of the Food Safety Act 1990.
15. Power to license scrap yards.	Section 1 of the Scrap Metal Dealers Act 1964.
16. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.	The Safety of Sports Grounds Act 1975
17. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Part III of the Fire Safety and Safety of Places of Sport Act 1987.
18. Power to issue fire certificates.	Section 5 of the Fire Precautions Act 1971.
19. Power to license premises for the breeding of dogs.	Section 1 of the Breeding of Dogs Act 1973 and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999.
20. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	Section 1 of the Pet Animals Act 1951; section 1 of the Animal Boarding Establishments Act 1963; the Riding Establishments Acts 1964 and 1970; section 1 of the Breeding of Dogs Act 1973, and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.
21. Power to register animal trainers and exhibitors.	Section 1 of the Performing Animals (Regulation) Act 1925.
22. Power to license zoos.	Section 1 of the Zoo Licensing Act 1981.
23. Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976.
24. Power to license knackers' yards.	Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999 (S.I. 1999/646).
25. Power to license the employment of children.	Part II of the Children and Young Persons Act 1933, bylaws made under that Part, and Part II of the Children and Young Persons Act 1963.
26. Power to approve premises for the solemnisation of marriages.	Section 46A of the Marriage Act 1949 and the Marriages (Approved Premises) Regulations 1995.

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27. Power to license persons to collect for charitable and other causes.	Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939.
28. Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993.
29. Power to grant a street works licence.	Section 50 of the New Roads and Street Works Act 1991.
30. Power to issue licences for the movement of pigs.	Article 12 of the Pigs (Records, Identification and Movement) Order 1995 (S.I. 1995/11).
31. Power to license the sale of pigs.	Article 13 of the Pigs (Records, Identification and Movement) Order 1995.
32. Power to license collecting centres for the movement of pigs.	Article 14 of the Pigs (Records, Identification and Movement) Order 1995.
33. Power to issue a licence to move cattle from a market.	Article 5(2) of the Cattle Identification Regulations 1998 (S.I. 1998/871).
34. Power to sanction use of parts of buildings for storage of celluloid.	Section 1 of the Celluloid and Cinematograph Film Act 1922.
35. Power to approve meat product premises.	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 (S.I. 1994/3082)
36. Power to approve premises for the production of minced meat or meat preparations.	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205).
37. Power to approve dairy establishments.	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995 (S.I. 1995/1086)
38. Power to approve egg product establishments.	Regulation 5 of the Egg Products Regulations 1993 (S.I. 1993/1520).
39. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (S.I. 1995/1763)
40. Power to approve fish products premises.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I. 1998/994).

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41. Power to approve dispatch or purification centres.	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
42. Power to register fishing vessels on board which shrimps or molluscs are cooked.	Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
43. Power to approve factory vessels and fishery product establishments.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
44. Power to register auction and wholesale markets.	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
45. Duty to keep register of food business premises.	Regulation 5 of the Food Premises (Registration) Regulations 1991 (S.I. 1991/2828).
46. Power to register food business premises.	Regulation 9 of the Food Premises (Registration) Regulations 1991.
47. Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption.	Section 13(2) of the Criminal Justice and Police Act 2001.
48. Power to register motor salvage operators	Part 1 of the Vehicle (Crime) Act 2001

- (2) Service of an abatement Notice in respect of a statutory nuisance.
- (3) Inspection of the area to detect a statutory nuisance.
- (4) Obtaining particulars of persons interested in land under Section 16 Local Government (Miscellaneous Provisions) Act 1976.
- (5) To hear appeals against decisions made by officers carrying out delegated licensing functions.
- (6) All the functions in relation to Health and Safety set out in Part C of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) (“the Functions Regulations”) namely relating to health and safety under any relevant statutory provision within the meaning of Part 1 of the Health and Safety at Work Act 1974 to the extent that those functions are discharged otherwise than those that relate to the Council’s capacity as employer.
- (7) To designate unsocial drinking zones under the Local Authorities (Alcohol Consumption in public places) Regulations 2001.

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- (8) Power to make closing orders for take-away food shops under (Section 4 of the Local Government (Miscellaneous Provisions) Act 1982
- (9) Functions relating to elections set out in Part D of Schedule 1 of the Functions Regulations as amended from time to time.
- (10) Power to consider and make recommendations to the Council on matters relating to the name and status of the Borough and individuals and bylaws and to promote or oppose Parliamentary Bills.
- (11) Enforcement of the provisions relating to smoke-free legislation under the Health Act 2006, including powers to:
 - enforce offences relating to the display of no-smoking signs (section 6(5));
 - enforce offences relating to smoking in smoke-free places (section 7(4));
 - enforce offence of failing to prevent smoking in smoke-free places(section 8(4));
 - transfer enforcement functions to another enforcement authority under the Smoke-free (Premises and Enforcement) Regulations 2006.
- (12) To have responsibility for Sea Fisheries matters.
- (13) To deal with any other non-Executive functions not reserved to Council by law or this Constitution or delegated to any other committee, sub committee or officer.

8. EMPLOYMENT AND APPOINTMENTS COMMITTEE

- (1) The appointment of Chief Officers and Deputies in accordance with the [Employment Procedure Rules](#).
- (2) To recommend to Council on the designation of the Monitoring Officer and the Chief Finance Officer.
- (3) To act as the Committee which makes recommendations to Council on the appointment of the Head of Paid Service (Chief Executive).
- (4) To hear and determine appeals in connection with disciplinary action or dismissal of Chief and Deputy Chief Officers.
- (5) To exercise any of the Council's functions as an Employer under the Local Government Pension Scheme.

9. CHIEF OFFICERS EMPLOYMENT DISCIPLINARY SUB COMMITTEE

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The Council delegates to and confers upon the Sub-Committee the following duties, powers and authorities:-

- (1) To receive and consider reports from an independent person designated to investigate allegations of misconduct against the Council's Head of Paid Service, the Monitoring Officer or Chief Finance Officer and act as the dismissing committee.
- (2) To investigate and take disciplinary action in respect of the misconduct of Chief Officers and Deputies, (subject to their right of appeal to the Employment and Appointments Committee)

10. STANDARDS COMMITTEE

The Standards Committee's functions and delegated powers are set out in [Article 9](#), Part 2. The terms of reference of the Standards Committee Panel's (Sub-Committees) are also set out in Article 9.

11. AUDIT AND RISK MANAGEMENT COMMITTEE

- (1) To provide independent assurance of 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.
- (2) to maintain an overview of the contract procedure rules and financial regulations and to agree any changes to the same;
- (3) The Committee has the following duties, powers and authorities:
 - (a) approval of the Council's statement of accounts;
 - (b) the responsibilities of the Council under section 151 of the Local Government Act 1972 to make proper provision for its financial affairs;
 - (c) to consider and make recommendations to Council or Cabinet as appropriate on;
 - (d) the annual Audit Report and the Management Letter of the external auditor;
 - (e) any other statutory report of the external auditor;
 - (f) any internal audit report that may be referred to the committee by the Chief Executive, the Director of Finance or the Head of Legal and Member Services (as Monitoring Officer);
 - (g) summaries of specific internal audit reports as requested;
 - (h) the effectiveness and adequacy of the response by the Council, the Cabinet, any committee or sub-committee of the

- Council or of any officer to any internal or external audit report or management letter;
- (i) the systems of control and the arrangements for the prevention of fraud and corruption within the Council;
 - (j) any other matter relevant to the audit of the Council's accounts and financial records or its systems for the control and safeguarding of all the Council's assets;
 - (k) a report from Internal Audit on agreed recommendations not implemented within a reasonable timescale; and
 - (l) the Head of Internal Audit's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements;
 - (m) to approve (but not direct) the strategy, plan and performance of the Council's internal audit service;
 - (n) to oversee the production of the Authority's statement or internal control and recommend its adoption;
 - (o) to monitor the Council's policies on "Raising Concerns at Work", to the anti-fraud and corruption strategy and the complaints procedure;
 - (p) to liaise with the Audit Commission over the appointment of the Council's external auditors.
 - (q) The Chair of the Audit and Risk Management Committee shall act as the Council's Risk Management Champion.
- (4) Executive Members will not normally be members of the Audit and Risk Management Committee

12. POLICY AND PERFORMANCE COMMITTEES

The Policy and Performance Committees are listed in [Table 2](#) and their terms of reference are set out in [Article 6](#), Part 2.

13. PENSIONS COMMITTEE

- (1) To 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 County of Merseyside Pension Fund, and in particular the following.
- (2) To be responsible for the overall investment policy, strategy and principles of the Fund and its overall performance of the Fund.
- (3) 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.
- (4) To receive actuarial valuations of the Fund and determine the level of employers' contributions necessary to balance the Fund.

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- (5) 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.
- (6) To consider any views expressed by employing organisations and staff representatives relating to the scheme.
- (7) 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.
- (8) 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).

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PART 3 SCHEDULE 3

ADVISORY AND STATUTORY COMMITTEES (See also [Table 4](#) above)

1. (a) Adoption Panel

To make recommendations to the adoption agency in respect of children and prospective adopters

(b) Fostering Panel

A working party known as the Fostering Panel was set up to mirror the Adoption Panel in terms of its former composition. Its terms of reference are to make recommendations to the Director of Children's Services on fostering issues.

2. Parental Appeals Panel

To hear and determine parents' appeals against offers of school places.
To hear and determine appeals against the permanent exclusion of a pupil from any maintained school.

3. Review Panel (Complaints Procedure)

To consider the Investigating Officers' reports into complaints where the complainant is dissatisfied with the response of the Adult Social Services Department or Children's and Young People's Department.

4. Wirral Independent Remuneration Panel

To recommend a members allowances scheme to the Council.

5. Wirral School's Forum: Funding Consultative Group

To advise the Council on financial issues affecting schools (and, in particular, the amount of funding made available to schools and the way it is shared among them).

6. School Admission Forum

To advise the Council on arrangements for the admission of pupils to the various categories of schools.

7. Children and Young People's Partnership Board

To co-ordinate strategies and the provision of services for children and young people, to monitor the effectiveness of the Children and Young People's Plan and to make appropriate recommendations to the Council and other partner agencies.

8. Health and Wellbeing Board

To provide collective leadership to improve Health and Wellbeing across the local authority area. To coordinate the production and monitoring of the Health and wellbeing Strategy and the Joint Strategic Needs Assessment.

PART 3

SCHEDULE 4 A PART 1 (To be settled by the Leader)

SCHEME OF NON EXECUTIVE DELEGATION OF FUNCTIONS TO OFFICERS

- 1a). This part of the scheme of delegation authorises the Head of Paid Services and the directors to exercise the non-executive functions of the Council as set out in this document.
- 2b). All delegations conferred under this scheme must be recorded in writing by the directors (including for the avoidance of doubt any delegation under paragraph 4(e) above). Any decision taken under such authority shall remain their responsibility.
- 2c). The monitoring officer will maintain a central record of all delegations under this scheme and make this available for public inspection. The directors are responsible for recording all delegations under paragraph 8 above in such form as the monitoring officer may prescribe.
3. This scheme is without prejudice to the exercise of the Council's functions by the Council, the Council's committees, sub-committees and panels.
4. The delegation of the council's Executive functions are set out in Part 3 Schedule 4 part B.
5. For the purposes of this scheme "the directors" means the directors whose job title and areas of responsibility are set out in Table 1 below **(To reflect structure at date of publication)**

The directors are empowered to make all non-executive decisions within their areas of responsibility on behalf of the Council in accordance with the following general principles:

- a. If a function, power or responsibility has not been specifically reserved to the Full Council or a committee the director within whose remit the matter falls is authorised to act.
- b. Full Council or its committees will make decisions on matters of significant policy. The directors have express authority to take all necessary actions to implement decisions council or committees that commit resources, within agreed budgets in the case of financial resources, as necessary and appropriate.
- c. The directors are empowered to take all operational decisions, within agreed policies, in relation to the services for which they are responsible.

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- d. The directors are empowered to take all necessary decisions in cases of emergency.
 - e. In relation to all delegated authority conferred on the directors by this scheme, the head of paid service may allocate or re-allocate responsibility for exercising particular powers to any officer of the Council in the interests of effective corporate management as he or she thinks fit. He will notify the Head of Legal Services of any such change. The Head of Legal Services will amend Table 1 as necessary.
 - f. Where a director is absent from the workplace for a period of time that requires others to exercise delegated authority in that officer's absence, another officer should be nominated by the head of paid service. This nomination should be formally recorded in writing.
 - g. Where there is doubt over the responsibility for the exercise of a delegated power, the head of paid service or their nominee is authorised to act or to determine who is to act.
 - h. These delegations should be interpreted widely to aid the smooth running of the organisation, the effective deployment of resources, the efficient delivery of services, and the achievement of the Council's goals.
6. For the purposes of this scheme, emergency shall mean a situation in which the relevant officer believes that there is a risk of damage to property, a threat to the health or well being of an individual or that the interests of the Council may be compromised.
7. In deciding whether or not to exercise such delegated powers, the directors should consider whether to consult the appropriate committee chairman and have regard to their views. Officers shall always be entitled to refer matters for decision to the appropriate member body or council where they consider it expedient to do so.
8. The directors may authorise officers in their service areas to exercise, on their behalf, powers delegated under this scheme.
9. In exercising these delegated powers the officers concerned shall have broad discretion, subject to complying with all relevant legislation, the Council's constitution, including its contract and financial procedures and regulations, and overall Council policy, to use the most efficient and effective means available, including the deployment of staffing and other resources within their control and the procurement of other resources necessary, whether within or outside the Council.

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10. Without prejudice to the generality of the foregoing the directors shall have the power:
 - a. To take all lawful action consistent with overall Council policy to deliver agreed strategy, plans and policy within their area of responsibility and within approved budgets. This shall include, but not exhaustively:
 - invitation and acceptance of tenders
 - submission of bids for funding
 - write-off of irrecoverable debts
 - virement (within the budget framework)
 - disposal and acquisition of assets
 - service and placing of any necessary statutory or other notice (other than those expressly reserved to a Council, committee or cabinet)
 - after consultation with the solicitor to the Council, authorising the institution, defence or appearance in criminal or civil proceedings in relation to any legislation which they are responsible for monitoring, enforcing or otherwise implementing on behalf of the Council.
 - b. To put in place management arrangements, which define the area of responsibility of all officers under their area of responsibility.
 - c. In the case of any overspend to notify the chief finance officer in the role of Section 151 officer in accordance with the financial procedure rules and regulations.
 - d. To determine staffing arrangements within approved budgets, subject to agreement on grading with the head of paid service and conformance with Council policies.
 - e. To take all action to recruit, appoint, develop, manage and reward employees within approved Council policies and procedures (including operation of policies for discipline and dismissal, voluntary severance, early retirement, redundancy and redeployment) and relevant conditions of service.
11. In taking any decision, the officer concerned must be satisfied that the following issues have been properly considered and completed where appropriate. All of these issues should be considered at the earliest possible stage.

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- a. A key decision should be taken in accordance with the relevant requirements;
 - b. the views of the relevant committee chairman, area board(s) following the application of the consultation criteria set out in paragraph (c) below;
 - c. consideration of the views of the Constituency Committees and the local councillors in decisions about local services;
 - d. the implication of any Council policy, initiative, strategy or procedure. Officers need to be aware of any potential impact of a delegated decision on other services. In such cases consultation with officers, relevant cabinet member(s) or committee chairman and local members, where the issue relates to a specific area, should take place;
 - e. consultation in accordance with the Council's consultation strategy and the views emanating from that process;
 - f. the range of available options;
 - g. the staffing, finance and legal implications;
 - h. the assessment of any associated risks in accordance with the Council's risk and management strategy;
 - i. the involvement of appropriate statutory officers and/or other directors;
 - j. the Council's constitution, including the forward work plan, its contract and financial procedures and regulations, all relevant guidance, legislation, codes of practice and protocols.
12. Any councillor may request that decisions taken by officers under the delegated powers are scrutinised by the appropriate Policy and Performance Committee.
13. For the avoidance of doubt anything which is not covered by this scheme, including the appointment of a proper officer for the purpose of any statutory function, will be determined by the head of paid service.

SCHEDULE 4A PART 2

The councils regulatory functions in relation to planning, licensing and other regulatory matters will be exercised in accordance with express delegations below.

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The Head of is authorised to

In respect of trading standards, environmental health and related functions and responsibilities:

- (1) Subject to paragraph (2) below, take any action under any relevant legislation (and related statutory instruments) including, where relevant (but not limited to), the service of notices, the appointment of persons, the issue of licences and authorisations and the approval of registrations, prior consents and grants; acceptance of statutory notifications; to apply for warrants, to seize and detain goods and documents and carry out test purchases of goods and services relating to trading standards, environmental health, environmental protection, food safety, licensing and health and safety matters.

Relevant legislation under this paragraph shall include but is not limited to:

Accommodation Agencies Act 1953
Administration of Justice Act 1970
Agriculture Act 1970
Agriculture (Miscellaneous Provisions) Act 1968
Agriculture Produce (Grading and Marking) Acts 1928 and 1931
Animal Boarding Establishments Act 1963
Animal Health Act 1981
Animal Health Act 2002
Animal Health (Amendment) Act 1998
Animal Health and Welfare Act 1984
Animal Welfare Act 2006.
Animals Act 1971
Breeding of Dogs Acts 1973 and 1991
Breeding and Sale of Dogs (Welfare) Act 1999
Building Act 1984
Business Names Act 1985
Business Protection from Misleading Marketing Regulations
2008
Caravan Sites Act, 1968
Caravan Sites and Control of Development Act 1960
Charities Act 1992
Children and Young Persons Act 1933
Children and Young Persons (Protection from Tobacco) Act
1991
Chronically Sick and Disabled Persons Act, 1970
Clean Air Act 1993
Clean Neighbourhoods and Environment Act 2005
Companies Act 1985
Company Directors Disqualification Act 1986
Competition Act 1980
Consumer Credit Act 1974
Consumer Protection Act 1987

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Consumer Protection from Unfair Trading Regulations 2008
Control of Pollution Act 1974
Copyright Designs and Patents Act 1988
Copyright etc and Trade Marks Offences and Enforcement Act 2002
County of Merseyside Act 1980
Courts and Legal Services Act 1990
Criminal Attempts Act 1981
Criminal Damage Act 1971
Criminal Justice Act 1988
Criminal Law Act 1977
Dangerous Dogs Acts 1989 and 1991
Dangerous Wild Animals Act 1976
Defective Premises Act 1972
Development of Tourism Act 1969
Dogs Act 1871 and 1906
Dogs (Fouling of Land) Act 1996
Education Reform Act 1988
Employment Agencies Act 1973
Energy Act 1976
Energy Conservation Act 1981
Enterprise Act 2002
Environment Act 1995
Environmental Protection Act 1990
Estate Agents Act 1979
European Communities Act 1972
Explosives Act 1875
Factories Act 1961
Fair Trading Act 1973
Farm and Garden Chemicals Act 1967
Food Act 1984
Food and Environment Protection Act 1985
Food Safety Act 1990
Forgery and Counterfeiting Act 1981
Fraud Act 2006
Gambling Act 2005
Guard Dogs Act 1975
Hallmarking Act 1973
Health and Safety at Work etc. Act 1974
Health and Social Care Act 2012
Health Act 2006
Home Energy Conservation Act 1995
Housing Acts 1980, 1985, 1988, 1996 and 2004
Housing and Building Control Act 1984
Housing Grants, Construction and Regeneration Act 1996
Intoxicating Substances (Supply) Act 1985
Land Compensation Act 1973
Landlord and Tenant Acts 1954, 1985 and 1987
Licensing Act 2003
Litter Act 1983

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Local Government Act 1972
Local Government Act 1988
Local Government and Housing Act 1989
Local Government (Miscellaneous Provisions) Acts 1976 and 1982
Medicines Act 1968
Merchant Shipping Acts 1979/1995
Mobile Homes Act, 1973 and 1983
Mock Auctions Act 1961
Motor Cycle Noise Act 1987
Motor Vehicles (Safety Equipment for Children) Act 1991
Noise and Statutory Nuisance Act 1993
Noise Act 1996
Nursing Agencies Act 1957
Offensive Weapons Act 1996
Offices, Shops and Railway Premises Act 1963
Olympic Symbol Act 1995
Opticians Act 1989
Performing Animals (Regulation) Act, 1925
Pet Animals Act 1951
Poisons Act 1972
Police and Criminal Evidence Act 1984
Police Reform Act 2000
Pollution Prevention and Control Act 1999
Powers of Criminal Courts (Sentencing) Act 2000
Prevention of Damage by Pests Act 1949
Prices Acts 1974 and 1975
Property Misdemeanors Act 1991
Protection of Animals (Amendment) Acts 1988 and 2000
Protection from Eviction Act, 1977
Protection of Birds Acts 1954 to 1976
Public Health Acts 1875, 1936, 1961 and 1969
Public Health (Control of Diseases) Act 1984
Radioactive Substances Act 1993
Regulation of Investigatory Powers Act, 2000
Refuse Disposal (Amenity) Act 1978
Rent Act, 1977
Riding Establishments Acts 1964 and 1970
Road Traffic Acts 1988 and 1991
Road Traffic (Consequential Provisions) Act 1988
Road Traffic (Foreign Vehicles) Act 1972
Road Traffic Offenders Act 1988
Solicitors Act 1974
Sunday Trading Act 1994
Telecommunications Act 1984
Theft Acts 1968 and 1978
Timeshare Act 1992
Town Police Clauses Acts 1847 and 1889
Trade Descriptions Act 1968
Trade Marks Act 1994

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Trading Representations (Disabled Persons) Acts 1958 and 1972
Trading Stamps Act 1964
Unsolicited Goods and Services Acts 1971 and 1975
Vehicles (Crime) Act 2001
Video Recordings Act 1984/1993
Water Act, 1989
Water Industry Act 1991
Weights and Measures Acts 1976 and 1985
Zoo Licensing Act 1981

and any legislation amending or replacing the above (including Statutory Instruments)

- (2) Institute legal action and or proceedings in respect of the enforcement of any legislation relating to trading standards, environmental health, environmental protection, food safety, licensing and health and safety including those functions delegated to the Licensing, Health and Safety and General Purposes Committee, except the Health and Safety at Work etc. Act 1974,
- (3) Authorise individual trading standards officers to take particular actions in their own names and to charge people at police stations.
- (4)
 - (a) Personally or, where legislation requires it, through the Trading Standards Manager authorise suitably qualified members of staff in the Trading Standards Division to carry out enforcement functions as authorised officers under trading standards, consumer and related legislation;
 - (b) personally or through the Trading Standards Manager authorise the commencement of legal proceedings on behalf of the Council under trading standards, consumer and related legislation;
 - (c) authorise the post-holders listed below in the first instance, in the Trading Standards Division, after consultation with the Head of Law, to present cases and appear in legal proceedings on behalf of the Council:

Trading Standards Manager
Divisional Officer (Business Support)
Divisional Officer (Community Support and Regulation)

and authorise other officers as considered necessary to present an appear in legal proceedings on behalf of the Council.

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- (d) authorise the post-holders listed below, in the Trading Standards Division, to charge alleged offenders in police stations:

Trading Standards Manager
Divisional Officer (Business Support)
Divisional Officer (Community Support and Regulation);

- (7) Authorise directed surveillance and covert human intelligence sources in accordance with the requirements of the Regulation of Investigatory Powers Act 2000, and designate officers to carry out that function.
- (8) Issue fixed penalty notices for leaving litter.
- (9) Take action under the Licensing Act 2003 relating to the sale of intoxicating liquor to, or for consumption by, persons under 18.
- (10) Enforce the Customs & Excise Management Act 1979 and the Tobacco Products Act 1979 relating to fiscal marking of tobacco products.
- (11) Operate Agency Services under the terms of Sections 135 and 169 of the Local Government and Housing Act 1989 and to charge fees accordingly.
- (12) Approve increases in charges not fixed by statute.
- (13) Waive charges for the provision of information under the Environmental Information Regulations in appropriate circumstances
- (14) Vary levels of charges in respect of depot sales of surplus materials and miscellaneous charges, such revisions having regard to the retail price index and prevailing market conditions.
- (15) Nominate an officer to deal with representations made to the Council by persons in receipt of a Notice.
- (16) Authority to implement the Food Safety Act 1999, as amended, the Food Hygiene (England) Regulations 2005 and 2006, the Official Feed and Food Controls (England) Regulations 2005 and 2006, and for any subsequent amendments, modifications or re-enactments to the parent legislation or any regulations or orders made thereunder.
- (17) To exercise the powers and duties available under the Business Protection from Misleading Marketing Regulations 2008 and the Consumer Protection from Unfair Trading Regulations 2008

In respect of licensing and registration functions:

- (18) Determine and otherwise deal with the following matters, provided that controversial matters must be submitted to the Licensing, Health and

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Safety and General Purposes Committee or Licensing Panel or Licensing Act 2003 Committee:

- (i) Premises Licenses;
- (ii) Game Dealers Licences;
- (iii) Scrap Metal Dealers Registration;
- (iv) Street Collection Licences and House to House collection permits;
- (v) Club Premises Certificates;
- (vi) Temporary Event Notices;
- (vii) License premises for gambling activities;
- (viii) Consider notices given for temporary use of premises for gambling;
- (ix) Grant permits for gaming and gaming machines in clubs and miner's welfare institutions;
- (x) Regulate gaming and gaming machines in alcohol licensed premises;
- (xi) Grant permits to family entertainment centres;
- (xii) Grant permits for prize gaming;
- (xiii) Consider occasional use notices for betting at tracks;
- (xiv) Register small societies' lotteries;
- (xv) The enforcement of the provisions of the Gambling Act 2005;
- (xvi) Personal Licenses;
- (xvii) Registration of second-hand dealers;
- (xviii) Motor Salvage operators;
- (xix) Certificates of Consent for all public exhibitions, demonstrations or performances of hypnotism;
- (xx) Licences to hold civil marriage ceremonies on approved premises;
- (xxi) Application for new (and renewal applications) for hackney carriage and private hire driver's licences, vehicle licences and operator's licences in accordance with guidelines,

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approved by the Licensing, Health and Safety and General Purposes Committee;

- (xxii) The enforcement of conditions relating to the licensing of hackney carriage and private hire drivers licences, vehicle licences and operator's licences, as allowed in the Local Government (Miscellaneous Provisions) Act, 1976, including the suspension of driving licences, vehicle licences and operator's licences. (Any actions to be reported to the next meeting of the Licensing, Health and Safety and General Purposes Committee;
 - (xxiii) The enforcement of the provisions of the Licensing Act 2003
 - (xxiv) The enforcement of all Hackney Carriage and Private Hire matters under the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847.
 - (xxv) Authorise members of staff in the Licensing Division to carry out enforcement functions as authorised officers under licensing legislation.
 - (xxvi) Personally, or through the Head of Law, Commence legal proceedings on behalf of the Council under licensing legislation.
- (19) In consultation with the Director of Technical Services and the three party spokespersons, to consider and determine applications for street trading consents or renewals thereof (including the imposition of such conditions as is considered reasonably necessary)

In respect of Planning and related matters:

The Head of Planning has authority:

- (i) to determine all planning and related applications other than those listed under below;
- (ii) to take appropriate enforcement action on all matters relating to the issue and service of Enforcement Notices, Breach of Condition Notices and Discontinuance Orders, including the following:
 - To take initial action to deal with breaches of planning control including the serving of Planning Contravention Notices to obtain relevant information in order to assess whether or not a breach of planning control has occurred.

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- To serve Breach of Condition Notices where planning conditions have not been complied with and to specify the steps which the Council consider ought to be taken or the activities which ought to cease.
- To serve Enforcement Notices or to withdraw, modify and reissue any Enforcement Notice following a decision by the Planning Committee to grant permission for development or not to proceed with enforcement action.
- In cases of urgency, in consultation with the Chair, vice-Chair and Party Spokespersons of the Planning Committee, to issue and serve Stop Notices unless the serving of such a notice would result in the significant loss of jobs or the potential for substantial costs against the Council.
- In consultation with the Chair, vice-Chair and Party Spokespersons of the Planning Committee to serve Temporary Stop Notices.

(For the avoidance of doubt) where it is proposed not to take appropriate enforcement action relating to Priorities 1, 2 and 3 of the adopted Planning Enforcement Policy on the grounds of non-expediency, the Authority of Members of the Planning Committee must be sought.

- (iii) to refuse applications in relation to telecommunications development.
- (iv) where it is proposed to recommend approval of telecommunication development, after consultation with the Chair of the Planning Committee and the appropriate ward councillors, to determine applications in relation to telecommunications development which, following the receipt of a petition or referral by an elected member, cannot be dealt with by the Planning Committee within the statutory 56-day period, subject to his reporting the use of such delegated authority to the next available meeting of that Committee, for information.
- (v) In accordance with the Neighbourhood Planning Protocol to be agreed from time to time by the Planning Committee and in conjunction with the Portfolio Holder for Sustainable Development and Transport and the Chairman of the Planning Committee, to publicise applications for neighbourhood Areas and Forums, consider representations and determine applications.

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The Head of Planning has authority to determine all minor and other applications submitted by or on behalf of the Borough Council other than those listed under (a) below;

- (a) Applications to be determined by Committee:
- (i) “Major” applications (unless recommended for refusal and has not been supported on planning grounds by a Member as set out in (vi) below) –
- “Major” applications will be defined as any application for residential development or change of use involving 10 or more dwellings, and other forms of development or change of use of 1,000 square metres floorspace relating to B1(Light Industrial), B2(General Industrial) or B8(Storage and Distribution) Uses , or applications for development or change of use of 0.5 hectare or more of land. Minerals and waste applications will be regarded as “major” applications (other than minor amendments to existing permissions, and ancillary or small scale works).
- (ii) Applications where it is proposed to make a decision that is contrary to the development plan with the exception of domestic extensions.
- (iii) Decisions that would need to be referred to the Secretary of State with the exception of applications for Planning Permission and/or Listed Building Consent to Grade I listed buildings, where there are no objections on conservation grounds.
- (iv) Applications which any Member has asked to be referred to the Planning Committee. When a Member has requested an application be referred to the Planning Committee the Member must, however, state the reason(s) on planning grounds for that request in writing and must make any request prior to the last date for comment as published on an application.
- (v) Applications that attract one or more petitions of objection, within the specified consultation period, which contains 25 or more signatories from individual households or 15 individual objections in writing, unless the application is being recommended for refusal, in which case, the application shall remain under delegated powers, (unless a Member

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registers support in writing for an application on planning grounds). The lead petitioner will be informed of the recommendation to refuse under delegated powers.

- (vi) Any application recommended for refusal where a Member has registered support in writing for an application on planning grounds and has requested the application is determined by Planning Committee.
- (vii) Any personal/private application made by any Member of the Council, or any member of staff employed in the Technical Services Department.
- (viii) Decisions that would require a Section 106 obligation or action under other powers, with the exception of applications requiring the provision of additional litter bins or where an applicant is required to provide the Council with a sum of £10,000 or less towards any minor traffic/highway improvements.
- (ix) Decisions where a claim for compensation from the Council may arise or which otherwise may involve a financial payment.
- (b) The Head of Planning is authorised to undertake the following functions and powers:
 - (1) To exercise all the powers and duties of the Council in respect of the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning Act 1990 as follows:-
 - (a) To take appropriate action to advertise planning applications and display site notices.
 - (b) Reject an outline application because of insufficient details.
 - (c) Require owners to carry out proper maintenance of land where its condition detracts from the amenity of the immediate surrounding area, including the service of appropriate statutory notices under Section 215 of the Act.
 - (d) Serve planning control contravention notices and to hold discussions as a result of the “time and place” procedure under Section 171(C) of the Act.
 - (e) Make and confirm emergency Tree Preservation Orders except where objections/representations have been received and confirm unopposed Tree Preservation Orders under Section 201 of the Act and vary and revoke such orders.
 - (f) Determine applications for the lopping, felling or topping of trees covered by Tree Preservation Orders and require such replanting as is considered necessary.

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- (g) Issue screening opinions (Regulations 5, 7 and 25) and scoping opinions (Regulation 10) under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.
- (h) Authorise entry on to land under Sections 196 and 324 of the Act and under Section 88 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- (2) To exercise all the powers and duties of the Council arising under the provisions of the Building Act 1984 as follows:-
 - (a) Part I – Building Regulations.
 - (b) Part III – Drainage, provision of sanitary conveniences, buildings, defective premises and demolition.
 - (c) Part IV – Powers of entry, execution of works and enforcement.
- (3) To exercise all the powers and duties of the Council arising under the provisions of Safety of Sports Grounds Act 1975 in relation to the issuing of notices prohibiting the admission of spectators to sports grounds and make agreed amendments to safety certificates.
- (4) To exercise all the powers and duties of the Council arising under the provisions of the Building (Approved Inspectors) Regulations 1985.

Note: This power may also be exercised by the Building Control Manager and the Fire/Safety at Sports Grounds Officer.

- (5) To exercise all the powers and duties of the Council arising under the provisions of the Public Health Act 1936 in relation to sanitary conveniences for buildings and culverts, ditches and watercourses.
- (6) To exercise all the powers and duties of the Council arising under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 relating to listed buildings and conservation areas.
- (7) To exercise all the powers and duties of the Council arising under the provisions of the Planning (Hazardous Substances) Act 1990.
- (8) To exercise all the powers and duties of the Council arising under the Town and Country Planning (Control of Advertisements) Regulations 1992 or any amendments to those regulations.

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- (9) To exercise all the powers and duties of the Council arising under the provisions of the Hedgerows Regulations 1997.
- (10) To respond to consultations from neighbouring local planning authorities on planning applications.
- (11) To exercise all the powers and duties of the Council under the provisions of the Local Land Charges Act 1975.
- (12) After consulting the Director of Finance, to vary the standard scale of charges of the Local Government Association model structure by plus or minus 10%.
- (13) To take action to prosecute offences under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Public Health Act 1936 and the Safety at Sports Grounds Act 1975.
- (14) To exercise all the powers and duties under Part 8 of the Anti-Social Behaviour Act 2003 to consider and determine complaints about high hedges.
- (15) To authorise directed surveillance, for investigatory purposes, in accordance with the Regulation of Investigatory Powers Act 2000 and to designate officers to carry out that function.

Part 3 Schedule 4 Part B

SCHEME OF DELEGATION of EXECUTIVE FUNCTIONS TO OFFICERS

1. This part of the scheme of delegation records the delegations of executive functions to officers under article 7 by the Leader.
2. The leader authorises the directors to exercise any of the executive functions of the Council as set out in this document.
3. This scheme is without prejudice to the exercise of the Executive's functions by the Cabinet.
4. For the purposes of this scheme "the directors" means the directors whose job title and areas of responsibility are set out in Table 1 below **[TO BE INSERTED- ASSUME Head of Service and above]** .
5. The directors are empowered to make all executive decisions within their areas of responsibility on behalf of the Council in accordance with the following general principles:
 - a. If a function, power or responsibility has not been specifically reserved to the cabinet by the leader the director within whose remit the matter falls is authorised to act.
 - b. Full Council, its committees and will make decisions on matters of significant policy.
 - c. The directors have express authority to take all necessary actions to implement executive decisions that commit resources, within agreed budgets in the case of financial resources, as necessary and appropriate.
 - d. The directors are empowered to take all operational decisions, within agreed policies, in relation to the services for which they are responsible.
 - e. The directors are empowered to take all necessary decisions in cases of emergency.
 - f. In relation to all delegated authority conferred on the directors by this scheme, the Leader may allocate or re-allocate responsibility for exercising particular powers to any officer of the Council in the interests of effective corporate management as he or she thinks fit. He will notify the Head of Legal Services of any such change. The Head of Legal Services will amend Table 1 of Part 3 Part B as necessary.
 - g. Where a director is absent from the workplace for a period of time that requires others to exercise delegated authority in that

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officer's absence, another officer should be nominated by the Leader. This nomination should be formally recorded in writing.

- h. Where there is doubt over the responsibility for the exercise of a delegated power, the head of paid service or their nominee is authorised to determine who is to act.
 - i. These delegations should be interpreted widely to aid the smooth running of the organisation, the effective deployment of resources, the efficient delivery of services, and the achievement of the Council's goals.
6. For the purposes of this scheme, emergency shall mean a situation in which the relevant officer believes that there is a risk of damage to property, a threat to the health or well being of an individual or that the interests of the Council may be compromised.
7. In deciding whether or not to exercise such delegated powers, the directors should consider whether to consult the appropriate portfolio holder or leader and have regard to their views. Officers shall always be entitled to refer matters for decision to the appropriate portfolio holder or cabinet where they consider it expedient to do so.
8. The directors may authorise officers in their service areas to exercise, on their behalf, powers delegated under this scheme.
9. All delegations conferred under this scheme must be recorded in writing by the directors (including for the avoidance of doubt any delegation under paragraph 5(e) above). Any decision taken under such authority shall remain their responsibility.
10. The monitoring officer will maintain a central record of all delegations under this scheme and make this available for public inspection. The directors are responsible for recording all delegations under paragraph 8 above in such form as the monitoring officer may prescribe.
11. In exercising these delegated powers the officers concerned shall have broad discretion, subject to complying with all relevant legislation, the Council's constitution, including its contract and financial procedures and regulations, and overall Council policy, to use the most efficient and effective means available, including the deployment of staffing and other resources within their control and the procurement of other resources necessary, whether within or outside the Council.
12. Without prejudice to the generality of the foregoing the directors shall have the power:
 - a. To take all lawful action consistent with overall Council policy to deliver agreed strategy, plans and policy within their area of responsibility and within approved budgets. This shall include, but not exhaustively:

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- invitation and acceptance of tenders
 - submission of bids for funding
 - write-off of irrecoverable debts
 - virement (within the budget framework)
 - disposal and acquisition of assets
 - service and placing of any necessary statutory or other notice (other than those expressly reserved to a Council, committee or cabinet)
 - after consultation with the Head of Legal Services, authorising the institution, defence or appearance in criminal or civil proceedings in relation to any legislation which they are responsible for monitoring, enforcing or otherwise implementing on behalf of the Council.
- b. To put in place management arrangements, which define the area of responsibility of all officers under their area of responsibility.
- c. In the case of any overspend to notify the chief finance officer in the role of Section 151 officer in accordance with the financial procedure rules and regulations.
- d. To determine staffing arrangements within approved budgets, subject to agreement on grading with the head of paid service and conformance with Council policies.
- e. To take all action to recruit, appoint, develop, manage and reward employees within approved Council policies and procedures (including operation of policies for discipline and dismissal, voluntary severance, early retirement, redundancy and redeployment) and relevant conditions of service.
13. In taking any decision, the officer concerned must be satisfied that the following issues have been properly considered and completed where appropriate. All of these issues should be considered at the earliest possible stage.
- a. A key decision should be taken in accordance with the relevant requirements;
 - b. the views of the relevant portfolio holder;

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- c. consideration of the views of the constituency committees and the local councillors in decisions about local services;
 - d. the implication of any Council policy, initiative, strategy or procedure. Officers need to be aware of any potential impact of a delegated decision on other services. In such cases consultation with officers, relevant cabinet member(s) or committee chairman and local members, where the issue relates to a specific area, should take place;
 - e. consultation in accordance with the Council's consultation strategy and the views emanating from that process;
 - f. the range of available options;
 - g. the staffing, finance and legal implications;
 - h. the assessment of any associated risks in accordance with the Council's risk and management strategy;
 - i. the involvement of appropriate statutory officers and/or other directors;
 - j. the Council's constitution, including the forward work plan, its contract and financial procedures and regulations, all relevant guidance, legislation, codes of practice and protocols.
14. Any councillor may request that decisions taken by officers under the delegated powers are scrutinised by the appropriate Policy and Performance Committee.
15. For the avoidance of doubt anything which is not covered by this scheme, including the appointment of a proper officer for the purpose of any statutory function, will be determined by the head of paid service.

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PART 3

SCHEDULE 5

DELEGATION OF FUNCTIONS TO INDIVIDUAL CABINET MEMBERS AS NOTIFIED FROM TIME TO TIME TO THE HEAD OF LEGAL/MEMBERS SERVICES BY THE LEADER

(TO BE NOTIFIED)

Rules of Procedure

Council Procedure Rules - Standing Orders

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SECTION 1 - RELATING TO MEETINGS OF THE COUNCIL

1. Meetings of the Council

- (1) In addition to the Annual Meeting of the Council and any extraordinary meetings convened by the Mayor or by members of the Council (in accordance with Schedule 12 of the Local Government Act 1972), ordinary meetings shall be held in each year on such dates as the Council decides, provided that such dates may be varied by the Council, or by the Head of Legal/Member Services after consultation with the Leader of the Council.
- (2) The Annual Meeting shall be held at **7.00** pm or at such other time as the Council decides, at the Town Hall, Wallasey, or at such other place as the Council decides, and ordinary meetings of the Council shall be held at **6.15** pm, or at such other time decided by the Head of Legal/Member Services after consultation with the Leader of the Council, at the Town Hall, Wallasey.
- (3) Each ordinary meeting of the Council shall be concluded by **9:30 on the day of the meeting** accordance with the procedure contained in Standing Order 9, unless the Council agrees to suspend that standing order before it comes into operation at the meeting.
- (4) An extraordinary meeting of the Council may be called at any time by the Mayor. The Mayor should also consider a request for an extraordinary meeting if it is signed by five members of the Council. If the Mayor refuses to comply with the request or does not refuse but does not call an extraordinary meeting within seven days of receiving the requisition, then any five members of the Council may call an extraordinary meeting.

2. Election of Mayor and Deputy Mayor

The Council shall at the Annual Meeting elect a Mayor and a Deputy Mayor. Should the Deputy Mayor subsequently be asked by the Leader to take up a position in his/her Cabinet and wishes to accept that invitation, then the Deputy Mayor shall relinquish the post of Deputy Mayor but may still be considered "Mayor Designate" for the following year. In these circumstances, a new election for Deputy Mayor will be held as soon as practicable to carry out all the activities associated with that post.

3. Chair of Meeting

Any power or duty of the Mayor relating to the conduct of the meeting may be exercised by the person presiding at the meeting.

4. Quorum

- (1) Subject to the requirements of the Local Government Act 1972 the quorum of the Council shall be 17 (which shall include the Mayor or other person presiding at the meeting), and if during any meeting of the Council the Mayor, after counting the number of members present, declares that there is not a quorum present the meeting shall stand adjourned. Any undisposed of business shall be referred either to an adjourned meeting, the date and time of which shall be fixed by the Mayor after consultation with the Leader of the Council at the time the meeting is adjourned, or, if the Mayor does not fix a time, to the next ordinary meeting of the Council.
- (2) If at the end of 15 minutes after the time at which any meeting of the Council is scheduled to start a quorum is not present, no meeting shall take place. The majority of members then present, or if there is only one member then present that member, may fix the date and time for a reconvened meeting, and Head of Legal and Member Services shall make an appropriate entry in the minutes.

5. Order of Business (Council Meetings)

- (1) This Standing Order shall be subject to Standing Order 5A below as respects Annual Meetings of the Council
- (2) Subject to paragraph (3) below, the order of business at every meeting of the Council shall be as follows:
 - (a) to choose a person to preside if the Mayor and Deputy Mayor are absent;
 - (b) to receive the Mayor's announcements;
 - (c) to deal with any business required by statute to be done before any other business;
 - (d) to receive petitions without debate in accordance with Standing Order 21;

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- (e) to deal with questions from members of the public in accordance with the procedure set out in Appendix 1 to these standing orders;
 - (f) to approve as a correct record and sign the minutes of the last meeting of the Council;
 - (g) to dispose of business (if any) remaining from the previous meeting;
 - (h) To receive the written reports of the Leader and the Executive Members and the Chairs of the Policy & Performance Committees and receive questions and answers on any of those reports.
 - (i) To consider any recommendations of the Leader/Executive and committees which require the approval of the council;
 - (j) To consider any other business specified in the summons;
 - (k) to deal with questions in accordance with Standing Order 11;
 - (l) to deal with any references from the Policy and Performance Committees;
 - (m) to consider and decide upon active petitions referred to Council for debate under Standing Order 34(1); on a motion to be formally moved by the Mayor and duly seconded to note the contents of the petition.
 - (n) to deal with any other business, if any, specified in the Summons.
 - (o) to consider any notices of motion submitted in accordance with Standing Order 7 which the Council agrees should be debated rather than being referred to the Leader or the appropriate committee(s),
- (3) The order of items (a), (b), (c), and (d) of paragraph (1) cannot be changed. The order of other items may be varied:
- (a) at the discretion of the Mayor, or
 - (b) by a resolution duly moved and seconded, without discussion.

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- (4) Notices of motion shall be dealt with in the order in which they are received.

5A Meetings of the Council

- (1) The Annual Meeting of the Council will be held:
 - (a) in a year of ordinary elections of Councillors to the Council, on the first Monday after the day of retirement of the persons who were Councillors before the election, or on such other day within 21 days after that day of retirement as the Council may fix; or
 - (b) in any other year, 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.

But provided the Annual Meeting commences on such date, some or all of the business to be conducted at the Annual Meeting (with the exception of the election of a Mayor) may be adjourned to another date (or dates) determined by the Council.

Note: The 'day of retirement of the persons who were Councillors before the election' is the fourth day after the day of the election (see the Local Government Act 1972, section 26(3)).

- (2) In addition to business of the kinds specified in Article 5 above, the business at Annual Meetings of the Council shall include:
 - (a) as the first item of business, the election of a Mayor;
 - (b) the election of a Deputy Mayor;
 - (c) the election of a Leader as provided for by Article 7.3 of the Constitution (but only when the occasion to do so under that Article arises);
 - (d) the appointment of Members to committees that are not committees of the Cabinet;
 - (e) the appointment of Chairs and Vice-Chairs to such committees as are provided for at (d) unless the Council decides in any instance not to do so; and
 - (f) the appointment of Members to panels, advisory committees, working parties and miscellaneous other bodies.
 - (g) the appointment of Members (and/or other individuals) to outside bodies and organisations.

- (3) A Policy Council to agree the policy framework/performance agreement will normally be held in November, its purpose to establish the Council's priorities, agree the Corporate Plan and inform the budget setting process including the Medium Term Financial Strategy.

5B Election of the Leader

- (1) When the occasion arises for the Council to elect a Leader, the Mayor (or other person presiding at the meeting) shall invite a Member nominated by the Group Leader of the political group with the largest number of Councillors to propose the name of a Councillor to be elected as the Leader of the Council.
- (2) If a name is proposed under Rule 5B(1), the Mayor (or other person presiding at the meeting) shall then invite any Member to second that proposal.
- (3) If a name is proposed and seconded under Rules 5B(1) and (2), the Mayor (or other person presiding at the meeting) shall then invite the person proposed as Leader to confirm whether or not they accept the nomination and if (but only if) they so accept, to have the opportunity (which may be declined in whole or in part) to indicate to the Council the political composition and/or names of Cabinet Members that, if elected as the Leader, they would be minded to appoint.
- (4) If the person proposed as the Leader has confirmed their willingness to serve as the Leader if elected, the motion shall then be put to the vote without debate and, if a majority of those Councillors present and voting vote for the motion, the person proposed shall be elected as the Leader with immediate effect and shall be invited to make an acceptance speech of not more than 5 minutes duration.
- (5) If no person is elected as the Leader under the preceding paragraphs of this Procedure Rule, then Rules 5B(1) to (4) shall be repeated with substitution in Rule 5B(1) of the phrase 'the Group Leader of the political group with the largest number of Councillors' by the phrase 'the Group Leader of the political group with the second largest number of Councillors'.
- (6) If no person is elected as the Leader under the preceding paragraphs of this Procedure Rule, then Rules 5B(1) to (4) shall be repeated with substitution in Rule 5B(1) of the phrase 'the Group Leader of the political group with the largest number of Councillors' by the phrase 'the Group Leader of the political group with the third largest number of Councillors'.

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- (7) If no person is elected as the Leader under the preceding paragraphs of this Procedure Rule, then, so far as the Mayor considers it appropriate, Rules 5B(1) to (6) may be repeated.
- (8) Where two or more political groups comprise the same number of Councillors their precedence under this Rule 5B shall be determined by agreement of the relevant Group Leaders or, in the absence of such agreement, by the drawing of lots (before or during the meeting) in a manner determined by the Head of Law/Democratic Services (or his representative attending the meeting).

6. Minutes

- (1) If the minutes of the last meeting of the Council have been circulated before the meeting, they shall be taken as read and the Mayor shall move that they be approved as a correct record.
- (2) The minutes shall not be discussed except to question their accuracy. If their accuracy is not disputed the Mayor shall sign them. Any question of accuracy shall be put to the vote.
- (3) Where in relation to any meeting of the authority the next such meeting is a meeting called under paragraph 3 (extraordinary meetings) of Schedule 12 to the Local Government Act 1972, the next following meeting of the authority (being a meeting called otherwise than under that paragraph) shall be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) (signing of minutes) of that Schedule.

7. Notices of Motion

- (1) Subject to Standing Order 16, notice of every motion except of one under Standing Order 8 shall be given in writing, signed by the member in whose name it stands and by at least five other members and delivered **no later than the Monday of the second week before each ordinary meeting of the Council** to the Head of Legal/Member Services, who shall arrange for it to be dated, numbered in the order in which it is received, and entered in a book which shall be open to inspection by every member of the Council.
- (2) The Head of Legal/Member Services shall set out in the Summons for every meeting of the Council all motions of which notice has been duly given, in the order in which they have been received, unless the member giving such a notice has since withdrawn it in writing.
- (3) If a motion set out in the Summons is not moved by the member who gave notice of it or by another member on his/her behalf, or

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is not duly seconded, it shall, unless postponed with the agreement of the Council, be treated as withdrawn and shall not be moved without fresh notice.

- (4) If the Mayor does not consider it convenient or conducive to the dispatch of business or the majority of councillors present do not agree that the motion will be dealt with at the meeting at which it is brought forward, it shall be referred without discussion to the Leader or such committee as the Mayor may determine for consideration.
- (5) Where a motion has been referred to any committee or the Cabinet under the previous paragraph, any debate on that motion at a subsequent Council meeting shall take place upon the report or the recommendation of the committee(s) or the Cabinet and there shall be no separate debate upon the motion itself.
- (6) A member of the Council who has moved a motion which has been referred to any committee shall be given notice of the meeting at which it is to be considered. The member shall have the right to attend the meeting and an opportunity of explaining the motion.
- (7) Every motion shall be relevant to some matter which affects the Borough or be related to the Council's powers or duties.
- (8) If the Head of Legal/Member Services after consultation with the Mayor is of the opinion that a notice of motion is out of order it shall not be included in the Council Summons and that officer shall arrange for the members who signed it to be so informed.

8. Motions which may be moved without notice having been given under Standing Order 7

The following motions may be moved without notice, but must be seconded. The mover must confine any remarks to the form of the motion:

- (a) appointment of a Chair for the meeting at which the motion is made;
- (b) motions relating to the accuracy of the minutes;
- (c) that an item of business specified in the Summons has precedence;
- (d) appointment of a committee or members of it, arising from an item mentioned in the Summons, or the submission to Council

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for approval of a name as a member of any body as required by the minutes of the Council or of a committee;

- (e) adoption of reports and recommendations of committees or officers and any consequent resolutions;
- (f) that leave be given to withdraw a motion;
- (g) extending the time limit for speeches in accordance with Standing Order 12(7);
- (h) that the Council proceed to the next business;
- (i) that the question be now put;
- (j) that the debate be now adjourned;
- (k) that the Council adjourn to a specified time and date, or to such time and date as the Mayor may decide after consultation with the Leader of the Council;
- (l) suspending a Standing Order in accordance with Standing Order 36;
- (m) motions under the Local Government (Access to Information) Act 1985 to exclude the public;
- (n) that a member named under Standing Order 15 be not further heard or do leave the meeting;
- (o) giving the consent of the Council where the consent of the Council is required by these Standing Orders;
- (p) to amend the motion;
- (q) to postpone consideration of the motion or amendment;
- (r) motions and amendments on references by a Policy and Performance Committee.
- (s) any motion or amendment relating to the referring of petitions or their debate at Council pursuant to Standing Order 34.

9. Conclusion of Council Meeting

- (1) If the Council has not disposed of all Business by 9.00 pm on the day of the meeting it shall 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

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seconded and by the Member who has the right of reply (see Standing Order 12(14)(b) below).

- (2) After that matter has been disposed of, all remaining matters listed for debate, shall be dealt with by being moved and seconded without discussion and put to the vote.

10. Questions

- (1) At every ordinary Council meeting, except the Budget Council meeting, questions may be asked by either a member of the Council or a member of the public in accordance with this standing order.
- (2) A member of the Council may
 - (a) ask a question of the Leader, a Cabinet Member or the Chair of a committee any question without notice on any written report under Standing Order 5.1(h) of the Executive Board or a committee submitted to the Council at that meeting.
 - (b) ask the Mayor or the Chair of any committee or a Cabinet member a general question on any matter which affects the Borough or which is related to the Council's powers or duties. Notice of a general question must be given to Head of Legal and Member Services by **10.00 a.m. on the Wednesday** preceding the day on which Council is held.
- (3) A member of the public may ask a question in accordance with the procedure set out in the appendix to these standing orders.
- (4) Every question shall be put and answered without discussion, but the person to whom the question has been put may decline to answer.
- (5) An answer may take the form of -
 - (a) a direct oral answer; or
 - (b) where the information requested is contained in a publication of the Council, a reference to that publication; or
 - (c) a written answer circulated to members of the Council either during the meeting at which the question is asked or subsequently.

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- (6) If a question relates to a matter within the competence of a sub-committee, the Chair may refer it to the Chair of that sub-committee, and the expression "Chair" in the standing order shall be interpreted in this way.
- (7) Where a spokesperson has been nominated under the Local Government Act 1985 or any other statute to answer questions in Council on matters relating to the functions of other authorities, or any member or officer is required to answer questions pursuant to section 71(5) of the Local Government and Housing Act 1989 that spokesperson, member or officer shall be treated as a Chair for the purposes of this Standing Order and those parts of it relating to general questions shall apply.

11. Restrictions and time limits on questions

- (a) any question shall be limited to 2 minutes.
- (b) The total number of questions on any one report shall not usually exceed five.
- (c) Responses to any question will reserved to the conclusion of all the questions on a particular report, when all the questions will be answered individually or as a composite response as appropriate.
- (d) Any response to questions on a particular report shall not exceed ten minutes.
- (e) The total time allocated to members questions shall not exceed one and a half hours.
- (f) The Mayor will broadly endeavour to call members and allocate the time for questions such that each political party has that proportion of the time which reflects their relative membership of the council.
- (g) The Mayor as an exception may agree to an extension of these numbers and time limits.

12. Rules of Debate for Council Meetings

(1) Motions and Amendments

A motion or amendment shall relate to a recommendation of a committee submitted in accordance with Standing Order 5.2(l), or to a matter referred to in Standing Orders 7 and 8. It shall not be discussed unless it has been proposed and seconded.

The terms of any amendment or notice of motion shall not be varied except with the agreement of the Council

(2) Joint Debates

The Council can agree to deal with the two or more related motions in one debate. Each mover and seconder should have the right to speak in accordance with Standing Order 12(7) and separate votes should be taken on each motion.

(3) Seconding

A member when seconding a motion or amendment shall speak immediately before the reply made by either the Chair or the mover of the original motion, under paragraphs (5) or (6) of this standing order. No further ordinary speeches shall be made after the seconder has spoken.

(4) Standing when speaking

A member when speaking shall stand and address the Mayor. If two or more members rise, the Mayor shall call on one to speak; the other or others shall then sit. While a member is speaking the other members shall remain seated, unless rising to a point of order.

(5) Right of reply (Amendment to Recommendation)

The Chair of the Committee on the member of the Cabinet, the recommendation under 5(2)(i) of which is being debated, shall have the right of reply at the close of the debate on the amendment.

(6) Right of reply (Notices of Motion under Standing Order 8)

The mover of a motion has a right to reply at the close of the debate on the motion, immediately before it is put to the vote. If an amendment is moved, the mover of the original motion shall also have a right of reply at the close of the debate on the amendment in accordance with paragraph (7)(c) of this standing order. The mover of the amendment shall have no right of reply to the debate on the amendment.

(7) Speeches, restrictions and time limits

A member shall direct any speech to the matter under discussion or to a point of order as defined in paragraph (15) of this standing order. The following time limits shall apply to speeches:-

- (a) the Chair, Cabinet Member or mover of the motion - not exceeding 7 minutes;

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- (b) the seconder of the motion or notice of motion - not exceeding 3 minutes;
- (c) the Chair, Cabinet member or the mover of the motion, having the right to reply - not exceeding 7 minutes;

The Chair having the right to reply shall be entitled to give an explanation immediately after the motion has been moved and seconded but the total time allowed for the explanation and for the reply at the end of the debate shall not exceed 7 minutes.

- (d) any other speakers - not exceeding 3 minutes.

The Mayor as an exception may agree to an extension of these time limits for a period or successive periods of 2 minutes.

(8) Restrictions on speaking more than once

A member who has spoken on any motion shall not speak again while it is the subject of debate, except

- (a) to speak once on an amendment moved by another member;
- (b) if the motion has been amended since the member last spoke, to move a further amendment;
- (c) in exercise of a right of reply given by paragraphs (5), (6), (7) or (14) of this standing order;
- (d) on a point of order.

(9) Amendments

Subject to Standing Order 7(5) an amendment to a motion or recommendation of the Cabinet or of a Committee shall be relevant to the motion or recommendation under consideration and shall be either

- (a) to refer or refer back a subject of debate for consideration or re-consideration as the case may be;
- (b) to leave out words;
- (c) to leave out words and insert or add others;
- (d) to insert or add words.

as long as the effect of any amendment is not to negate the motion or recommendation.

(10) Amendments to be dealt with in order

Only one amendment may be moved and discussed at a time.

(11) Substantive motion

If an amendment is lost, other amendments notified under Standing Order 5(1)(h) may be moved on the original motion; if an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment notified as an objection may be moved.

(12) Withdrawal of amendment

A motion or amendment may be withdrawn by the mover with the agreement of the seconder and of the Council, which shall be indicated without discussion. No member may speak upon it after the mover has asked permission for its withdrawal, unless such permission has been refused.

(13) Motions which may be moved in course of debate

When a motion or amendment is under debate no motion shall be moved except the following:

- (a) to amend the motion;
- (b) to postpone consideration of the motion or amendment;
- (c) to adjourn the meeting;
- (d) to suspend Standing Order 7(8);
- (e) to adjourn the debate;
- (f) to proceed to the next business;
- (g) that the question be now put;
- (h) that a member be not further heard;
- (i) by the Mayor under Standing Order 15, that a member do leave the meeting;
- (j) a motion under the Local Government (Access to Information) Act 1985 to exclude the public;
- (k) giving the agreement of the Council where the agreement is required by these standing orders.

(14) Closure motions

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A Member who has not spoken previously on a matter under debate may move without comment at the end of a speech of another member:

"That the Council proceed to the next business",

or "That the question be now put",

or "That the debate be now adjourned",

or "That the Council do now adjourn".

If the motion is seconded the Mayor shall proceed as follows:-

- (a) On a motion to proceed to next business,
 - (i) the Mayor shall put the motion to proceed to the next business to the vote, unless in the Mayor's opinion the matter before the meeting has not been sufficiently discussed;
 - (ii) if that motion is not carried the Mayor shall allow the debate to continue;
 - (iii) if that motion is carried the Council shall immediately proceed to consideration of the next item of business.
- (b) On a motion that the question be now put,
 - (i) the Mayor shall put the motion that the question be now put to the vote, unless in the Mayor's opinion the matter before the meeting has not been sufficiently discussed;
 - (ii) if that motion is not carried the Mayor shall allow the debate to continue;
 - (iii) if that motion is carried the Mayor shall call upon the seconder of the motion under discussion provided the seconder has not already spoken. The Mayor shall then call upon the Chair, Cabinet member or the mover of the original motion to reply, as appropriate in accordance with paragraphs (5) or (12) of this standing order;
 - (iv) the Mayor shall then put the original matter under debate to the vote.
- (c) On a motion to adjourn the debate or the meeting, the Mayor shall put the adjournment motion to the vote without calling on the Chair, Cabinet member or the mover of the original motion to

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reply under paragraphs (5) or (12) of this standing order. Similarly, the seconder of the original motion who has not already spoken shall not be allowed to speak.

(15) Point of Order

A member may rise on a point of order and shall be entitled to be heard immediately.

A POINT OF ORDER SHALL RELATE ONLY TO AN ALLEGED BREACH OF A STANDING ORDER OR STATUTORY PROVISION, AND THE MEMBER SHALL SPECIFY THE STANDING ORDER OR THE STATUTORY PROVISION AND THE WAY IN WHICH HE/SHE CONSIDERS IT HAS BEEN BROKEN.

(16) Mayor's ruling

The ruling of the Mayor on a point of order shall not be open to discussion.

(17) Precedence of Mayor

Whenever the Mayor rises during a debate a member then standing shall be seated and the Council shall be silent.

13. Budget Council Procedure

The Head of Law/Members Services shall prior to the budget meeting of the Council consult with the Leaders of each political group and submit to the Cabinet and Council a suggested procedure to be adopted at the budget meeting but if no such procedure is adopted the normal procedures of the Council in relation to amendments to Cabinet recommendations will apply.

14. Motions affecting persons employed by the Council

If any question arises at a meeting of the Council (or at a committee of it or at Cabinet) to which the Local Government (Access to Information) Act 1985 applies 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 Cabinet has decided whether or not the power of exclusion of the public under the Act should be exercised.

15. Disorderly conduct

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- (1) If any member of the Council misconducts himself/herself at a meeting by persistently disregarding the ruling of the Mayor, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the Council, the Mayor or any other member may move "That the named member be not further heard". That motion, if seconded, shall be put to the vote and determined without discussion. If the motion is carried the named member shall take no further part in the debate in question.
- (2) If the named member continues the misconduct after a motion under the previous paragraph has been carried, or if any member acts so irregularly, improperly or offensively that the member's continued presence at the meeting cannot reasonably be tolerated, the Mayor or any other member may move "That the named member leave the meeting immediately". That motion, if seconded, shall be put to the vote and determined without discussion. If the motion is carried the named member shall leave the meeting immediately.
- (3) If the named member continues the misconduct after a motion under paragraph (1) has been carried, the Mayor shall have a discretion, and as an alternative to pursuing the action set out in paragraph (2), to adjourn the meeting for a period of up to 30 minutes.
- (4) In the event of a general disturbance which in the opinion of the Mayor prevents the Council from disposing of its business in a proper and orderly manner, the Mayor may, without the question being put, adjourn the meeting for a period of up to 30 minutes.

16. Disturbance by members of the public

- (1) If a member of the public interrupts the proceedings at any meeting the Mayor shall issue a warning. If that person continues the interruption the Mayor may order the person to be removed from the Council Chamber. In the case of general disturbance in any part of the Chamber open to the public the Mayor may order that part to be cleared.
- (2) In the event of a general disturbance which, in the opinion of the Mayor, prevents the Council from disposing of its business in a proper and orderly manner, the Mayor may, without the question being put, adjourn the meeting for a period of up to 30 minutes.

17. Rescission of preceding resolution

- (1) No decision of the Council (including a decision taken by a committee or panel under delegated powers) may be

reconsidered by the Council on a notice of motion within six months of the date of the earlier decision unless the notice of motion (under Standing Order 8) is signed by 17 members of the Council. If that motion is rejected by the Council neither it nor one to the same effect can be considered by the Council for six months.

- (2) 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.

18. Voting

- (1) The normal method of voting at meetings of the Council shall be by show of hands unless the Council determines otherwise.
- (2) The Mayor may decide at any time to discontinue use of the electronic voting system if satisfied that it is not working correctly.
- (3) When the electronic voting system is being used, the Mayor may require or allow the vote to be retaken either electronically or by show of hands if he/she considers that there has been any malfunction of the equipment or any incorrect use of it.
- (4) No individual votes will be recorded in the minutes of Council unless either a “card vote” is requested pursuant to paragraph (5) hereof or a “recorded vote” is requested pursuant to paragraph (6).
- (5) If a member of the Council makes a request before a vote is taken for a “card vote” and is supported by five other members rising in their places, voting shall be by that method so as to show how all members present and voting gave their votes provided that when the electronic voting system is to be used a “card vote” shall mean only the electronic recording of such votes.
- (6) Where immediately after a vote is taken at a meeting of the Council, any member of that body so requires, there shall be recorded in the minutes of the proceedings of that meeting whether that person cast his/her vote for the question or against the question (a dissent) or whether he/she abstained from voting.

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- (7) When the electronic voting system is not being used, no request for a card vote may be made during the procedure referred to in Standing Order 7(8).
- (8) In taking a vote upon any question, only those members of the Council who are present in the Council Chamber and seated in their places when the question is put from the Chair shall be entitled to vote.

19. Voting on appointments

Where there are more than two persons nominated for any position to be filled by the Council and there is not a majority of the votes given in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote shall be taken, and so on, until a majority of votes is given in favour of one person.

20. Interest of officers in contracts

The Head of Law/Member Services shall record in a book to be kept for the purpose particulars of any notice given by an officer of the Council under section 117 of the Local Government Act 1972 of a pecuniary interest in a contract, and the book shall be open during office hours for inspection by any member of the Council.

21. Petitions

Petition shall be dealt with in accordance with Standing Order 34. Save as permitted by Standing Order 34 no person shall be entitled to speak to a petition at Council.

22. Interpretation of Standing Orders

The ruling of the Mayor as to the interpretation or application of any of the standing orders, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council.

22A. Suspension of Standing Orders

- (1) Subject to paragraphs (2) and (3) of this standing order, any of the preceding Standing Orders may be suspended so far as regards any business at the meeting of the Council where its suspension is moved.
- (2) A motion to suspend Standing Orders shall not be moved without notice (i.e. under Standing Order 9) unless there shall be present at least one half of the whole number of the members of the Council.
- (3) Standing Orders 6(3), 18(6), 23(f) (and the reference thereto in Standing Order 33) shall not be capable of being suspended without statutory authority.

SECTION 2 - RELATING TO COMMITTEES

23. Standing Orders to apply to committees and sub-committees

The following standing orders of the Council shall, with any necessary modification, apply to committee, sub-committee and panel meetings -

- (a) Rules of Debate (except for those parts which relate to standing, to speaking more than once, and to amendments' being in writing - S O 12
- (b) Motions affecting persons employed by the Council - S O 14
- (c) Disorderly conduct - S O 15
- (d) Disturbance by members of the public - S O 16
- (e) Rescission of preceding resolution - S O 17
- (f) Recording of votes - S O 18(6)
- (g) Voting on appointments - S O 19
- (h) In relation to start time – S O 4
- (i) In relation to the suspension of standing orders – SO 22A

24. This Procedure Rule has been deleted

25. Committees, Sub-Committees of the Council and Attendance

- (1) Unless its terms of reference provide otherwise, a committee may authorise one of its sub-committees or any officer of the Council to discharge any of its functions.
- (2) Unless it is expressly stated to the contrary, reference to committees and sub-committees in this section of Standing Orders shall be taken not to include panels (see Standing Order 33).
- (3) No member shall be appointed to a committee of the Council so as to hold office later than the next Annual Meeting of the Council.
- (4) The Council may at any time dissolve such a committee or alter its membership.
- (5) The Leaders and Deputy Leaders of the three largest political groups represented on the Council shall, if not members, be permitted to attend meetings of the Cabinet, committees and Policy and Performance Committees, sub-committees and panels, but with the right to speak only at the Chair's invitation.
- (6) When a casual vacancy occurs, or when a political group wishes to alter its representation on such a committee, the relevant political group shall submit a replacement nomination to the Head of Legal/Member Services, who shall report the nomination to the next meeting of the Council. The appointment

of the nominee shall be deemed to take effect when the nomination has been reported, without the need for a vote.

- (6)(a) The Council may appoint named deputies for members of its committees and each committee may appoint named deputies for members of its sub-committee(s) and panel(s) up to a maximum of eight for each political group, and such deputies shall be authorised to deputise for any member of their group who is unable to attend a meeting.
- (b) In the absence of the first named deputy the second member is deemed to be the deputy and in the absence of both the third shall be the deputy, and so on.
- (c) If apart from this paragraph a person would be entitled to act as a deputy for more than one member of the committee that person shall be the deputy for the member whose surname has alphabetical priority and shall be regarded as absent in deciding which other deputy members are entitled to act in the absence of any other member of the committee.
- (d) Once a meeting has commenced no member shall be replaced by a deputy and no deputy shall be replaced by any other member provided that where a meeting has been adjourned to another date the adjourned meeting shall be regarded as a separate meeting for the purposes of this Standing Order. The exception to this is where meetings are considering individual applications and where changes in membership are necessary due to declarations of interest.
- (7) A member of the Cabinet shall not be appointed to serve on any Policy and Performance Committee of the Council.

26. Special meetings of committees

- (1) The Chair of the Cabinet or of any committee or sub-committee (or his/her nominee) may authorise the calling of a special meeting at any time, provided that in the case of the Cabinet the Chair should consult other party leaders represented on the Cabinet and in the case of committees the relevant party spokespersons prior to any decision on the date of the meeting.
- (2) A special meeting of a committee or sub-committee may also be called on the requisition of any two party spokespersons for the committee or sub-committee in question delivered in writing to the Head of Legal/Member Services. Subject to paragraph (3) below, the special meeting shall be held within 14 days of the date of receipt of the requisition, the actual date being determined by the Head of Law/Members Services after

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consultation with the party spokespersons of the two political groups referred to in the requisition.

- (3) No special meeting of a committee or sub-committee shall be held in the period between the last meeting of the Council before the summer recess and the 1st of September in any year without the agreement of the Chair.
- (4) The Head of Law/Member Services may convene a meeting of an Policy and Performance Committee when required to comply with the call-in procedure.

27. Attendance of members of the Council at Cabinet and committee meetings

A member of the Council may attend any meeting of the Cabinet, a standing committee, sub-committee or panel of the Council, even though he or she is not a member of the committee/sub-committee/panel. Non-members of the Cabinet, committee, sub-committee or panel may be excluded from the meeting if, in addition to passing a resolution pursuant to the Local Government (Access to Information) Act 1985, the committee/sub-committee/panel also passes a resolution excluding non-members of that committee/sub-committee/panel. This standing order shall not affect a member's rights at common law.

28. Selection of Mayor and Deputy Mayor of the Council

The Cabinet shall be empowered to make recommendations to the Annual Meeting of the Council of the name of the person to be proposed for election as Mayor and of the name of the person to be proposed for appointment as Deputy Mayor.

29. Quorum of committees and sub-committees

- (1) Except where authorised by a statute or ordered by the Council, business shall not be transacted at a meeting of any committee unless at least one quarter of the whole number of the committee is present.

In no case shall a quorum of a committee be fewer than four members.

- (2) Except where authorised by a statute or ordered by the Council, business shall not be transacted at a meeting of a sub-committee or panel unless at least one quarter of the whole number of the sub-committee is present.

In no case shall a quorum of a sub-committee be fewer than three members.

30. Voting in committees and sub-committees

Voting at a meeting of a committee, sub-committee or panel shall be on a show of hands, and where there is an equality of votes the Chair of the meeting shall have a second or casting vote.

The minutes of a committee, sub-committee or panel shall record the number of votes cast for and against any motion which is put to the vote.

All motions and amendments formally moved and seconded shall be recorded in the minutes.

31. Proceedings of committees to be confidential

Reports and documents marked "Not for Publication" shall be so treated unless and until they become public in the ordinary course of the Council's business or until that classification is removed by a committee, sub-committee or panel or by the Council. Reports marked "Confidential" shall remain confidential at all times.

32. Surrender of delegated powers

Where any powers or duties have been delegated to the Pensions Committee it may submit any of its decisions to the Council for approval if it so decides. It must submit any decision in this way if requested to do so at the meeting at which that decision is made by at least one quarter of the total number of members present and voting. The request may be made before or after the vote is taken provided the next item of business has not been called.

33. Panels

- (1) A committee may appoint one or more panels of members for the purpose of advising on or deciding any matter within the committee's terms of reference. The need for such panels shall be kept under review and in particular shall be reviewed at the first meeting of the committee in each municipal year.
- (2) Committees may appoint the Chairs, Vice-Chairs and members of panels.
- (3) Panel meetings shall be summoned by the Head of Law/Member Services (or by another officer duly nominated) with the consent of the Chair of the panel.
- (4) The minutes of each panel meeting shall be submitted to the subsequent meeting of the committee concerned.

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- (5) Notwithstanding the delegation of any powers to a panel, a panel may, if it so decides, submit a matter to the committee concerned or to a sub-committee for decision.
- (6) Standing Orders 23, 25(4) and (6), 27, 29(2), 30 and 31 shall apply to meetings of panels. Any reference to a committee or sub-committee in other parts of the Council's Rules of Procedure shall be construed as including a panel.

34. Petitions

- (1) If an active petition* contains more than 1500 qualifying signatures under the Council's Petition Scheme and does not require a senior Council Officer (as defined in the Petition Scheme) to be called to account by the authority, the petition shall normally be debated by the full Council at the next ordinary meeting of the Council (normally excluding Budget Council); and, following that debate, the Council may take such action as it considers appropriate. The referral of the petition to a future Council meeting shall be without debate, save as to the question/s of: (a) whether the petition is an active petition*; and/or (b) the most appropriate meeting at which the petition should be debated by the Council.
- (2) If an active petition* contains at least 750 qualifying signatures under the Council's Petition Scheme and requires a senior Council Officer (as defined in the Petition Scheme) to be called to account by the authority, the Council shall refer the petition to the Policy and Performance Committee it considers most appropriate; and instruct that Committee to:
 - (a) Use its power under section 21(13)(a) of the Local Government Act 2000 to require the relevant person** to attend before it to answer questions; and
 - (b) Submit a report (or recommendations) to a future ordinary meeting of the Council (normally excluding Budget Council); and
 - (c) Send a copy of that report (or those recommendations) to the Petition Organiser.

And following consideration of the Committee's report (or recommendations) the Council may take such action as it considers appropriate. The referral of the petition to the Committee shall be without debate, save as to the question/s of:

- (a) whether the petition is an active petition*; and/or (b) the most appropriate Committee to which the petition should be referred.
- (3) Any other active petition* addressed to the Mayor, to the Council or to a committee shall, immediately it is received, be referred to

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the appropriate chief officer(s) for investigation. The referral of the petition shall be without debate, save as to the question/s of: (a) whether the petition is an active petition*; and/or (b) the question of the most appropriate chief officer to whom the petition should be referred.

- (4) Unless it relates to a planning application (in which case it shall be dealt with as if it were an objection to the granting of planning permission) or the matter has already been disposed of by the Council, the petition shall be dealt with as follows:
 - (a) if the chief officer(s) concerned is able to effect a remedy to the complaint, the petitioners shall be advised accordingly;
 - (b) if the chief officer(s) cannot effect a remedy to the complaint within a reasonable time, the chief officer(s) shall submit, and report on, the petition to the next convenient meeting of the appropriate Committee or ordinary committee and shall advise the petitioners accordingly.
 - (c) if a petition is referred to committee in accordance with paragraph (b) above a representative of the petitioners shall be entitled to address the committee on the subject of the petition for a period of up to five minutes (or, exceptionally, for such longer period as the committee may allow).
- (5) The question whether any petition constitutes an active petition* shall normally be determined by the Head of Law/Member Services following consultation with the Mayor and Group Leaders. In the event that the Head of Law/Member Services is unavailable (or conflicted) the question shall normally be determined by another officer (nominated by the Mayor) following consultation with the Mayor and Group Leaders. In cases where determination of the question is itself likely to be contentious, the applicable officer may refer determination of the issue to the full Council.

** ‘an active petition’ is a petition that relates to the functions of Wirral Council; or to the improvement in the economic, social or environmental wellbeing of the Borough to which any partner authority could contribute; and which is (in either case), in the Council’s opinion, not vexatious, abusive or otherwise inappropriate.*

*** ‘the relevant person’ is the officer identified in the petition or, if the Committee considers that it would be more appropriate, another officer.*

35. Calling in of decisions

- (1) All decisions of:
 - (i) the Executive Board,

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- (ii) an individual member of the Executive Board or
- (iii) a committee of the Executive Board, and
- (iv) key decisions taken by an officer;

shall be published, and shall be available at the main offices of the Council normally within 2 days of being made. All members of the Council will be sent a copy of the decision.

- (2) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, unless the decision is called in for scrutiny by 9a.m. on the Thursday following publication of a decision on Friday. (Adjusted by a maximum of one day in there is one or more Bank Holidays in that period)
- (3)
 - (a) During that period, the Chief Executive shall Call-In a decision for scrutiny by the Coordinating Committee if so requested by any six members of the Council who has given detailed reasons for the Call-In of the decision. The detailed reasons must be provided by the Lead signatory, by the Call In deadline. When a Call In is requested the Chief Executive shall liaise with the Member listed first on the Call-In schedule, to ensure there is sufficient information provided to enable the Call-In to proceed. As long as there is a clear reason given, the call-in should be allowed. He/she shall then notify the decision-taker of the Call-In. He/she shall call a meeting of the Committee on such date as he/she may determine, where possible after consultation with the Chair of the Coordinating Committee, and in any case within 7 working days of the decision to call-in.
 - (b) The relevant Chief Officer and all members will be notified of a call-in immediately and no action will be taken to implement the decision until the call-in procedure has been completed. A decision of the Cabinet, a committee of the Cabinet or individual Cabinet member may be called in only once.
- (4) Having considered the decision, the Coordinating Committee may:-
 - (i) refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or;
 - (ii) refer the matter to full Council. Such a referral should only be made where the Coordinating Committee believes that the decision is outside the policy framework or contrary to or not wholly in accordance with the budget. The procedures set out in those rules must be followed prior to any such referral.

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- (5) If a decision is referred back to the decision making person or body it shall be reconsidered in the light of the written concerns of the Coordinating Committee before a final decision is made.
- (6) If following a call in, the Coordinating Committee does not refer the matter back to the decision making person or body and does not refer the matter to Council, the decision shall take effect on the date of the Coordinating Committee meeting. If the Coordinating Committee does not meet the decision shall take effect from the date when the Committee should have met.
- (7) If the matter is referred to full Council and the Council does not object to a decision which has been made, then the decision will become effective on the date of the Council meeting.
- (8) If the Council does object the Council may take a decision, which is outside the policy and budgetary framework. Otherwise the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive Board as a whole or a committee of it, a meeting will be convened to reconsider within ten working days of the Council request. Where the decision was made by an individual, the individual will reconsider within ten working days of the Council request.
- (9) Call-in should only be used in exceptional circumstances where members have evidence which suggests that the decision was not made in accordance with the principles of decision making in the constitution.
- (10) Call-in and urgency
 - (a) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay is likely to be caused by the call-in process would seriously prejudice the Council's or the public's interest. The record of the decision and the notice by which it is made public shall state whether, in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chief Executive must agree both that the decision proposed is reasonably in all the circumstances and to it being treated as a matter of urgency. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
 - (b) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

APPENDIX 1

STANDING ORDER 11

Public Question Time - Procedure

There shall be a period of the Council Meeting of not more than 30 minutes in total during which any member of the public may address a question to the Leader, Cabinet Member, Chair of a Policy and Performance Committee or Chair of an Ordinary Committee.

To qualify as a questioner a person must be a registered voter in Wirral or a representative of a local firm or organisation.

Questions must be submitted in writing to Head of Legal and Member Services at least five clear working days before the meeting of Council and must relate to the discharge of the Council's functions.

Questions may be edited as necessary by Head of Legal and Member Services to bring them into proper form and to ensure brevity.

Questions which in the opinion of Head of Legal and Member Services and the Mayor are defamatory, frivolous or otherwise improper or objectionable may be rejected.

The Mayor shall call questions in the order in which they have been received and the questioners must read them out.

Replies to the questions shall be oral unless the person questioned feels that a written response may be more suitable.

No speeches or discussion will be allowed but the questioner may ask one supplemental question.

If there is insufficient time for all questions, written replies will be made to any unanswered question.

A questioner may ask only one question at each meeting of the Council (subject to the right to ask a supplementary on that question) but if that person has asked a question at a previous meeting the Mayor shall have the right to change the order of questions or to reject questions which are repetitious.

Persons not able to attend to ask a question will be provided with a written answer in due course.

Access to Information Procedure Rules

1. **SCOPE**

These rules apply to all meetings of the Council, Policy and Performance Committees, area committees (if any), the Standards Committee and regulatory committees and public meetings of the Cabinet and Executive Board (together called meetings).

2. **ADDITIONAL RIGHTS TO INFORMATION**

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

3. **RIGHTS TO ATTEND MEETINGS**

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

4. **NOTICE OF MEETINGS**

The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at the Town Hall, Wallasey.

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

6. **SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and

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- (c) if the proper officer thinks fit, copies of any other documents supplied to Councillors in connection with any item

to any person on payment of a charge for postage and any other costs.

7. ACCESS TO MINUTES ETC. AFTER THE MEETING

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

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

8. BACKGROUND PAPERS

8.1 List of background papers

Every report will contain a list of those documents called background papers relating to the subject matter of the report which in his/her opinion:-

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

but that list need not include published works or those which disclose exempt or confidential information (as defined in Rule 9) and, in respect of Cabinet or Executive Board reports, the advice of a political advisor.

8.2 Public inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

9. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

9.1 Confidential information - requirement to exclude public

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

9.2 Exempt information - discretion to exclude public

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

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

9.3 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.

9.4 Meaning of exempt information

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

CATEGORY	CONDITION
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1. Information relating to an individual

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.

Information is only exempt:

- (a) where disclosure is prohibited by statute; or**
- (b) where disclosure might involve providing personal information about individuals; or**
- (c) where disclosure might breach a duty of confidentiality; and**
- (d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.**

2. Information which is likely to reveal the identity of an individual

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.

Information is only exempt:

- (a) where disclosure is prohibited by statute; or**
- (b) where disclosure might involve providing personal information about individuals; or**
- (c) where disclosure might breach a duty of confidentiality; and**

- (d) **in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.**

3. Information relating to the financial or business affairs of any particular person (including the authority holding the information)

Information is not exempt information if it is required to be registered by law e.g. Companies Act 1985, the Charities Act 1993 etc

'financial or business affairs' includes contemplated, as well as past or current, activities

Information is only exempt if and for so long as:

This category will include commercial and contractual interests

- (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**

- (b) **disclosure would prejudice the efficiency and effectiveness of the use of Council resources; or**

- (c) **disclosure of trade secrets and other information would, or would likely, prejudice the commercial interests of any person, including the Council; and**

- (d) **in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.**

4. Information relating to any 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

Information is only exempt if and for so long as its disclosure to the public:

- (a) **would prejudice the Council in those or any other consultations or negotiations in connection with a labour relations matter; and**

‘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.e. matters which may be the subject of a trade dispute

‘employee’ means a person employed under a contract of service

‘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

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings

(b) in all the circumstances of the case, the public interest in not disclosing the information out weighs the public interest in disclosing the information.

Information is only exempt:

(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; and

(b) in all the circumstances of the case, the public interest in not disclosing the information out weighs the public interest in disclosing the information.

6. Information which reveals that the authority proposes –

(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person, or

(b) to make an order or direction under any enactment

Information is exempt only if and so long as:

(a) disclosure to the public might afford an opportunity to a person affected by the notice, 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.

- 7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime**
- Information is only exempt if its disclosure would, or would be likely to, prejudice-**
- (a) criminal investigations and proceedings; or**
 - (b) the apprehension or prosecution of offenders; or**
 - (c) the administration of justice; or**
 - (d) the assessment or collection of any tax or duty or of any imposition of a similar nature; or**
 - (e) regulatory enforcement; or**
 - (f) any civil proceedings; or**
 - (g) Health and safety; or**
 - (h) information obtained from confidential sources; and**
 - (i) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.**

CATEGORY	CONDITION
<p>In addition to the categories referred to above, the following categories will apply to the proceedings of the Standards Committee only in connection with the investigation and consideration of an allegation(s) of a breach</p>	

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of the Council's Member Code of Conduct	
<p>7A.Information which is subject to any obligation of confidentiality</p>	
<p>7B.Information which relates in any way to matters concerning national security</p>	<p>Information is only exempt if its disclosure would, or would be likely to, prejudice-</p> <p>(a) matters concerning national security; 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>7C.The deliberations of the Standards Committee in reaching any finding on a matter relating to the conduct of an elected or Co- opted/Advisory Member and Parish/Town Councillors</p>	

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

10. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Head of Law/Member Services 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.

11. APPLICATION OF RULES TO THE CABINET

Rules 12 - 19 apply to the Cabinet and its committees. If the Cabinet or its committees meet to take a key decision then it must also comply with Rules 1 - 10 unless Rule 14 (general exception) or Rule 15 (special urgency) applies. A key decision is as defined in [Article 13.3](#) of this Constitution.

12. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 14 (general exception) and Rule 15 (special urgency), a key decision may not be taken unless:-

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

13. THE FORWARD PLAN

13.1 The forward plan will be published on the Council’s website and will be updated from time to time as required.

13.2 In respect of Key Decisions the forward plan will contain the following information:

- (a) that a key decision is to be made on behalf of the relevant local authority;
- (b) the matter in respect of which the decision is to be made;
- (c) where the decision maker is an individual, that individual’s name, and title if any and, where the decision maker is a decision-making body, its name and a list of its members;

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- (d) the date on which, or the period within which, the decision is to be made;
- (e) a list of the documents submitted to the decision maker for consideration in real to the matter in respect of which they key decision is to be made;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (g) that other documents relevant to those matters may be submitted to the decision maker; and
- (h) the procedure for requesting details of those documents (if any) as they become available.

14. GENERAL EXCEPTION

- (1) Subject to regulation 11, where the publication of the intention to make a key decision under regulation 9 is impracticable, that decision may only be made:
 - (a) where the Head of Law/Member Services has informed the chairman of the Coordinating Committee or, if there is no such person, each member of the Coordinating Committee by notice in writing, of the matter about which the decision is to be made;
 - (b) where the Head of Law/Member Services has published on the Council's website a copyh of the notice given pursuant to sub-paragraph (a); and
 - (c) after five clear working days have elapsed following the day on which the proper officer made available the notice referred to in sub-paragraph (b).
- (2) As soon as reasonably practicable after the Head of Law/Member Services has complied with paragraph (1), he or she must -
 - (a) make available at the offices of the relevant local authority a notice setting out the reasons why compliance with Rule 12 is impracticable; and
 - (b) publish that notice on the Council's website.

15. SPECIAL URGENCY

If by virtue of the date by which a decision must be taken Rule 14 (general exception) cannot be followed then the decision can only be taken if the decision taker (if an individual) or the leader obtains the

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agreement of the chair of the relevant Management Steering committee or the Mayor that taking the decision cannot be reasonably deferred. If the chair or Mayor is unable to act, then the agreement of the Deputy Mayor will suffice.

16. REPORT TO COUNCIL

16.1 When a Policy and Performance Committee can require a report

If a Policy and Performance Committee thinks that a key decision has been taken which was not:

- (a) included in the forward plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant Policy and Performance Committee Chair, or the Mayor of the Council under Rule 15;

the committee may require the Executive to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the Head of Law/Member Services, who shall require such a report on behalf of the committee when so requested by the chair or any five members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Coordinating Committee.

16.2 Cabinet Report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

16.3 Quarterly Reports on Special Urgency Decisions

In any event the Leader will in the report to the Council report on the Executive decisions taken in the circumstances set out in Rule 15 (special urgency) in the preceding three months. The report will include the number of decisions taken and a summary of the matters in respect of which those decisions were taken.

17. RECORD OF DECISIONS

After any meeting of the Cabinet or any of its committees, the Head of Law/Member Services or the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

18. DECISION BY INDIVIDUAL MEMBERS OF THE CABINET

18.1 Record of individual decision

As soon as reasonably practicable after an Executive decision has been taken by an individual member of the Cabinet or key decision has been taken by an officer, he/she will prepare, or instruct the Head of Law/Member Services to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

19. POLICY AND PERFORMANCE COMMITTEES ACCESS TO DOCUMENTS

19.1 Rights to copies

Subject to Rule 19.2 below, an Policy and Performance Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to:-

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

19.2 Limit on rights

An Policy and Performance Committee will not be entitled to:-

- (a) any document that is in draft form;
- (b) the advice of a political adviser.

19.3 Nature of rights

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

Budget and Policy Framework Procedure Rules

1. The framework for Executive decisions

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the Cabinet to implement it.

2. Developing the Budget and Policy Framework

The process by which the Budget and Policy Framework shall be developed and revised is:

- (a) The Cabinet will publicise a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework, and its arrangements for consultation after publication of those initial proposals. The Chair and Vice Chair of the Coordinating Committee will also be notified. Consultation will take place in a manner and to the extent that is appropriate in the circumstances.
- (b) In relation to proposals associated with the preparation of or alterations to the Development Plan the Executive will develop draft proposals for the purpose of public consultation in accordance with regulations 10 to 22 of the Town and Country Planning (Development Plans) (England) Regulation 1999. The draft consultation proposals will be submitted to Council for approval or amendment.
- (c) At the end of the consultation period, the Cabinet will draw up firm proposals for plans and the budget having regard to the responses to that consultation. The Cabinet's report to Council will reflect the comments made by consultees and the Cabinet's response.
- (d) Once the Cabinet has approved the firm proposals, the Chief Executive will refer them at the earliest opportunity to the Council for decision.

3. Adoption of plans and strategies

- (a) If the Council has objections to a plan or strategy it may not amend it, approve it for submission to a Government Department or adopt it until the Council has informed the Leader of its objections and allowed him/her time to respond. It may however make an in principle decision.
- (b) If the Council informs the Leader of an objection it shall also instruct the Cabinet to reconsider the draft plan or strategy and specify a date by which the Leader may submit a response to the Chief Executive.

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That date must be at least five working days from the date when the Leader receives the instruction to reconsider.

- (c) If the Leader does not make a response within the time specified then the in principle decision takes effect automatically.
- (d) When the Cabinet reconsiders the plan it may:
 - (i) accept the Council's objections. In that case no further action is required;
 - (ii) make amendments to the draft plan or strategy. In that case the Leader must submit any revised draft to the Chief Executive for consideration by the Council together with the Cabinet's reason for those amendments; or
 - (iii) disagree with the Council's objections. In that case the Leader must inform the Chief Executive that the Cabinet disagrees with the Council's objections and explain why.
- (e) If the Leader submits a revised draft of the plan or strategy or if he/she informs the Chief Executive that the Cabinet disagrees with the Council's objections then a further Council meeting must be arranged within seven working days. In that case the Council must consider the submissions made by the Leader on behalf of the Cabinet before adopting, amending or approving the plan or strategy. The Council may reach a decision based on a simple majority of votes cast.

4. Decisions outside the budget or policy framework

- (a) Any person or body exercising executive functions must normally act within the budget and policy framework. A decision is outside the budget and policy framework if it is contrary to the policy framework set out in Article 4 of the Constitution or contrary to or not wholly in accordance with the budget as defined in Article 4
- (b) Urgent decisions outside the budget or policy framework may be made in the circumstances described in paragraph 5 below.
- (c) Virement will be possible to the extent described in the Council's Financial Procedure Rules.
- (d) In any other circumstances if a person or body exercising executive functions wishes to make a decision which is outside the budget or policy framework, then that decision may only be taken by the Council. It is the duty of the person or body who wishes to make the decision to refer it to Council.
- (e) In any case if a person or body wishes to make a decision which appears to be outside the budget or policy framework they shall take

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advice from the Monitoring Officer and/or the Chief Financial Officer. Those officers shall advise as to whether the proposed decision would in fact 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. The only exception to this is if the decision is a matter of urgency. In that case the provisions in paragraph 6 (urgent decisions outside the budget and policy framework) shall apply.

6. Urgent decisions outside the budget or policy framework

This procedure covers decisions contrary to the policy framework and contrary to or not wholly in accordance with the budget.

- (a) Any person or body discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
 - (i) if it is not practical to convene a quorate meeting of the full Council; and
 - (ii) if the Chair and Vice Chair of the Coordinating Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council must be noted on the record of the decision. The consent of the Chair and Vice Chair of the Coordinating Committee to the decision being taken as a matter of urgency must also be noted on that record. In the absence of the Chair and Vice Chair of the Coordinating Committee the consent of the Chair and Vice Chair of a Policy and Performance Committee whose terms of reference would allow it to scrutinise the proposed decision shall suffice. In his or her absence the consent of the Mayor 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. Virement

The Council's Financial Procedure Rules set out procedures and limitations on virement within budget heads

7. In-year changes to policy framework

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All decisions in relation to executive functions must be in line with the policy framework. Only the Council can change any policy or strategy which is part of the framework except that the Cabinet may make changes:

- (a) to give effect to a ministerial requirement in relation to any plan or strategy submitted to him for approval;
- (b) if so authorised by the Council when approving or adopting the plan or strategy.
- (c) Any decisions subject to the provisions of paragraph 5 above.

8. Call-in of decisions outside the budget or policy framework

- (a) Where the Coordinating Committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Financial Officer.
- (b) In respect of functions, which are the Executive functions, the Monitoring Officer's report and/or Chief Financial Officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Coordinating Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Financial Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Coordinating Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 14 days of the request by the Coordinating Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial Officer. The Council may:
 - (i) endorse a decision or proposal of the Cabinet decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or

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

Overview and Scrutiny Procedure Rules

(To be agreed by the Co-ordinating Committee)

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Chapter 3 – CONTRACT PROCEDURE RULES

**(Awaiting views of Audit and Risk Management
Committee – 15 April 2013)**

Officer Employment Procedure Rules

1. Recruitment and appointment

(a) Declarations

- (i) The Council will draw up a statement requiring any candidates for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council; or of the partner of such persons.
- (ii) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

(b) Seeking support for appointment

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) No Councillor will seek support for any person for any appointment with the Council.
- (iii) Nothing in paragraphs (i) and (ii) above will preclude a councillor from giving a written reference for a candidate for submission with an application form.

2. Recruitment of Head of Paid Service and Chief Officers

Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:-

(a) draw up a statement specifying:-

- (i) the duties of the officer concerned; and
- (ii) any qualifications or qualities to be sought in the person to be appointed;

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- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

3. **Appointment of Head of Paid Service**

The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a committee or sub-committee of the Council. That committee or sub-committee must include at least one member of the Executive.

4. **Appointment of Chief Officers and Deputy Chief Officers**

- (a) Where a committee is discharging on behalf of the Authority the appointment of a Chief or Deputy Chief Officer as defined below, it must include at least one member of the Executive
- (b) For the purposes of sub-paragraph 4(a) above, Chief Officer means the following posts:

Chief Executive/Head of Paid Service
Deputy Chief Executive/Director of Corporate Services
Director of Finance
Director of Adult Social Services
Director of Children's Services
Director of Regeneration
Director of Technical Services
Director of Law, HR and Asset Management

- (c) An offer of appointment as a Chief Officer or as a Deputy Chief Officer must not be made until Head of Legal and Member Services has notified every member of the Cabinet of
 - (i) the name of the person to whom the offer is to be made;
 - (ii) any other particulars relevant to the appointment;
 - (iii) the period within which any objection to the making of the offer is to be made by the Executive Leader on behalf of the Executive to Head of Legal and Member Services;and either
 - (iv) the Executive Leader has within the period specified in the notice under sub-paragraph (c)(iii) notified Head of Legal and Member Services that neither he/she nor any

other member of the Executive has any objection to the appointment; or

- (v) the objection has been received by Head of Legal and Member Services within the period from the Executive Leader; and the appointing committee is satisfied that any objection received from the Executive Leader within that period is not material or is not well-founded.

5. Other appointments

- (a) **Officers below Deputy Chief Officer** - Appointments of officers below Deputy Chief Officer, other than assistants to political groups, 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 shall be made in accordance with the wishes of that political group.

6. Disciplinary action

- (a) No disciplinary action in respect of the Authority's Head of Paid Service, its Monitoring Officer or its Chief Finance Officer, except action described in paragraph 6(b) below, may be taken by the Authority or by a committee/sub-committee or any other person acting on behalf of the Authority, other than in accordance with a recommendation in a report made by a designated independent person.

[Explanatory Note: A designated independent person is a person appointed in accordance with Regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001 (investigation of alleged misconduct). His or her role is to prepare a report before any conclusion on disciplinary action is reached.]

- (b) The action mentioned in Paragraph 6(a) is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.

7. Disciplinary action and dismissal of, and disciplinary action against, chief officers and deputy chief officers

- (a) Councillors will only be involved in disciplinary action against the Head of Paid Service, Chief Officers and Deputy Chief Officers where such involvement is necessary for any investigation or

inquiry into alleged misconduct through the Council's disciplinary, capability and related procedures.

- (b) Except as outlined 7(a) above, the Head of Paid Service or an officer nominated by him/her will discharge the functions of dismissal of, and taking disciplinary action against, Chief Officers and Deputy Chief Officers.
- (c) Notice of dismissal of the Head of Paid Service, or any Chief Officer or Deputy Chief Officer must not be given by the dismitter, being the Committee or officer discharging the function of dismissal, until
 - (i) the dismitter has notified the Chief Executive of the name of the person whom the dismitter wishes to dismiss or any other particulars which the dismitter considers are relevant to the dismissal;
 - (ii) the Chief Executive has notified every member of the Executive of the Authority of
 - (a) the name of the person whom the dismitter wishes to dismiss;
 - (b) any other particulars relevant to the dismissal which the dismitter has notified to the Chief Executive; and
 - (c) the period within which any objection to the dismissal is to be made by the Executive Leader on behalf of the Executive, to the Chief Executive; and
 - (iii) either
 - (a) the Executive Leader has, within the in the period specified in the notice under sub-paragraph (ii)(c) above, notified the dismitter that neither he/she nor any other member of the Executive has any objection to the dismissal;
 - (b) the Chief Executive has notified the dismitter that no objection was received by him/her within that period from the Executive Leader; or
 - (c) the dismitter is satisfied that any objection from the Executive Leader within that period is not material or is not well-founded.

8. Dismissal of and disciplinary action against other officers

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Councillors will not be involved in the dismissal of any officer, or the taking of any disciplinary action against officers below Deputy Chief Officer.

9. Appeals

Nothing in these Officer Employment Procedure Rules shall prevent a member from serving as a member of any committee or sub-committee established by the Authority to consider an appeal by

- (a) another person, against any decision relating to the appointment of that other person as a member of staff of the Authority; or
- (b) a member of the staff of the Authority against any decision relating to the dismissal of or taking of disciplinary action against that member of staff.

WIRRAL COUNCIL

MEMBERS' CODE OF CONDUCT

Introduction

The Localism Act 2011 requires the Council to adopt a Members' Code of Conduct with effect from 1 July 2012.

You are a representative of this Council and the public will view you as such therefore your actions impact on how the Council as a whole is viewed and your actions can have both positive and negative impacts on the Council.

This Code is based upon the "Nolan Principals-the seven principles of public life" which are set out at Schedule 1.

Interpretation

In this Code:-

"Meeting" means any meeting of:

- (a) the Council;
- (b) the executive of the Council;
- (c) any of the Council's or its executive's committees, sub-committees, joint committees or area committees;

whether or not the press and public are excluded from the meeting in question.

"Member" includes an appointed Member and Co-Opted Member.

General Obligations

1. When acting in your role as a Member of the Council:
 - 1.1 **DO** treat others with respect;
 - 1.2 **DO NOT** conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct of Members;
 - 1.3 **DO NOT** 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, except where-
 - (i) you have the consent of a person authorised to give it;

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- (ii) you are 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-
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the authority; and
 - (c) you have consulted the Monitoring Officer prior to its release.

1.4 **DO NOT** prevent another person from gaining access to information to which that person is entitled by law.

2. When using or authorising the use by others of the resources of the authority-

2.1. **DO** act in accordance with the Council's reasonable requirements including the requirements of the Council's ICT policy and the policies (attached to the Council's Constitution), copies of which have been provided to you and which you are deemed to have read;

2.2. **DO** make sure that such resources are not used improperly for political purposes (including party political purposes); and

2.3. **DO** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 (as amended).

Interests

3. As a public figure, your public role may, at times, overlap with your personal and/or professional life and interests however when performing your public role as a member, **DO** act solely in terms of the public interest and **DO NOT** act in a manner to gain financial or other material benefits for yourself, your family, your friends, your employer or in relation to your business interests.

4. You are required to register "pecuniary and other interests" (these will be laid out in Regulations subject to these not being sensitive). Failure to declare or register a pecuniary interest will be a criminal offence if this is done without a reasonable excuse. If you knowingly or recklessly

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provide false or misleading information about a pecuniary interest this will also be a criminal offence.

You are required to update your register of interests within 28 days of the date a disclosable pecuniary and other registerable interest arises.

5. Whilst there is no statutory requirement for you to declare or register any gifts or hospitality you receive (or benefit from) in your role as Councillor, you are required by the Council to declare or register any such gift or hospitality which has (or is estimated to have) a value in excess of twenty five pounds (£25.00). (This requirement is however is subject to change by future Regulations).

Disclosure and participation

6. At a meeting where such issues arise, **DO** declare any personal and/or professional interests relating to your public duties and **DO** take steps to resolve any conflicts arising in a way that protects the public interest.
7. Certain types of decisions, including those relating to a permission, licence, consent or registration for yourself, your friends, your family members, your employer or your business interests, are so closely tied to your personal and/or professional life that your ability to make a decision in an impartial manner in your role as a member may be called into question and in turn raise issues about the validity of the decision of the authority. **DO NOT** become involved in these decisions any more than a member of the public in the same personal and/or professional position as yourself is able to be and **DO NOT** vote in relation to such matters. (Further clarification is provided in Schedule 2 of this Code).
8. **DO NOT** improperly use knowledge gained solely as a result of your role as a member for the advancement of yourself, your friends, your family members, your employer or your business interests.
9. Where you disclose a disclosable pecuniary interest, you must withdraw from the meeting room, including from the public gallery, during the whole consideration of any item of business in which you have an interest, except where you are permitted to remain as a result of a grant of a dispensation.

Pre-determination or bias

10. 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 political role as member, however **DO NOT** place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

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11. When making a decision, **DO** consider the matter with an open mind and on the facts before the meeting at which the decision is to be taken.

Interests arising in relation to Policy and Performance Committees (subject to Localism Act provisions)

12. In relation to any business before an Policy and Performance Committee of the Council (or of a sub-committee of such a committee) where-
 - 12.1 that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
 - 12.2 at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph 11.1 and you were present when that decision was made or action was taken; or
 - 12.3 that business relates to a decision made (whether implemented or not) or action taken by you (whether by virtue of the Authority's Constitution or under delegated authority from the Leader):

You may attend a meeting of the Policy and Performance Committees of the Council or of a sub committees of such a committee but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purposes, whether under a statutory right or otherwise.

THE SEVEN PRINCIPLES OF PUBLIC LIFE

SELFLESSNESS

Holders of the public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY

Holders of the public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP

Holders of public office should promote and support these principles by leadership and example.

Where the decision referred to in Clause 7 above relates to one of the functions of the authority set out below, and the condition which follows that function does not apply to you when making that decision, you may participate in the decision:

- (i) housing, where you are a tenant of your authority *unless* those functions relate particularly to your tenancy or lease;
- (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or a parent governor of a school *unless* it relates particularly to the school which the child attends,
- (iii) statutory sick pay under Part XI of the School Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay;
- (iv) an allowance, payment or indemnity given to members;
- (v) any ceremonial honour given to members; and
- (vi) setting council tax or a precept under the Local Government Finance Act 1992

Officers' Code of Conduct

Honesty, Integrity, Impartiality and Objectivity

1. An employee must perform his/her duties with honesty, integrity, impartiality and objectivity.

Accountability

2. An employee must be accountable to the authority for his/her actions.

Respect for Others

3. An employee must –
 - a) treat others with respect;
 - b) not discriminate unlawfully against any person; and
 - c) treat members and co-opted members of the authority professionally.

Stewardship

4. An employee must –
 - a) use any public funds entrusted to or handled by him/her in a responsible and lawful manner and for purposes consistent with and directed to the objectives and targets of the post; and
 - b) not make personal use of property or facilities of the authority unless properly authorised to do so.

Personal Interests

5. An employee must not in his/her official or personal capacity –
 - a) allow his/her personal interests to conflict with the authority's requirements; or
 - b) use his/her position improperly to confer an advantage or disadvantage on any person; or
 - c) do anything which would affect his/her ability, or the public's confidence in his/her ability, to do their job.

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Registration of Interests

6. An employee must comply with any requirements of the authority –
 - a) to register or declare interests; and
 - b) to declare hospitality, benefits or gifts received as a consequence of his/her employment.

And the Local Authority shall determine the manner of registration and declaration of interests and make employees aware of any changes from time to time. Reporting Procedures

7. An employee must not treat another employee of the authority less favourably than other employees by reason that that other employee has done, intends to do, or is suspected of doing anything under or by reference to any procedure the authority has for reporting misconduct. Some employees, by virtue of their membership of a professional body, may have a specific duty to report misconduct.

Openness

8. An employee must –
 - a) not disclose information given to him/her in confidence by anyone, or information acquired which he/she believes is of a confidential nature, without the consent of a person authorised to give it, or unless he/she is by law to do so; and
 - b) not prevent another person from gaining access to information to which that person is entitled by law.

Appointment of staff

9. (1) An employee must not be involved in the appointment of or any other decision relating to the discipline, promotion, pay or conditions of another employee, or prospective employee, who is a relative or friend.

(2) In this paragraph –
 - a) “relative” means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and
 - b) “partner” in sub-paragraph (a) above means a member of a couple who live together.

Duty of Trust

10. An employee must at all times act in accordance with the trust that the public is entitled to place in him/her.

Use of Internet and Electronic Mail Facilities

11. An employee must comply with the code of practice adopted by the Council for the acceptable use of computer facilities, including electronic mail and the internet.

Protocol on Member/Officer Relations

(Incorporating amendments approved by the local Democracy Working Party on 23 September 2002)

1. Role and Purpose

The purpose of this protocol is to guide Members and Officers in their relations with each other and outline some of the appropriate conventions within the Council. The document cannot cover every eventuality nor is it prescriptive. Its intention is to offer guidance on some of the issues which commonly arise.

2. Definition of the Role and Officers and Members

This protocol seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The aim of these codes is to enhance and maintain the integrity of local government and they therefore demand very high standards of personal conduct.

Both Councillors and Officers are servants of the public. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are employed by, and are responsible to the Council. Their job is to give advice to Councillors and the Council and to carry out the Council's work under the direction and control of the Council, its Cabinet, Committees and Sub-Committees.

For the effective conduct of Council business, there should be mutual respect and courtesy in all meetings and contacts (both formal and informal) between Members and Officers. It is important that behaviour which could be viewed as conferring an advantage or disadvantage is avoided, as should close personal familiarity between Members and Officers, which could undermine public confidence in the Council. It is acknowledged that some close relationships may inevitably develop, and if so these must be openly declared and, where possible, Members and Officers who have close personal relationships should avoid working relations where they would come into regular contact on projects and in the day-to-day business of the Council.

3. Officer Advice to Party Groups

Officers cannot be instructed to attend party political group meetings, or write reports for such meetings.

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Any requests for advice or attendance shall be directed through the Group Leaders or Chairs/Spokespersons for the relevant Committee or Cabinet member concerned. The request shall be made to the relevant Chief Officer, or in his/her absence to their Deputy or the next appropriate lower tier officer. An officer accepting an invitation to one group or individual shall not decline an invitation to advise another Group or individual on the same subject, although the Officer is not obliged to offer to advise another group on the same subject. Any request received and advice given shall be the subject of strict confidentiality, unless agreed otherwise.

4. Briefings for Cabinets and Committees

The principles outlined above do not obviate the necessity for regular contact on matters affecting the Council between Senior Officers and the Leadership of political groups, and on matters affecting Cabinet members' responsibilities or those of Committee Chairs.

It is recognised that groups may wish to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body. Political Groups may at their own discretion decide to engage jointly in such deliberations. Officers may properly be called upon to support and contribute to such deliberations, provided they maintain a stance of political neutrality. Support includes briefings for Cabinet and committees, and briefings for Members related to their individual role, e.g. cabinet member or scrutiny chair. Officers should be asked to give advice on Council business only, and not on matters which are of a party political nature. Such support and advice is available to all political groups.

Usually, only Chief Officers may be asked to provide the support outlined above in 3 and 4. Requests for attendance should be made in sufficient time to allow proper preparation. Due consideration shall be given to the timing of meetings to avoid onerous demands being made. The time spent advising a group or individual shall be reasonable, given the demands on the time of all concerned.

5. Support Services for Members

The role of Officers is only to assist Members in discharging their role as Members of the Council for Council business and in their role as advocates for local communities. Officers should not be used in connection with party political campaigning or for private purposes. Council resources (e.g. member services, stationery, photocopying) may only be used for Council business or where such use is conducive or incidental to that role.

6. Members' Access to Information and Council Documents

All Political Groups shall be equally entitled, if they so choose to request and receive background information to decisions, including essential financial information. All such requests and the replies, shall remain confidential to that Party, although Parties may at their discretion choose to share that information between Political Groups. Members are reminded of the need to consider whether such information is likely to fall within the categories of exempt information as defined in the Access to Information Procedure Rules, and to treat it accordingly. All advice from political advisors shall remain confidential. Release of information to Members will be subject to the Data Protection Act.

The common law right of Members is based on the principle that any Member has "prima facie" (or "on the face of it") right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable him/her to properly perform their duties as a Member of the Council. This is referred to as the "need to know" principle.

The exercise of this common law right depends upon the Member's ability to demonstrate that he/she has the necessary "need to know". A Member has no right to a "roving commission" to go and examine documents of the Council, and what the law terms "mere curiosity" is not sufficient. The question must initially be determined by the particular Chief Officer whose department holds the documents in question, with advice from Head of Legal and Member Services .

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, possibly in writing.

Draft Cabinet reports and working papers will be considered as work in progress and as such may not be requested under the Access to Information Procedure Rules.

7. Reports

Chief Officers may initiate reports on any matter where they believe the Council, Cabinet, committee or sub-committee should make a decision or should be informed. Where such a report affects another service, the appropriate Chief Officer must be consulted. The appropriate Cabinet member shall be consulted prior to the publication of an Executive report which concerns their portfolio. Reports shall communicate all relevant factual information and professional opinions, together with appropriate recommendations. The Cabinet Member may make suggestions as to the content and timing of the report, however the final word on these matters will

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be that of the Chief Officer *in whose name the report is presented*, even if the Cabinet Member is unhappy with the outcome.

In exceptional circumstances, the Cabinet Member may submit their own report for consideration alongside that of the Chief Officer.

8. Policy and Performance Committee

Policy and Performance Committees may require Officers and Members to attend and provide any information required to answer questions (other than those which he or she would be entitled to refuse to answer in a court of law). Detailed provisions are contained within the overview and Scrutiny Procedure Rules.

9. Ward Councillors

Ward Councillors (and, where appropriate, councillors for neighbouring wards where there is a clear and obvious connection) should be kept informed and consulted on relevant matters affecting their Ward, e.g. planning, highways, licensing and other relevant matters. In the case of public meetings in a particular locality, Ward Councillors will normally be invited to attend and can expect to be consulted on any form of consultation exercise on local issues.

So far as decision making is concerned, Members remain accountable to the whole electorate of the Borough, and must make a personal decision on matters which come before them, balancing the interests of the electorate as a whole. Including those members of the public who did not vote for them.

10. Correspondence

Where an Officer copies correspondence addressed from one Member to another, it should be made clear to the originator and should not be sent to any Member of another Group without the originator's consent. Members' correspondence with Chief Officers should not be copied to Cabinet Members or Policy and Performance Committee Chairs unless the originating Member consents.

Official letters from the Council should normally be sent out in the name of the appropriate Officer, rather than a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) to address correspondence in the name of the Member, but this is the exception rather than the rule. Letters which create obligations or give instructions should not be sent out in the name of a Member.

Any Members who receive correspondence in their capacity as Executive members shall respond to the correspondence in their official capacity only. Such correspondence shall be copied to the Leader of the Council as Chair of Cabinet, except when doing so would constitute a breach of professional confidence.

11. Press Releases

Members are reminded of the need to comply with the requirements of the Local Government Act 1986 and the Code of Recommended Practice on Local Authority Publicity which prohibits local councils from publishing any material which appears to be designed to reflect support for a political party. Council publicity should not be used as a means to publicise individual Councillors, except where they are acting to represent the Council as a whole.

12. Ceremonial Events

Ceremonial events would normally be attended by the Mayor or Deputy Mayor, unless they relate specifically to initiatives led by the Cabinet or in particular committee, in which case the Cabinet Member, Chair or Vice-Chair of that Committee would attend.

In addition, local Members should be informed and, where possible and appropriate, invited to participate.

13. Complaints

Where a Member's conduct is considered inappropriate, contact should be made in the first instance with the Chief Executive or Monitoring Officer. If it is a matter of party discipline, then the matter will be investigated by the party itself, otherwise such matters will be investigated by the Chief Executive or Monitoring Officer or a person duly authorised by him/her. In serious cases, or case where it appears that a Member may have breached the Code of Conduct, a written complaint may be made to the Standards Board for England.

Where an Officer's conduct is considered inappropriate, complaints should be directed to the relevant Chief Officer or Chief Executive for investigation.

POLICY ON UNREASONABLY PERSISTENT COMPLAINANTS

The Council is committed to dealing with all complaints fairly and impartially and to providing a high quality service to those who make them. As part of this service it does not normally limit the contact complainants have with its offices and/or officers.

However, there are a small number of complainants who because of the frequency of their contact with the Council's offices and/or officers, hinder our consideration of their, or other people's complaints. We refer to such complainants as 'unreasonably persistent complainants' and, exceptionally, we will take action to limit their contact with our offices and/or officers.

The decision to restrict access to our offices and/or officers will be taken at Chief Officer level and will normally follow a prior warning to the complainant. Any restrictions imposed will be appropriate and proportionate. The options we are most likely to consider are:-

- requesting contact in a particular form (example, letters only);
- requiring contact to take place with a named officer;
- restricting telephone calls to specified days and times; and/or
- asking the complainant to enter into an agreement about their future contacts with us.

In all cases where we decide to treat someone as an unreasonably persistent complainant we will write to tell the complainant why we believe his or her behaviour falls into that category, what action we are taking and the duration of that action. We will also tell them how they can challenge the decision if they disagree with it.

Where a complainant whose case is closed persists in communicating with us about it, we may decide to terminate contact with that complainant. In such cases, we will read all correspondence from that complainant but unless there is fresh evidence which affects our decision on the complaint we will simply acknowledge it or place it on the file with no acknowledgment.

New complaints from people who have come under the unreasonably persistent complaints policy will be treated on their merits.

All Allowance references will need to be checked by Dem Services.

MEMBERS' ROLE PROFILES (to be revised)

The role descriptors set out below are not exhaustive and aim to describe the outline responsibilities of each role, rather than being an extensive description of all functions and responsibilities.

A. Ward Member

66 Members of the Council, are elected by a ward.

Role

To be an advocate of and for the interests of the ward, individual electors, community groups and other stakeholders. To represent the interests of those individuals and groups to the Council, and deal with enquiries and representations from constituents.

Duties

- i. Individually, and with other representatives of the same and other wards, to effectively represent the interests of the ward, individual and groups of constituents in the policy formulation and decision making processes of the Council and to other local and national bodies.
- ii. To lead and actively encourage community involvement and engagement in consultation in policy formulation and decision making by the Council.
- iii. To respond to constituents enquiries and representations fairly and impartially.
- iv. To promote good community relations and take and encourage steps to eliminate unlawful discriminatory practices and attitudes within and outside the Council.
- v. To act in accordance with the Members Code of Conduct and the Protocol on Member/Employee relations.
- vi. To work individually and collectively in the interests of the ward and the Borough.
- vii. To support the Corporate Parenting Strategy. in ensuring outcomes fulfil the Council's responsibilities towards children in care. **[This may not be the correct terms for Wirral, we may want to add to this].**

Entitlement

- i. All Members receive a basic allowance under the Scheme of Members Allowances which is detailed in Part 6(ii) of this Constitution, in part,

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remuneration for time and expense spent on these duties. These duties will not normally give rise to recoverable subsistence or travel expenses.

ii. Mandatory and further specialised training is provided for Members who have a duty to ensure that they are well informed and have the skills to enable them to undertake these responsibilities.

iii. The extensive legal and constitutional provisions which regulate Members rights to attend meetings and access information necessary to the discharge of their duties is set out in the Access to Information Procedure Rules in the Constitution.

B. Member of Full Council

All 66 Members of the Council are Members of the Full Council. There are restrictions on the Mayor and Executive Members participating in the Overview and Scrutiny and Standards Committee functions of the Full Council.

Role

Collectively, to determine the Budget and Policy Framework of the Council and to effectively discharge the functions which are the Responsibility of the Full Council under Part 3 of the Constitution.

Duties

i. Participate in the setting by the Full Council, following proposals from the Executive, of the Budget and Policy Framework of the Council, following the procedures in the Budget and Policy Framework Procedure Rules.

ii. Collectively, as a Full Council, to directly discharge or arrange for the discharge of the functions set out in Part 3 of the Constitution which are the responsibility of the Full Council. This may include the delegation of functions to Committees, Sub-Committees or Officers and/or to joint arrangements with other Councils.

iii. To be appointed by the Full Council as Chair, Vice Chair or Member of such Committees, Sub-Committees or joint arrangements and collectively with other Members of those bodies directly discharge or arrange for the discharge of functions delegated to them.

iv. To promote the economic, social and environmental well-being of the Borough and to have regard to the [**Corporate Strategy**] when doing so.

v. When participating in decision making, to ensure that decisions are lawful, reasonable, proportionate and contribute to the vision, mission, core values, strategic objectives and deliver and are within the Policy and Budget Framework of the Council. To also consider how each decision can assist in the reduction of crime and the elimination of inequality and discrimination.

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vi. When participating in decisions which have a direct impact on the rights and freedoms of individuals, ensure that proper processes are followed and that obligations under the principles of natural justice and human rights legislation are met.

vii. To be available to be appointed to outside bodies and;

- Where appointed as the Council's representative, to act as directed by, or in the interests of the Council,
- Where appointed as a Director, Trustee or other capacity bearing personal liability, to act in accordance with the law and in accordance with the interests of the outside body,
- Where appointed as an observer or other non decision making capacity, to represent the Council without becoming involved in decision making by the outside body.

viii. To participate in [**Value for Money/Service Reviews what are Wirral requirements?**] as required by the Council.

ix. To act in accordance with the Members Code of Conduct and the Protocol on Member/Employee relations.

Entitlement

i. The basic allowance includes recognition of the work undertaken by Members in relation to Full Council meetings.

ii. The detail of how Members can participate in debates, submit motions and vote are set out in the Council Procedure Rules.

ii. Mandatory and further specialised training is provided for Members who have a duty to ensure that they are well informed and have the skills to enable them to undertake these responsibilities

C. Chairman of the Council/Mayor

It is the duty of the annual meeting of the Full Council to elect one of its Members to be Chairman of the Council. The Chairman is entitled to the title of Mayor and is entitled, on appropriate ceremonial occasions to bear the title of Civic Mayor.

Role

The Mayor of the Council has a formal responsibility to chair meetings of the Full Council and an historic traditional ceremonial role. The Mayor of the Council is the First Citizen of the Borough and is entitled to take precedence at civil events. [**Is this the case in Wirral?**]

Duties

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- i. To chair meetings of the Full Council neutrally preserving order, ensuring that the Council Procedure Rules are followed and allowing different opinions to be fully and fairly presented and debated.
- ii. The Mayor will attend and host such civic and ceremonial functions as the Council and the Mayor shall determine. **[Do we want to say something else here?]**
- iii. To determine any questions about the interpretation of the Constitution.
- iv. To respond to constituents enquires and representations fairly and impartially.
- v. To discharge procedural functions under the Constitution.
- vi. To act in accordance with the Members Code of Conduct and the Protocol on Member/Employee relations.,

Entitlement

- i. The Chairman of the Council is entitled to bear the title of Mayor.
- ii. The Mayor receives support in managing civic and ceremonial duties from the Office of the Mayor of the Council.
- iii. Mandatory and further specialised training is provided for Members who have a duty to ensure that they are well informed and have the skills to enable them to undertake these responsibilities.

D. The Leader

The Leader is elected by all the members of the council at the annual general meeting every year.

Role

The Leader has responsibility to give political leadership and direction to the Council.

Duties

- i. To appoint between 2 and 9 cabinet Members and determine their portfolios
- ii. To appoint a Deputy Leader
- iii. To determine a scheme of delegation
- iv. To call cabinet meetings and determine the agenda

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v. To take personal responsibility for the delivery, or the arrangements for the delivery through delegations, of the Budget and Policy Framework and the functions of the Council which are the responsibility of the Executive.

vi. To work closely and constructively with Overview & Scrutiny Members in leading the development of the Budget and Policy Framework, in reviews of policy and in the scrutiny of decision making.

vii. To record and make publicly available any decision taken personally

viii. To attend, answer questions, and lead debates at meetings of the Full Council

ix. To attend meetings of Overview & Scrutiny Management Committee and Sub Committees when requested to do so.

x. To lead the Council and the Borough in reducing crime and eliminating inequality of opportunity and unlawful discrimination. **[Do we want to add something else].**

xi. To act in accordance with the Members Code of Conduct and the Protocol on Member/Employee Relations.

Entitlement

i. The Leader receives a special responsibility allowance and, subject to the scheme of allowances will receive subsistence and travel expenses detailed in Part **xx** of this Constitution.

ii. The **[Is there special support for cabinet]** supports the Elected Leader and the Cabinet.

iii. The Leader is entitled to attend, speak and vote at meetings of the Council and its Committees (except Overview and Scrutiny and Standards Committees).

iv. The Leader has the right to information ...**[Add words based on case law etc].**

v. Mandatory and further specialised training is provided for Members who have a duty to ensure that they are well informed and have the skills to enable them to undertake these responsibilities.

E. Cabinet Members

Between 2 and 9 Cabinet Members are appointed by the Leader.

Role

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The Cabinet have collective and individual responsibility to propose the Budget and Policy Framework to the Council, and to discharge or arrange for the discharge of those functions which are the responsibility of the Executive under Part 3 of the Constitution.

Cabinet Members have a personal responsibility for taking decisions in relation to, and discharging those executive functions delegated to them by the Leader. The delegations to Executive Members are known as their portfolio.

Duties

i. Collectively and individually to propose the Budget and Policy Framework, following consultation with Overview and Scrutiny Members and others as appropriate.

ii. Personally to take decisions and discharge directly, or arrange for the discharge, of those parts of the Executive's functions which are delegated to the Executive Member by the Leader as part of their portfolio. To record and make publicly available any decision taken personally.

iv. To be available to be appointed by the Executive to outside bodies; and

- Where appointed as the Council's representative, or delegate, to act as directed by, or in the interests of the Council,
- Where appointed as a Director, Trustee or other capacity bearing personal liability, to act in accordance with the relevant law and in accordance with the interests of the outside body,
- Where appointed as an observer or other non decision making capacity to represent the Council without becoming involved in decision making by the outside body.

v. To assist the Leader in driving efforts of the Council and the Borough to reducing crime and eliminate inequality of opportunity and discrimination [**or whatever we wish to put**].

vi. To undertake Ward and Full Council Members duties.

vii. To act in accordance with the Members Code of Conduct and the Protocol on Member/Employee relations.

Entitlement

i. All Cabinet Members, as Members of Full Council, receive a basic allowance. In addition to this basic allowance, Cabinet Members also receive a special responsibility allowance detailed in Part 6(ii) of this Constitution.

ii. [**Member Support/Executive Office what are our arrangements**] provide secretarial and administrative support for Cabinet Members. Support is also provided by Strategic Directors, Directors and Heads of Service.

iii. Cabinet Members have the same rights to information as the leader of the council.

iv. Mandatory and further specialised training is provided for Members who have a duty to ensure that they are well informed and have the skills to enable them to undertake these responsibilities

F. Overview and Scrutiny Members

Overview and Scrutiny Members are the Chairs, Vice Chairs and Members of Overview and Scrutiny Management Committee, Standing and Ad Hoc Overview and Scrutiny Panels.

Members of the Executive cannot be Overview and Scrutiny Members.

There may be co-opted Overview and Scrutiny Members, including church and parent governor representatives where education functions are concerned and trade union representatives.

Role

With other Overview and Scrutiny Members to effectively and efficiently discharge the Council's Overview and Scrutiny Function under s21 Local Government Act 2000, including the management of resources allocated to the discharge of that function.

Duties

i. To work closely and constructively with the Leader and Cabinet Members, participate in the formulation of the Budget and Policy Framework by responding to proposals from the Executive within timescales set by the Executive.

ii. Drive and participate in programmes of policy review, both at the request of the Full Council and of the Executive, but equally at the initiative of Overview and Scrutiny Members. The programme of review to include consideration of anything which is of interest to the area or its inhabitants, even where the issue is not the responsibility of the Council.

iii. To effectively discharge its functions in respect of the Overview and Scrutiny of relevant partnership bodies and where there is a duty on partnership bodies to co-operate with Overview and Scrutiny e.g. authorities responsible for crime and disorder strategies, the NHS and relevant partners identified within the Local Strategic Partnership.

iv. With other Overview and Scrutiny Members, to subject decisions of the Executive (including the Leader, Executive Committees, individual Cabinet Members and Officers taking key decisions) to appropriate but rigorous

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scrutiny. To evaluate and question executive decision making in order to hold the Executive to account.

v. As an individual, and in collaboration with other Overview and Scrutiny Members, to ensure that every decision by or on behalf of the Leader (including Officers taking decisions) is subject to sufficient and timely scrutiny. To participate in a decision to trigger the call in procedure where, in exceptional circumstances, it is required.

vi. To ensure that the work of Overview and Scrutiny Members is available to the Executive and the Full Council, where appropriate, through the submission of reports and clear, concise recommendations.

vii. In undertaking these duties to apply the Constitution of the Council, and particularly the Overview and Scrutiny Procedure Rules, the Access to Information Rules and the Budget and

viii. Policy Framework Procedure Rules. To undertake additional functions such as required by the Council or by statute.

ix. To respond to constituents enquiries and representations fairly and impartially.

x. To declare any personal interest in issues being scrutinised and to take any action, including withdrawal from the Committee or Sub-Committee required to maintain impartiality.

xi. To undertake Overview and Scrutiny functions in a constructive and non-partisan way.

xii. To act in accordance with the Members Code of Conduct and the Protocol on Member/Employee relations.

Entitlement

i. The Chair of Overview and Scrutiny Management Committee receives a special responsibility allowance detailed in Part 6(ii) of this Constitution.

ii. The Vice Chair of Overview and Scrutiny Management Committee receives a special responsibility allowance detailed in Part 6(ii) of this Constitution.

iii. The Chairs of Standing Scrutiny Sub Committees receive a special responsibility allowance detailed in Part 6(ii) of this Constitution.

iv. Overview and Scrutiny Members have additional rights to access information of relevance to their areas of responsibility. These rights are set out in the Overview and Scrutiny Procedure Rules.

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v. Mandatory and further specialised training is provided for Members who have a duty to ensure that they are well informed and have the skills to enable them to undertake these responsibilities

G. Area Committee Members

[To be completed]

H. Standards Committee Members

Standards Committee Members are appointed by the Full Council.

The membership comprises **XX** elected Members, **XX** Members (independent of the Council).

Role

The Standards Committee Members collectively have the duties of promoting high standards of conduct by elected and co-opted Members of the Council and assist those Members to achieve those high standards.

Duties

(a) To promote and maintain high standards of conduct by Members and Officers.

(b) To grant dispensations to Councillors and Co-opted Members from requirements relating to interests set out in the members Code of Conduct, where not delegated to the Monitoring Officer.

(c) To hear appeals against decisions of the Monitoring Officer not to grant a dispensation.

(d) To monitor and review the Council's Whistleblowing policy.

(e) To monitor and review protocols for standards of behaviour for Members and Officers.

(f) To monitor and review protocols for Members and Officers on relationships and dealings with outside organisations and individuals.

(g) To monitor and review Member and Officer procedures relating to gifts and hospitality and disclosable pecuniary interests and other interests.

(h) To monitor and review the mandatory training programme for Members and Officers.

(i) To monitor and oversee the response by the Council to complaints to the Ombudsman.

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(j) Dealing with complaints of alleged member misconduct referred to the Monitoring Officer under section 28(6) of the Localism Act 2011.

(k) Granting and supervision of exemptions from posts being designated as politically restricted.

Entitlement

i. Mandatory and further specialised training is provided for Members who have a duty to ensure that they are well informed and have the skills to enable them to undertake these responsibilities.

ii. A special responsibility allowance is paid to the Chair of the Standards Committee, and a co-optee's allowance to Independent Members detailed in Part **XX** of this Constitution.

H. Leaders of Political Groups

It is open to Members who form political groups under the Local Government (Committees and Political Groups) Regulations 1990 to appoint a Leader.

Role

The Leader of a Political Group has one formal role, to be involved in the processes relating to the composition of the group.

Entitlement

i. The Leaders of Political Groups with **XX** or more Members receive a special responsibility allowance detailed in Part 6(ii) of this Constitution.

ii. Each Political Group is provided with an equipped office from which the Leader and other Members can conduct their business.

iii. **[Need to set out rights to information briefings etc].**

Statutory and Guidance References

Local Government Act 2000 (Constitutions) (England) Direction 2000

DETR New Council Constitutions Guidance Chapter 10

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**CODE OF CORPORATE
GOVERNANCE**

**(TO BE UPDATE TO REFLECT NEW CODE
ADOPTED)**

Councillor Call for Action Protocol – A Guide

1. What is the Councillor Call for Action?

- 1.1 The Councillor Call for Action (CCfA) process provides ward Members with a means of escalating matters of ward concern to an Policy and Performance Committee, for possible onwards recommendations to the Council's Cabinet and/or other agencies. **It is very important to note that a CCfA is intended to be a measure of “last resort” and may not be used until all other avenues have been exhausted.** Members are advised to use the *Checklist appended to this Protocol to evidence that all other possible routes have been tried and failed. The CCfA may not be used in relation to individual planning and licensing decisions or where other avenues of appeal exist.
- 1.2 This guide has been prepared to offer assistance to a Councillor who is thinking of pursuing a CCfA and has regard to a best practice guidance booklet published by the Centre for Public Scrutiny and the Improvement and Development Agency.

2. What is CCfA designed to achieve?

- 2.1 CCfA should be seen in the context of wider changes introduced to provide overview and scrutiny with greater powers to work more closely with partners and across organisational boundaries. It will enable Councillors, as the democratic representatives of their communities, to raise issues that it has not been possible to resolve by other means.
- 2.2 CCfA should not be seen in isolation. It is part of a range of measures available to a ward Councillor in support of his or her representative role, including the internal feedback process, petitions, call-in etc.

3. Who can raise a CCfA?

- 3.1 It is open to any Councillor to raise a CCfA at a meeting of one of the Council's Policy and Performance Committees. The Councillor does not have to be a member of the relevant Committee.
- 3.2 A Councillor whose CCfA is listed on an agenda for an Policy and Performance Committee meeting will be invited and expected to attend that meeting to speak to the item. However, in exceptional circumstances, the Councillor concerned can send a substitute. The decision to allow this will be taken by the Monitoring Officer in consultation with the relevant Policy and Performance Committee Chairman and Spokespersons.

*The Checklist will be appended to this Protocol once the Scrutiny Programme Board has considered it at its meeting on 5 January 2009.

4. What can be raised through a CCfA?

4.1 A Councillor who is a member of an Policy and Performance Committee can raise any matter that is within the terms of reference of the Committee. Any Councillor can raise a local government matter with any of the Council's Policy and Performance Committees and in particular, issues relating to the local neighbourhood. A local government matter can relate to the discharge of any function of the Council and, more locally, all or part of the Councillor's ward or any person who lives or works in it. In line with the area focus of Comprehensive Area Assessment and the fact that the Council's duties increasingly impact on other organisations and involve partners within and outside the Local Strategic Partnership, a Councillor can raise any issue that relates to the economic, social and environmental well-being of his or her ward.

5. Is any matter excluded from a CCfA?

5.1 Yes. There are certain exclusions from CCfA. The Policy and Performance Committee may reject any Call for Action if it:

- is not a matter for which the local authority or its partners has a responsibility, or which does not affect the borough
- is defamatory, frivolous or offensive
- is substantially the same as a Councillor Call for Action which has been put to any meeting of the Council in the past 6 months
- is a matter relating to a planning decision
- is a matter relating to a licensing decision
- is a matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or appeal conferred by or under any enactment
- is vexatious, discriminatory or not reasonable* for inclusion on an agenda for discussion at a meeting of an Policy and Performance Committee.

5.2 Although a CCfA can not be raised on a single licensing or planning decision, a CCfA can be raised about licensing and planning decisions and other decisions where there is a right to review or appeal if the CCfA consists of an allegation that the authority responsible has failed to discharge the function or is failing on a systematic basis.

6. What other avenues are available to resolve an issue?

6.1 There is a wide range of both formal and informal avenues available that a Councillor can use to influence, change and resolve problems. These include:

- Motions on the agenda for Council
- Area Forums
- Written and oral questions at Council
- Exercising the right to ask for items to be included on an agenda
- Organising a petition
- Organising a public meeting
- Informal discussions with officers or other Councillors
- Liaison and discussions with Councillors of other authorities e.g Mersey Travel
- Writing to or emailing an officer or an officer of another authority on behalf of a constituent

6.2 It is important to recognise CCfA as a last resort rather than the primary route to getting constituency issues resolved. It would be an unnecessary waste of resources if a Councillor tried to deal with all constituency issues or matters of concern by raising them on an Policy and Performance Committee agenda. A Councillor should try to resolve matters informally or at a local level before considering whether to pursue a CCfA. Advice can be sought from the Monitoring Officer on appropriate courses of action.

6.3 A ward Member requesting a call for action will be asked to demonstrate to the Monitoring Officer that he or she has sought to address the issue through all existing means. The call will not be considered unless the Policy and Performance Committee, whose terms of reference the CCfA falls in, is satisfied that:

- the Councillor has made all reasonable efforts to resolve the matter via dialogue with Council officers and or relevant partners and particularly the Area Forums;
- the issue of concern is a matter in respect of which the Council has a statutory power or duty to deal with which is not precluded by legislation; and
- the issue of concern has a demonstrable impact on a part of or the whole of a Councillor's ward.

6.4 Before a CCfA can be progressed to scrutiny, the Councillor must provide documentation to show that he/she has taken the following steps:

- made the relevant service request / Members' enquiry/letter to relevant other agency
 - raised the issue with the relevant Cabinet Member or senior representative of a partner agency
 - raised the issue of concern at relevant meetings dealing with crime and disorder matters
 - brought the matter to the attention of the Area Forum.
- 6.5 Care should be taken by a Councillor not to offer definitive advice to a constituent about a particular issue which may lead to action or expenditure on the part of the constituent. Councillors are not insured to do so and any subsequent claim by a constituent that the advice was flawed could lead to embarrassment and costs.

7. How will the process work?

7.1 The ward Councillor's role in the consideration of the CCfA, as with any formal Council business, is subject to compliance with the Members' Code of Conduct

7.2 A Councillor wishing to raise a CCfA should contact the Monitoring Officer with the appropriate details not less than ten working days prior to the despatch of an agenda for the Policy and Performance Committee on which the item is to be included. He or she should explain:

- The background to the CCfA
- What action the Councillor has already taken to try to resolve the issue informally
- If the issue is being raised on behalf of a constituent, what action the constituent has taken to try to resolve the matter
- What resolution the Councillor (or constituent) is seeking to achieve
- The decision/recommendation(s) of the Area Forum.

7.3 It is important to recognise that CCfA is not appropriate for an individual complaint, e.g. a complaint by an individual resident about a failure to collect refuse or about an incident in a leisure centre. Avenues for complaint already exist to deal with such matters through the Council's Complaints Procedure. However scrutiny can become involved where it is felt that a series of complaints demonstrates a systematic failure in a particular service.

7.4 On receipt of the request, the Monitoring Officer will obtain any further information thought to be necessary from the Councillor, including any documentation that may be available, and his or her availability to attend the Committee meeting when the CCfA is to be raised. The Monitoring Officer will consult with the Chairman of the relevant Policy and Performance Committee on whether the CCfA can be accepted or whether it should be excluded under the statutory criteria.

- 7.5 In considering whether to include the CCfA on an agenda, regard will be had to any representations made by the Councillor in support of his or her request. The Monitoring Officer, after consultation with the appropriate Chairman and Spokespersons, will consider whether all other avenues have been exhausted (if not he can use his discretion to determine the route the issue raised should now take e.g. Area Forum) or whether a CCfA can now be accepted and, if so, which Committee it should be considered by. If the CCfA is rejected, the Councillor will be notified of the decision and the reason for it.
- 7.6 The relevant Cabinet Member will be invited to attend the Committee meeting at which the CCfA is to be raised, together with a senior officer from the appropriate Department.
- 7.7 When an item is raised at a Committee meeting, the Councillor bringing the CCfA or, in exceptional circumstances the substitute, will be invited to speak to the Committee about the issue and what outcome is being sought. The Committee may:
- Challenge the expected outcome if it feels that this is unreasonable or inappropriate
 - Seek further information from the Councillor bringing the CCfA
 - Invite the Cabinet Member or senior officer to respond to the issues raised by the Councillor
 - Decide to ask the Cabinet Member or senior officer to report back to a future meeting with further information, after investigating the issue raised
 - Decide whether to invite a representative of a partner or other organisation to attend a future meeting if the CCfA relates to an issue that is the responsibility of that organisation
 - Appoint a Panel to investigate the issue further and report back with recommendations
 - Recommend the Cabinet Member or Cabinet to pursue a particular resolution to the CCfA
 - Decide that it would be inappropriate to pursue the matter any further giving reasons
 - Refer it back to the Area Forum setting out the reasons why it has decided on this course of action
- 7.7 If the Committee decides to submit a report and/or recommendations either to the Council or the Cabinet, it will provide the Councillor with a copy.
- 7.8 The decision of the Committee on the CCfA shall be final.

8. *Definitions

- 8.1 Any matter which is vexatious, discriminatory or not reasonable is excluded from CCfA
- 8.2 **'Vexatious'** is defined in guidance to the Freedom of Information Act as 'Deciding whether a request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause'.
- 8.3 Issues around persistency are also implied in this definition. However, a persistent request may be entirely valid where it relates to a systematic problem. A request which some Councillors may regard as vexatious for political reasons may be entirely reasonable.
- 8.4 **'Discriminatory'** is defined in the Equality Act as 'A person ("A") discriminates against another person ("B") for the purposes of this Part if on the grounds of the religion or belief of B or of any other person except A (whether or not it is also A's religion or belief) A treats B less favourably than he treats or would treat others (in cases where there is no material, difference in the relevant circumstances'. The definition can be applied to other forms of discrimination for reasons of sex, disability or race.
- 8.5 **'Not reasonable'** does not mean the same as unreasonable. It is best considered as a qualifier to the word 'vexatious' i.e. a vexatious request is likely to be not reasonable and vice versa.

Petitions Scheme

Types of petition

Petitions can relate to any issue which the Council has powers, or shared delivery responsibilities with our partners. In addition they can relate to an improvement in economic, social or environmental well-being of the authority's area to which any of its partner authorities could contribute.

In order not to duplicate procedures where established processes exist for communities to have their say the following are excluded –

- any matter relating to a planning decision, including about a development plan document or the community infrastructure levy applications under the Licensing Act 2003 and the Gambling Act 2005;
- Petitions received in response to statutory consultation such as school closures, traffic orders, Compulsory Orders etc;
- any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment.

In this scheme there are 2 types of petitions

- Petitions that must be considered by the Council – these must be signed by at least 3,000 people who live in the Borough.
- Ordinary petitions (that just ask for action to be taken) -100 people who live in the Borough.

Submitting a petition

Petitions submitted to the council must include

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take the name and address and signature of any person supporting the petition;
- the contact details of the petition organiser

All petitions whether paper or electronic, will be monitored by the Head of Legal/Member services, in consultation with the Mayor (in the case of a petition to be discussed at the Council) and with the Leader (in the case of the others) and if considered to be vexatious, abusive or otherwise inappropriate will be rejected.

Issues such as data protection, libel and the statutory requirement as a public body to comply with equalities and anti-discrimination legislation will also be taken into consideration at this time. If a petition is rejected the petition organiser will be informed of the reasons why it's been rejected.

E- petitions

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

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

If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 14 days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.

When an e-petition has closed for signature, it will automatically be submitted to Member Services. In the same way as a paper petition, you will receive an acknowledgement within 14 days.

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

How do I 'sign' an e-petition?

You can see all the e-petitions currently available for signature here [insert link].

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

Procedure for dealing with a petition

Once a petition has been received either electronically or in paper format under this scheme it must be acknowledged within 14 days to the organiser.

This will explain what action is being taken.

In response to the petition the Authority can take the following steps –

- take the action requested in the petition;

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- consider the petition at a meeting of the Council ;
- refer the petition to the Cabinet, the Coordinating Committee or such other meeting as is appropriate;
- provide a written response to the petition organiser setting out the authority's views on the request in the petition;

In the case of those to be considered by the Council, the Coordinating Committee, the petitioner will be advised of the date and time of the meeting. In the case of the Council the petitioner will be given the opportunity to address the meeting for 5 minutes and the petition will be discussed for a maximum of 15 minutes.

The petitioner will be advised of the action to be taken.

After the appropriate action has been taken the petitioner must be advised of the response and if it was submitted via the website the response must also be published there.

SCRUTINY CALL-IN GUIDELINES

(To be agreed by the Co-ordinating Committee)

(1) FORM OF CALL-IN

A call-in should conform to the requirements in Standing Order 35(1), i.e:

- it should be submitted, on the prescribed form, to the Head of Legal and Member Services within five working days of the publication of the decision in question;
- it should be signed by the appropriate member(s), namely a party leader **or** a deputy leader **or** any five members of the Council (but electronic signatures are acceptable);
- the call-in notice should specify the reasons why the member(s) believe(s) that the decision should be considered by the Policy and Performance Committee.

(2) EFFECT OF CALL-IN

On receipt of a valid call-in, the Head of Legal and Member Services will notify the chief officer concerned and all members of the Council. No action will be taken to implement the Cabinet decision until the call-in procedure has been completed.

(3) SCHEDULING OF THE MEETING

The meeting to consider the call-in must be held within 15 working days of the receipt of the call-in. The Head of Legal and Member Services is responsible for summoning the meeting. The Chief Executive or Director of Law, HR and Asset Management, in consultation with the Chair and Party Spokespersons on the Scrutiny Programme Board allocate the call-in to the appropriate Policy and Performance Committee, or to the Board for consideration. If it is not possible for agreement to be reached by the Group Spokespersons, the call-in will be referred to the Scrutiny Programme Board for a decision on allocation. The date should be arranged in consultation with the Chair of and party spokespersons for the relevant committee. (*Standing Order 26 deals with the calling of special meetings*). Once the date of the meeting has been set, the relevant chief officer, Scrutiny Support Officers and all Council members will be notified of the date.

If it is necessary to adjourn a meeting that is considering a call-in, it must be reconvened, and the scrutiny process completed, within 10 working days, provided that that is practicable (*see also paragraph (7) below*).

(4) PREPARATION FOR THE MEETING

A suitable venue will be selected, taking into account the approximate number of members of the public that are likely to attend. Where the Chair considers it appropriate, the meeting may be held elsewhere than the Town Hall.

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A list of witnesses, and the order in which they are likely to be called, will be established and agreed with the Chair of the meeting. Witnesses may be nominated by both those submitting the call-in notice and the relevant Cabinet member. The complete list should be available in sufficient time give formal notice to each witness at least three working days before the meeting (though it is hoped that they would have been given some indication beforehand). The Committee Services Section will co-ordinate the witness list and will formally invite those people to the committee meeting on behalf of the Chair.

Since the terms of the O&S Rules indicate that the decision as to whether or not to seek the views of any person is a matter for either the Chair or the committee itself, it follows that it would be reasonable for the Chair or the committee to ascertain in advance the credentials of any person that has been proposed as a witness. The list of proposed witnesses should therefore include details of each witness's particular expertise or knowledge in relation to the matter, and the members of the committee will then be able to prepare appropriate questions for them.

The relevant Cabinet member and any council officer required to answer questions on the matter must attend the meeting when requested to do so by the Chair of the committee. Other persons requested to attend as witnesses can choose whether or not to do so.

(5) SUGGESTED STRUCTURE FOR THE MEETING

An example of a suggested procedure for the handling of a call-in item on a committee agenda is detailed in Appendix 1 of these Guidelines.

(6) PARTICIPANTS IN THE MEETING

Only members of the committee (or designated deputies) will be able to ask questions of the witnesses or take part in the subsequent debate.

A member of the committee can not also act as a witness.

(7) WITNESSES

A witness must be given at least 72 hours notice (3 working days) that he/she is required to attend to give evidence.

Witnesses should act under the direction of the Chair (i.e. not of the person that originally submitted their names). Each witness, once called, can be questioned by any member of the committee, but all questioning should be conducted through the Chair.

Witnesses may leave the meeting having given their evidence, but it is open to the committee to recall them (if necessary at a subsequent meeting) in order to establish points of information (if, for example, a later witness produces counter-evidence).

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Where, in exceptional circumstances, a member or officer acting as a witness is unable to attend on the required date, the committee, in consultation with the member or officer, can arrange an alternative date to hear the evidence within a maximum of 15 working days from the date of the original request or their submission can be considered in writing.

(8) EXEMPT REPORTS

There might be a call-in of a decision that followed the Cabinet's consideration of an exempt report. This could present problems in relation to the openness of the scrutiny process and to how much of the proceedings witnesses, and the public, can be admitted. If the committee considers it necessary to exclude the public at any stage of the meeting (the term 'public' includes all witnesses except when they are invited in to give evidence), it will have to pass a specific resolution.

The first question it should ask is whether all or any part of the report under consideration is still exempt. Having done so, it would have the following options:

(a) It could exclude the public at the start and call witnesses into the meeting, one at a time, to be questioned; **or** the meeting could commence with an explanation, for the benefit of those present, of the implications of the report without divulging any of the exempt information, then carry on as above.

(b) If the meeting decides that the report should not remain exempt, then copies would have to be made available to the public, who can remain in the meeting. It may be possible, though, to produce an edited version of the report, leaving out any paragraph that can definitively be said still to be exempt under the Access to Information Rules. If the discussion shifts to the exempt information, the public could then be excluded temporarily.

On balance the Committee should err on the side of openness.

(9) DECISION OF THE MEETING

The meeting must conclude by agreeing to a recommendation. *The following points are taken mainly from paragraph 16 of the Overview and Scrutiny Procedure* *Rules:*

If the Policy and Performance Committee disagrees with the original decision, it may either ask the Cabinet to reconsider the decision, or refer it to the Council for consideration if it believes that the decision is contrary to the policy framework or not in accordance with the budget. The Chair of the Policy and Performance Committee will have the opportunity to explain its views to the Cabinet or Council, as appropriate.

If the Policy and Performance Committee recommends that the matter should

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be referred back to the Cabinet for reconsideration, all members who signed the call-in notice will be invited to the relevant Cabinet meeting.

If the Policy and Performance Committee agrees with the decision, it will become effective immediately at the close of the committee meeting and the relevant chief officer may implement that decision. If the committee proposes any variation to the decision, the matter will be referred back to the Cabinet for a final decision.

(10) MINORITY REPORTS

If any political group does not agree with the majority decision of the committee, it may submit a written minority report for consideration by the Council at the same time as the minutes of the committee are being considered. Any such report must be handed to the Head of Legal and Member Services in accordance with Standing Order 12(2). The Leader of the relevant group or his/her representative will have an opportunity to explain the minority report to the Council, and the Council may discuss and vote for or against such a report without prejudice to any decision already implemented.

APPENDIX 1

WIRRAL COUNCIL

Agenda – xxx POLICY AND PERFORMANCE COMMITTEE - at 6.00pm on xxx

Venue: Committee Room 1.

[DETAILS OF CALL-IN - duplicate wording from call-in form]

- 1 Chair's opening remarks**
- 2 Chair asks for any declarations of interest, including whether or not any whipping arrangements apply**
- 3 Explanation of the call-in by lead signatory**
- 4 Evidence from call-in witnesses:**
 - 1
 - 2
 - 3
 - 4
 - 5
 - 6
 - etc.

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- 5 Evidence from Cabinet member's witnesses**
- 6 Summing up by mover of the call-in**
- 7 Summing up by Cabinet member:**
- 8 Committee debate**
- 9 Committee decision**



Metropolitan Borough of Wirral

Chapter 4 POLICY AND PERFORMANCE COMMITTEE CALL- IN PROCEDURE (Standing Order 35)

Decision of Cabinet to be called in:

Date of meeting	
Minute number	
Subject	

Reason(s) for call-in (*use additional sheet if required*):

Called in by [signature(s) to be inserted]:

Councillor	(Party Leader) OR
Councillor	(Deputy Leader)
OR	
Councillors:	
(1)	_____
(2)	_____
(3)	_____
(4)	_____
(5)	_____

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***Received by:**

Signature: On behalf of the Head of Legal and Member Services	Date	Time
------------------------------------------------------------------	------	------

Referred to:

Scrutiny Committee ()	Date
---------------------------	------

*This form must be received by the Head of Legal and Member Services by **no later than 5.00 pm** on the fifth working day following notification that the minutes have been published.

Members' Allowances Scheme

MEMBERS ALLOWANCES SCHEME

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 for the year commencing on 1 April 2008 and subsequent years.

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

Subject to paragraph 7, for each year a basic allowance of £8,712.45 shall be paid to each councillor.

(Reduced by 5% following a meeting of the Independent Panel on Members Allowances who made a recommendation re: this to Council in October 2012 which was agreed)

4. Special Responsibility Allowances

- (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.

- (2) Subject to paragraph 7, the amount of each such allowance shall be the amount specified against that special responsibility in that schedule.

- (3) No councillor shall be entitled to receive more than one payment by way of special responsibility allowance.

5. Childcare and Dependants' Carers' Allowance

An allowance not exceeding £5.52 per hour 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

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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

A councillor may by notice in writing to the Head of Legal and Member Services (or an officer authorised in that behalf) elect to forego any part of his/her entitlement to an allowance under this scheme.

7. Part-year Entitlements

- (1) The provisions of this paragraph shall have effect to regulate the entitlements of a councillor to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that councillor becomes, or ceases to be, a councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.
- (2) If an amendment to this scheme changes the amount to which a councillor is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods :
 - (a) beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or
 - (b) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year,

the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of days in the period bears to the number of days in the year

- (3) Where the term of office of a councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that councillor to a basic allowance shall be to the payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which his/her term of office subsists bears to the number of days in that year.
- (4) Where this scheme is amended as mentioned in sub-paragraph (2), and the term of office of a councillor does not subsist throughout the period mentioned in sub-paragraph (2) (a), the entitlement of any such councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which his/her term of office as a councillor subsists bears to the number of days in that period.
- (5) Where a councillor has during part of, but not throughout, a year such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he/she has

such special responsibilities bears to the number of days in that year.

- (6) Where this scheme is amended as mentioned in sub-paragraph (2), and a councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph (2) (a) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

8. Travel and Subsistence

(a) Travel Costs

- (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.**
- (2) Payment for the use of members’ private motor vehicles shall be made at the rate of **40 pence per mile**.
- (3) The allowance payable for the use of motor cycles or bicycles shall be in accordance with the rates prescribed by the scheme of conditions of service applicable to the authority’s employees generally.

(b) Subsistence Payments

- (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.)	£6.00
Lunch allowance (12 noon to 2 p.m.)	£9.00
Tea allowance (3 p.m. to 6 p.m.)	£3.00
Evening meal allowance (after 7 p.m.)	£11.00

- (5) Notwithstanding the rates specified at (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:

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4-8 hours	cost of 1 main meal
8-12 hours	cost of 2 main meals
Over 12 hours	cost of 3 main meals

- (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	£6.00
Tea	£3.00
Lunch	£9.00
Evening Meal	£11.00

- (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	£110.00
Central London/LGA Annual Conference Rate	£144.00

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.

9. Payment of Allowances

- (1) Allowances payable under this scheme shall be paid in equal monthly instalments of one-twelfth of the annual amounts specified in paragraph 3 hereof and Schedule 1 hereto.
- (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 last Thursday of every month (except in December, when arrangements for earlier payment may be made).
- (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, he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.**

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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 (see Note 1)	22,927
Deputy Leader of the Council	11,463
Deputy Leader of the largest group	11,463
Leader of the largest opposition group (Cons.)	13,756
Deputy Leader of the largest opposition group	6,878
Leader of 2nd largest opposition group (Lib Dem)	9,171
Deputy Leader of 2nd largest opposition group	4,585
Mayor of Wirral	10,700
Deputy Mayor of Wirral	1,500
Cabinet Members:	
Children's Services and Lifelong Learning	9,171
Improvement and Governance	9,171
Corporate Resources	9,171
Culture, Tourism and Leisure	9,171
Environment	9,171
Finance	9,171
Housing and Community Safety	9,171
Regeneration and Planning Strategy	9,171
Adult Social Care and Public Health	9,171
Streetscene and Transport Services	9,171
Policy and Performance Committee Chairs:	
Council Excellence	4,585
Children and Young People	4,585
Economy and Regeneration	4,585
Health and Well Being	4,585
Sustainable Communities	4,585
Scrutiny Programme Board	4,585
Other committees:	
Licensing, Health & Safety & General Purposes	4,585
Employment and Appointments	2,751
Pensions	2,751
Planning	4,585
Standards	1,375
Audit and Risk Management	4,585
Standards Committee – Independent Persons x 4 a payment of £25 per meeting each	
Merseyside Waste Disposal Authority representatives (£1834 x 2)	3,668

NOTES:

(1) The Council has determined that the Leader has responsibility for the Finance portfolio, so no separate allowance appears in the budget

SCHEDULE 2

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), sub-committees, 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 Waste Disposal 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 Cabinet members, Party Leaders or Deputies and Committee Chairs or spokespersons (or their nominees) at briefings or other meetings 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) Hearings of Industrial and Employment Appeal Tribunals by members of the Appeals Sub-Committee;
- (k) Public Inquiries (when the member is representing the Council);
- (l) Training courses for Councillors included in an approved programme;
- (m) attendance at seminars or presentations within the Borough where this is authorised by a committee (for members of that committee only) or by the Cabinet if the invitation is to be extended to all members of the Council;

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- (n) meetings of the following bodies to which the Council makes appointments or nominations:-

(a) CHILDREN'S SERVICES AND LIFELONG LEARNING

Birkenhead Sixth Form College Governing Body
C E Gourley VC Endowment Fund
Connexions (Greater Merseyside) Ltd
Lower Bebington School Lands Foundation
National Society for the Prevention of Cruelty to Children
Oaklands Centre Management Committee
St Bridget's Educational Trust
University of Liverpool Court
West Kirby Residential School
Wirral Alternative School Programme (WASP) (formerly PRU)
Wirral Metropolitan College Governing Body
Wirral Play Council Executive Committee
Wirral Play Partnership
Meetings between spokespersons and headteachers and teacher/governors to improve communication with governing bodies
Meetings of Governors within the area of the Authority specifically to appoint teaching staff

(b) CORPORATE RESOURCES

4NW Regional Leaders Board (Nomination)
Birkenhead Market Limited/Birkenhead Market Services Limited – Director
Liverpool City Region Cabinet
Local Government Association: General Assembly
North Western Local Authorities Employers' Organisation
SIGOMA (LGA Special Interest Group of Metropolitan Authorities)
West Kirby Charities

(c) COMMUNITY AND CUSTOMER ENGAGEMENT

Beechwood Play and Community Centre Joint Management Committee
Charing Cross Play Youth and Community Centre Joint Management Committee
Gautby Road Play & Community Centre Joint Management Cttee
Greasby Community Centre Joint Management Committee
Hoylake Youth and Community Centre Joint Management Committee
The Lauries Centre
Leasowe Play, Youth & Community Association Management Cttee
Liscard Community Facilities Complex Joint Management Cttee
Livingstone Street Community Centre Joint Management Cttee
New Ferry Village Hall Joint Management Committee
Overton Community Centre Joint Management Committee
Seacombe Community Association (Council)
Vale House Community Centre Joint Management Committee
Westbourne Community Centre Joint Management Committee
Wirral Multicultural Organisation

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Woodchurch Community Centre Joint Management Committee

(d) CULTURE, TOURISM AND LEISURE

Mayer Trust, Bebington
Merseyside Cultural Forum
Royal Liverpool Philharmonic Society
Tam O'Shanter Cottage Trust

(e) ENVIRONMENT

LGA Urban Commission
Liverpool Airport Consultative Committee
Mersey Port Health Authority
Merseyside Waste Disposal Authority
North Western Inshore Fisheries and Conservation Authority

(f) FINANCE AND BEST VALUE

Local Strategic Partnership Executive Board
Strategic Partnership Authority

(g) HOUSING AND COMMUNITY SAFETY

Beechwood and Ballantyne Community Housing Association - Board
Leasowe Community Homes Management Board
Merseyside Fire and Rescue Authority
Merseyside Police Authority
Merseyside Police Authority Appointments Committee
Wirral Community Safety Partnership
Wirral Council and Riverside Challenge Fund Working Group
Wirral Partnership Homes – Board members
Wirral Partnership Homes: Community Fund Working Group

(h) REGENERATION AND PLANNING STRATEGY

Chrysalis (General Partner) Limited Director
Conservation Area Advisory Committees
Liverpool City Region – Employment & Skills Board
Liverpool City Region – Environment & Waste
Liverpool City Region – Housing & Spatial Planning Board
Liverpool City Region – Improvement & Efficiency Board
Liverpool City Region – Local Enterprise Partnership - Director
Mersey / Dee Alliance
Mersey Maritime Group Ltd
Mersey Partnership
North Birkenhead Development Trust – Director
Shadow Health and Wellbeing Board
Wirral Business Partnership

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Wirral Council For Voluntary Service - Management Committee
Wirral Citizens' Advice Bureau
Woodchurch Neighbourhood Management Board

(i) SOCIAL CARE AND INCLUSION

Age UK Wirral
Arch Initiatives - Wirral Management Committee
Bebington Day Centre Advisory Body
Cheshire and Wirral Partnership Trust: Appointed Governor
Joint Scrutiny Committee for Cheshire & Wirral NHS Partnership Trust
Clatterbridge Centre for Oncology Foundation Trust
John Lloyd Corkhill Trust
Girtrell Court Residential Centre Advisory Body
Heswall Advisory Body (Heswall ATC)
Merseyside Society for the Deaf
Riverside Centre Advisory Body
Wallasey Day Centre Advisory Body
Wirral Hospital Trust - Governors

(j) STREETSCENE AND TRANSPORT SERVICES

Local Government Association Coastal Issues Special Interest Group
Merseyside Integrated Transport Authority
Merseyside Strategic Transportation Committee
National Parking Adjudication Service Joint Committee
Wirral Cycle Forum
Wirral Pedestrian Forum

Pensions

Investment Advisory Panel (all members of Pensions Committee)
Local Authority Pension Fund Forum