

Appendix A



CONSTITUTION OF THE COUNCIL

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CONSTITUTION OF THE COUNCIL

Part 1

SUMMARY AND EXPLANATION

The Council's Constitution

Local Government Act 2000 - SECTION 37 LGA 2000 (Constitutions) (England) Direction 2000

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

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

What's in the Constitution?

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

- **Timeliness** – decision making should be both quick and effective and, when necessary, allow for urgent decision making.
- (b) Articles 2 to 13 explain the rights of citizens and how the key parts of the Council operate. These are:
- Members of the Council (Article 2)
 - The Public & the Council (Article 3)
 - Full Council (Article 4)
 - The Mayor (Article 5)
 - Policy and Services Committees (Article 6)
 - Delegated Authority and Review (Article 7)
 - Regulatory and Other Committees (Article 8)
 - Joint Arrangements (Article 9)
 - Leadership of the Council (Article 10)
 - Committee Chairs and Spokespersons (Article 11)
 - Officers (Article 12)
 - Decision Making (Article 13)
 - Finance, Contracts and Legal Matters (Article 14)
 - Review and Revision of the Constitution (Article 15)
 - Suspension, Interpretation and Publication of the Constitution (Article 16)
4. Part 3 of the Constitution sets out who is responsible for making what decisions, including remits of Committees and a scheme of delegation to officers.
 5. Part 4 of the Constitution details the framework for the administrative conduct of the Council and its committees, including Standing Orders, Procedure Rules at meetings, Contract Standing Orders, Financial Regulations, procedures for tendering under the Standing Order limit and Access to Information Procedure Rules.
 6. Part 5 comprises a number of codes and protocols by which councillors and employees of the Council are bound, including some guidance on the Council's practices and the law.
 7. Part 6 is the current Members' Allowances Scheme.
 8. Part 7 is the Council's management structure (which may be via a link to another webpage).

How the Council operates

9. The Council comprises 66 councillors (often referred to as ‘Members’ of the Council). Councillors serve for a four year term, with one third elected three years in four, being one of the three councillors in each ward. Full Council is the ultimate governing body of the Council and its membership comprises all the elected councillors at any one time. Each councillor is elected for a particular ward. Details of the current wards and councillors are on the Council’s website.
10. Councillors are democratically elected by, and accountable to, the residents of the Borough. They have no individual executive powers. Councillors influence and make decisions corporately through Full Council and committee meetings.
11. The overriding duty of councillors is to the whole of the community that makes up the Metropolitan Borough of Wirral. Councillors must represent their constituents as a body and vote in the interests of the whole Borough. However, councillors have a special duty to the constituents within their ward, including those who did not vote for them. Councillors must comply with the Code of Conduct (see Part 5). The Council has appointed a Constitution and Standards Committee, which is responsible for encouraging, developing and maintaining high standards of conduct for all councillors. Article 8 provides more information about this Committee.
12. The Council is responsible for functions as provided by statute, but also has a general power of competence. The Council arranges for its functions to be carried out through its committee system and by delegated responsibilities to its senior employees. All committees, panels, working parties and forums are subordinate to the Full Council and dependent on it, through this Constitution and the policies and decisions agreed by it, for the delegation of powers and duties.
13. Full Council agrees the Council’s overall policies, sets the budget each year and sets the Council’s major plans, policies and strategies. Meetings of the Council are normally open to the public, except when ‘exempt’ or ‘confidential’ matters are being discussed (see the Access to Information Procedure Rules in Part 4 for more information about this).
14. Each year usually in May, at the Annual Council meeting, Full Council appoints councillors and representatives to committees and other bodies. **The current committee structure is shown on the chart below.** Full council also elects the Chairs and Vice-Chairs of Committees, including a Leader and Deputy Leader of the Council, at the first Annual Council meeting immediately following local government elections. The Full Council appoints councillors to all committees. Appointments to all committees, except currently the Constitution and Standards Committee, comply with the requirements of political proportionality set out in the Local Government and Housing Act 1989.
15. The Annual Council meeting elects a Mayor and a Deputy Mayor. The new Mayor may appoint a Mayor’s Chaplain. During his or her period of office, the Mayor is the first citizen of the Borough and chairs meetings of the Full Council.

How decisions are made

16. The Council has set up procedures to ensure that its functions are carried out effectively and efficiently in accordance with the principles of good administration.
17. Seven Committees are responsible for the Council's executive functions, referred to as the Policy & Services Committees. These are:
 - Policy & Resources Committee
 - Adult Social Care and Health Committee
 - Children, Young People and Education Committee
 - Economy, Regeneration and Development Committee
 - Housing Committee
 - Tourism, Communities, Culture and Leisure Committee
 - Environment, Highways and Infrastructure Committee

With the exception of Policy & Resources Committee, these committees meet on a planned basis on an approximate six weekly interval in public (except where personal, exempt or confidential matters are being discussed) to take operational, policy and strategic decisions not reserved to Full Council or delegated to other committees or senior employees. Strategy and Resources Committee is made up of the Leader, Deputy Leader and the Chairs of the other Policy & Services Committees, together with other Members of the Council as are required to achieve the required political balance. The other Policy & Services Committees are made up of a Chair and approximately ten other councillors.

18. Other Committees with decision making powers, known as Regulatory, Statutory and Other Committees, include the Planning Committee, the Regulatory and Licensing Committees, Audit and Risk Management Committee, Pension Committee and Constitution and Standards Committee.

The Health and Wellbeing Board is a Committee of the Council made up of Councillors, but also officers of the Council and representatives from local health based organisations. It is a statutory forum required for discussing shared health and wellbeing issues and concerns.

19. Committees have to make decisions that are in line with the Council's overall policies and budget. If they wish to make a decision that is outside the budget or policy framework and outside the parameters agreed for in-year modifications (set out in Part 4(3) of this Constitution), this must be referred to the Full Council to decide.

Review Arrangements

20. There are procedures so that controversial decisions that would normally be made by Policy & Services Committees may be referred to Policy and Resources Committee or Full Council to determine (see Article 7 for more information about this).
21. Decisions of Policy & Services Committees and Key Decisions made by officers are also subject to referral to the Decision Review Committee by any 6 Councillors within

three days of the decisions being published. (See Article 7 and Part 4(3) of this Constitution for more information about this).

Overview and Scrutiny Arrangements

22. The Council has a number of statutory scrutiny functions, which include:
- matters relating to the health of the authority's population and can make recommendations to health bodies or other relevant authorities (and on a shared basis where matters also concern neighbouring Cheshire West and Chester Council area); and
 - the power to scrutinise the activities of those responsible for crime and disorder strategies, which is the Council and the police, as embodied by the Safer Wirral Partnership

The Council has determined that these overview and scrutiny functions are to be carried out by the Partnerships Committee, which will also scrutinise the functions and responsibilities undertaken by other bodies within the Borough. The process for this is set out in Part 4(3) of this Constitution.

23. Overview and scrutiny as an approach, meaning the review of implementation of policies and develop of future policy, will be undertaken by the Policy & Services Committees. In doing do the committees will have regard to the process set out in Part 4(3) of this Constitution.
24. The Council has also established an Audit and Risk Management Committee, to carry out the audit committee function and undertakes reviews of the Council's approach to risk management, based on CIPFA guidance.

Panels, Forums, Working Groups, Liaison and Task & Finish Groups

25. The Committees can establish working groups. Their purpose is to examine in detail specific issues or aspects of policy, procedure or service, according to their remit. These groups do not take any decisions but inform the deliberations of the committees. Their membership may include councillors from each party, non-councillors by invitation and, occasionally, employees.
26. The Council is required to set up other joint bodies, as stipulated by legislation, for specific purposes.
27. Full Council also makes appointments to other bodies on an ad hoc basis.

Access to Information Requirements

28. Meetings of Full Council, committees, panels, and forums are subject to the Access to Information Procedure Rules described in Part 4 (2) of the Constitution. Working groups and task and finish groups do not meet in public session and are not subject to these rules.

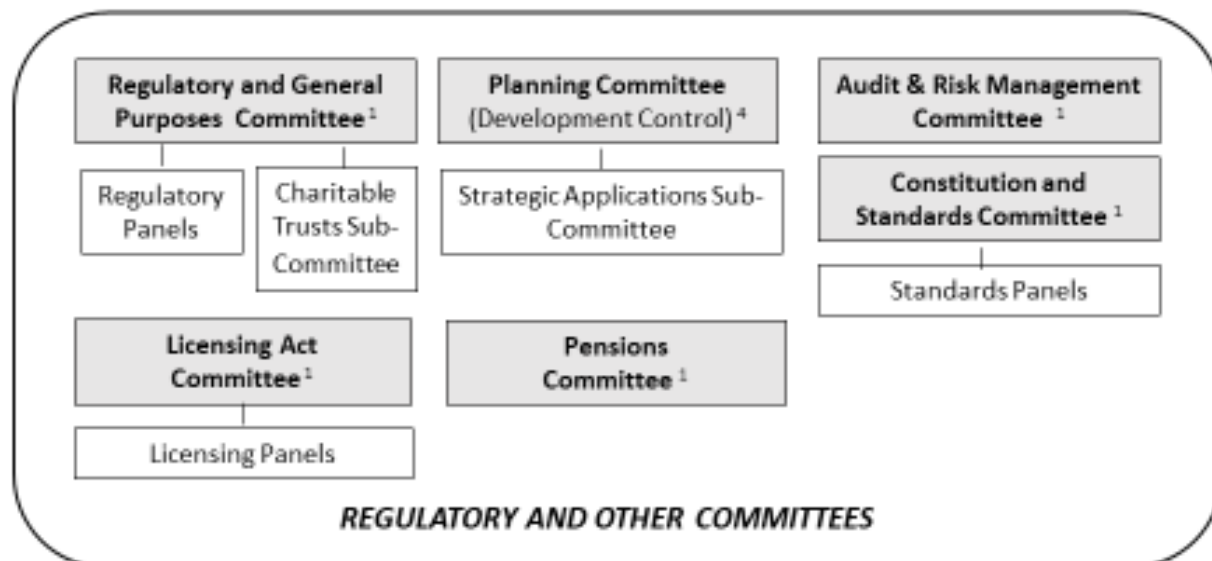
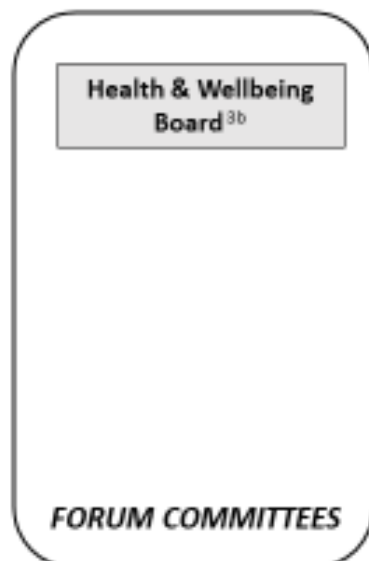
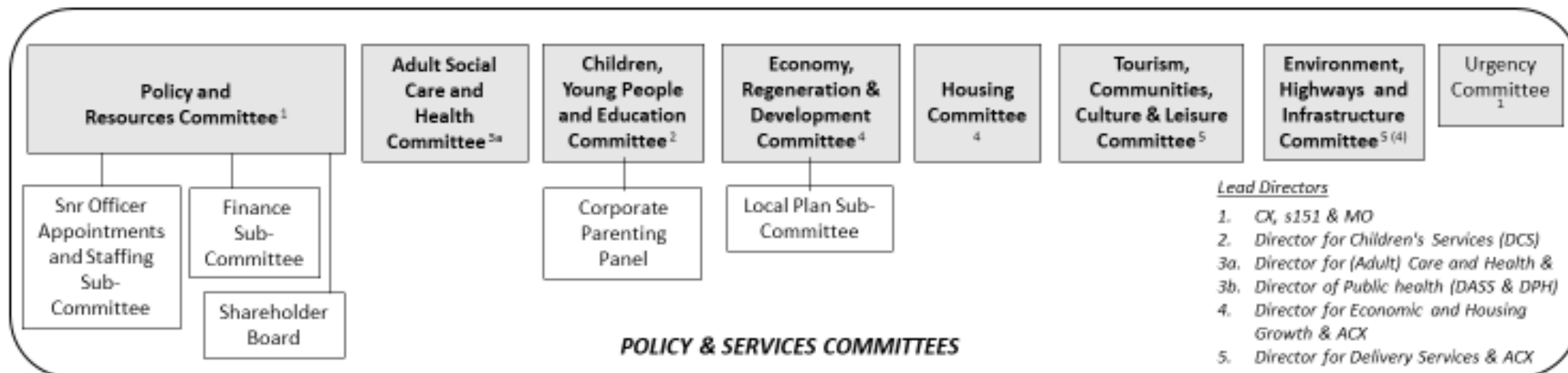
The Council's Employees

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

Employees must be politically impartial and sensitive to the political environment. The role of some named officers is prescribed by legislation. A code of practice governs the relationships between employees and councillors. Some employees are politically restricted in accordance with the Local Government and Housing Act 1989. This means that they cannot participate in political activities. Article 12 and Part 5 gives more information about this.

Citizens' Rights

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





CONSTITUTION OF THE COUNCIL

Articles of the Constitution

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



CONSTITUTION OF THE COUNCIL

Part 2 Article 1

ARTICLE 1 – THE CONSTITUTION

1.01 Powers of the Council

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

1.02 The Constitution

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

1.03 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 identifiable to local people and that they explain the reasons for decisions;
8. ensure that high standards of probity and ethics are evident in decision-making and all activities of the Council
9. provide a means of improving the delivery of services to the community and
- 10, provide a means of supporting the Council to deliver its Corporate Plan as adopted for the current municipal year.

1.04 INTERPRETATION AND REVIEW OF THE CONSTITUTION

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

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



CONSTITUTION OF THE COUNCIL

Part 2 Article 2

ARTICLE 2 - MEMBERS OF THE COUNCIL

2.1 Composition and eligibility

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

2.2 Election and terms of Councillors

The 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 every fourth year after 2013 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) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making
 - (iii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
 - (iv) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
 - (v) balance different interests within the ward and represent the ward as a whole;
 - (vi) be involved in decision-making;
 - (vii) be available to represent the Council on other bodies;
 - (viii) maintain the highest standards of conduct and ethics; and
 - (ix) take part in member development and training.

(b) **Rights and duties**

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

2.4 Conduct

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

2.5 Allowances

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



CONSTITUTION OF THE COUNCIL

Part 2 Article 3

ARTICLE 3 – CITIZENS AND THE COUNCIL

3.1 Citizens' Rights

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

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

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

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

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

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



CONSTITUTION OF THE COUNCIL

Part 2 Article 4

ARTICLE 4 – THE FULL COUNCIL

4.1 Composition

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

4.2 Council Meetings

There are three types of Council meeting:

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

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

4.3 Functions and Powers

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

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

(b) Meanings

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

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

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

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

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

- Council's Corporate Plan

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

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

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

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

4.4 **Responsibility for Functions**

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



CONSTITUTION OF THE COUNCIL

Part 2 Article 5

ARTICLE 5 – THE MAYOR

5.1 Role and function of the Mayor

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

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



CONSTITUTION OF THE COUNCIL

Part 2 Article 6

ARTICLE 6 – POLICY AND SERVICE COMMITTEES

6.1 Background to Committees

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

6.2 Policy and Service Committees

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

6.3 Terms of Reference

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

<i>Name of Standing Committee</i>	<i>Name of Standing Sub-Committee</i>	<i>Summary of Purpose</i>
Policy & Resources Committee		This Committee is responsible for co-ordinating processes for the development of the Budget and Policy Framework, together with decision making on cross-cutting policies not part of the Policy Framework and decisions on resources concerning virements and purchase and sale of assets. The Committee is also responsible for a number of corporate functions, including employment of officers, company and asset ownership and overall performance and risk management in respect of the Council's delivery of functions as well as matters of urgency and review.
	Finance & Procurement Sub-Committee	Responsible for development and monitoring of the Council's budget and oversight of the Council's procurement framework
	Senior Officer Appointments & Staffing Sub-Committee	Responsible for appointments and related matters in respect of chief officers and deputy chief officers, as set out at Part 4(N) of the Constitution, together with oversight of employment policies, terms and conditions.
	Shareholder Board	Responsible for the Council's functions as corporate shareholder of a company, or group of companies.
Adult Social Care and Health Committee		This Committee is responsible for those services under the remit of adult social care and as the lead Committee on matters of public health.
Children, Young People and Education Committee		This Committee is responsible for education, social care services and health services to children and young people and exercises the functions of the Council as Local Education Authority.

<i>Name of Standing Committee</i>	<i>Name of Standing Sub-Committee</i>	<i>Summary of Purpose</i>
Economy, Regeneration and Development Committee		This Committee is responsible for planning policies, development projects and growth and economic development of the Borough
	Local Plan Sub-Committee	Is responsible for production and recommendation of the Development Plan documents
Housing Committee		This Committee has responsibility for the Council's housing functions including private sector housing support and standards, licensing of residential accommodation, strategic housing including the housing investment programme; allocations and homelessness and housing related support services.
Tourism, Communities, Culture and Leisure Committee		This Committee is responsible for community development and community services including libraries, cultural services & museums and leisure centres, for community safety and customer services. It is also responsible for public protection services including environmental health and trading standards.
Environment, Highways and Infrastructure Committee		This Committee is responsible for the environment, including parks and open spaces, highways management and infrastructure, coastal protection, flood defence and recycling and waste.

6.4 Composition

- (a) **Political Balance** - All committees, other than where specified, will comply with the proportionality rules as set out in the Local Government and Housing Act 1989.
- (b) **Membership** -
- (i) Policy and resources Committee will normally be constituted of fifteen (15) members, which may be altered to accommodate the overall political balance calculation;

- (ii) other Policy and Service Committees will normally be constituted of eleven (11) members, which may be altered to accommodate the overall political balance calculation;
 - (iii) sub-committees will normally be constituted of five (5) members, which may be altered to accommodate the overall political balance calculation, or be constituted of such other number as the parent Committee decides;
 - (iv) may include non-councillors by invitation of up to two (2) non-voting co-optees in addition to any statutory co-opted members; and
 - (v) Policy & Resources Committee shall include within its membership the Chair of each of the other Policy and Service Committees.
- (c) **Chairs** – The Chair and Vice-Chair of each committee will be appointed by Full Council or, where no appointment has been made by Council, each Committee shall appoint a Chair at its first meeting.
- (d) **Procedure** - Meetings will be conducted in accordance with the Council Standing Orders and Procedure Rules set out in Part 4 of this Constitution.
- (e) **Policy development and review functions** - Where fulfilling a function of policy development, reviewing or scrutinising decisions made and action taken to implement them in connection with the discharge of any functions of the Council a Policy and Services Committee will have regard to the Review Procedure Rules at Part 4(4) of this Constitution.

6.5 Urgent Business

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

(a) Urgent agenda item

The Committee Chair has the authority to agree to take urgent items not on the agenda. The Chair will consult with the Vice-Chair and Group Spokespersons for the Committee. The Chair (with advice from the Monitoring Officer as appropriate) needs to be satisfied as to the need for urgency under the following criteria:

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

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

(b) Urgency Committee

If a decision on an issue is required as a matter of urgency, and if time allows under the provisions of the Access to Information Rules as set out at Part 4(2) of this Constitution, then a Committee will be called comprising of the Leader and/or the Deputy Leader together with the Group Leaders or other members of Opposition Groups such as are required to meet political balance rules. The decision may be within the terms of reference of another committee, but this will not invalidate the decision as the arrangements to discharge the function in cases of urgency.

A matter of urgency sufficient to call this committee will be as determined by the Leader or, in the absence of the Leader, two of the Group Leaders (or Deputy Leader) with advice from one or more statutory chief officers. The Committee must consult with the Chair of the relevant Committee wherever it is reasonable and practicable to do so.

In all cases the reason for the urgency shall be clearly stated and recorded in the minutes of the meeting and reported to the next meeting of Full Council.

(c) Use of Delegated authority

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



CONSTITUTION OF THE COUNCIL

Part 2 Article 7

ARTICLE 7 – DELEGATED AUTHORITY AND REVIEW

7.1 Decisions

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

7.2 Decisions contrary to the Budget and Policy Framework or Constitution

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

7.3 Controversial Decisions

(a) Removal of delegation

Where the matter being considered by a Policy and Services Committees is felt to be a controversial decision, either by

- (i) the Committee itself by resolution or
- (ii) by a minimum of 40% of the Committee either notifying the Chair of the relevant meeting prior to the close of the meeting

delegated authority for that matter shall be withdrawn from the Committee and the item of business will be referred to the next meeting of the Policy and Resources Committee or, if in respect of an item on the agenda of the Policy and Resources Committee, Full Council

(b) Process

The controversial decision procedure to remove delegated authority from a Policy and Services Committee is set out in Part 4A (Council and Committee Standing Orders).

7.4 Decision Review

(a) Decision Review Process

Key decisions made by one of the Policy and Services Committees, or an officer acting under delegated authority from one of those committees, are published within a decision notice, normally within a period of two working days after the relevant meeting. Unless the relevant decision-making body has stated that the decision is not suitable for review, the decision will not be implemented for a period of three working days from the date of publication, during which time any six (6) Members of the Council may call-in the decision for review. The decision will then be referred to a meeting of the Decision Review Committee for review, together with a statement of the reasons for the review request. Implementation of the decision shall be held in abeyance pending the conclusion of the process.

(b) Decision Review Committee (Scrutiny)

(i) **Purpose** - the Decision Review Committee is a committee established by the Council with powers set out in the 2012 Local Authorities (Committee System) (England) Regulations to review or scrutinise a decision made but not yet implemented as referred to above.

(ii) **Function** - The Decision Review Committee is to consider the decision called in for review as soon as possible, and, normally within 15 working days. In doing so it shall provide an opportunity for a representative of the signatories to the call in the opportunity to address the meeting on the subject. The Decision Review Committee may either

(1) uphold the original decision, in which case it has immediate effect, or

(2) refer it back to the decision-making Committee, Policy and Resources Committee or (exceptionally), a meeting of the Full Council

with or without recommendations for change. This is the only function of the Committee.

(iii) Composition

(1) **Political Balance** - All committees, other than where specified, will comply with the proportionality rules as set out in the Local Government and Housing Act 1989.

(2) **Membership** - will normally be constituted of eleven (11) members, which may be altered to accommodate the overall political balance calculation. A Member may not sit as a member of the Committee where that Committee is due to consider, or is likely to consider, something that has been or might be considered by a committee of which the Councillor is a member.

- (3) **Chair** – The Chair and Vice-Chair will be appointed by Full Council or, where no appointment has been made by Council, each Committee shall appoint a Chair at its first meeting.

(c) **Procedure**

The decision review process and meetings of the Decision Review Committee will be conducted in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4(4) of this Constitution

7.5 Partnerships Committee (Overview and Scrutiny)

- (a) **Purpose** – The Partnerships Committee, together with the Decision Review Committee, are those committees established for the implementation of the authority’s overview and scrutiny functions as set out in Part 3 of the Local Authority (Committee System) (England) Regulations 2012
- (b) **Functions** – The Partnerships Committee is a committee established to review and scrutinise matters which affect the Borough or the inhabitants of the Borough. In particular, the Committee:
- (i) will carry out the Council’s statutory responsibilities for scrutiny as stated in:
- the Police and Justice Act 2006, to review or scrutinise any decisions made or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions, and
 - the Health and Social Care Act 2006 (as amended), to review and scrutinise, in accordance with regulations, matters relating to the health service in the authority’s area and to make reports and recommendations on such matters in accordance with the regulations,
- as referred to in the Local Authority (Committee System) (England) Regulations 2012; and
- (ii) may make reports or recommendations to the authority (including any committee or sub-committee) or make reports or recommendations to the authority that relate to the functions of a relevant partner authority so far as exercisable in relation to the authority’s area; or inhabitants of that area

(A “relevant partner authority” means any person who is a partner authority in relation to the authority for the purposes of Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007, other than a chief officer of police.)

(c) **Composition**

- (i) **Political Balance** - All committees, other than where specified, will comply with the proportionality rules as set out in the Local Government and

Housing Act 1989.

- (ii) **Membership** – The Committee will normally be constituted of eleven (11) members, which may be altered to accommodate the overall political balance calculation. In addition, there may also be advisory non-voting members appointed by the Committee and a co-opted member may be permitted to vote at meetings but only in accordance with a scheme made by the authority under Regulation 11 of the Local Authority (Committee System) (England) Regulations 2012 . A Member may not sit as a member of the Committee where that Committee is due to consider, or is likely to consider, something that has been or might be considered by a committee of which the Councillor is a member.
- (iii) **Chair** – The Chair and Vice-Chair will be appointed by Full Council or, where no appointment has been made by Council, each Committee shall appoint a Chair at its first meeting.
- (d) **Procedure** - The meetings of the Committee will be conducted in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4(4) of this Constitution.

7.6 Joint Health Scrutiny Committee(s)

(a) Role and Function

- (i) The role and function of any Joint Health Scrutiny Committee shall be determined in accordance with the arrangements set out in the 'Protocol for the Establishment of Joint Health Scrutiny Arrangements for Cheshire and Merseyside'.
- (ii) To undertake joint health scrutiny obligations arising under the Health Scrutiny Regulations (as detailed in the 'Protocol for the Establishment of Joint Health Scrutiny Arrangements for Cheshire and Merseyside') as from 1st April 2013 (i) where more than one local authority's health scrutiny arrangements consider a proposed change in NHS services to be substantial in terms of the impact on its area; and/or (ii) in other circumstances as permitted by the Health Scrutiny Regulations or the Protocol.

(b) Composition

The composition of any Joint Health Scrutiny Committee shall be in accordance with the 'Protocol for the Establishment of Joint Health Scrutiny Arrangements for Cheshire and Merseyside'.

(c) Membership

The appointment of Members to any Joint Health Scrutiny Committee will be in accordance with the 'Protocol for the Establishment of Joint Health Scrutiny Arrangements for Cheshire and Merseyside'. Nominations to any Joint Health

Committee shall be determined and made by the Adult Care & Health Overview and Scrutiny Committee and the Children and families Overview and Scrutiny Committee which are responsible for discharging the Council's Health Scrutiny responsibilities.

(d) **Quorum**

The quorum of any Joint Health Scrutiny Committee shall be determined in accordance with the arrangements set out in the 'Protocol for the Establishment of Joint Health Scrutiny Arrangements for Cheshire and Merseyside'.

(e) **Frequency of Meetings**

The frequency of meetings of any Joint Health Overview Scrutiny Committee will be determined at the first meeting of any Committee in line with the purposes for which it has been established.

(f) **Access to Information**

The Access to Information Regulations set out at Part 4(2) shall apply to any Joint Health Scrutiny Committee.



CONSTITUTION OF THE COUNCIL

Part 2 Article 8

ARTICLE 8 – STATUTORY, REGULATORY AND OTHER COMMITTEES

8.1 Background to Committees

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

8.2 Statutory Committees

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

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

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

8.3 Regulatory Committees

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

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

8.4 Other Committees

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

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

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



CONSTITUTION OF THE COUNCIL

Part 2 Article 9

ARTICLE 9 – JOINT ARRANGEMENTS

9.1 Arrangements to Promote Wellbeing

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

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

9.2 Joint Arrangements

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

9.3 Access to Information

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

9.4 Delegation to and from other Local Authorities

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

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

9.5 **Contracting Out**

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



CONSTITUTION OF THE COUNCIL

Part 2 Article 10

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

10.1 Introduction

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

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

10.2 Appointment of Leader and Deputy Leader

- (a) Full Council will appoint a Leader of the Council from amongst its elected Members at the Annual Meeting of Council.
- (b) Full Council will appoint a Deputy Leader of the Council from amongst its elected Members at the Annual Meeting of Council.
- (c) Once appointed, the Leader and the Deputy Leader will hold office until the next Annual Meeting unless he/she:-
 - (i) resigns from the office;
 - (ii) is no longer a member of the Council; or
 - (iii) is removed from office by resolution of the Council
- (d) The process of appointment is set out in the Council's Standing Orders at Part 4(1) of the Constitution.

10.3 Role and Function of the Leader

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

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

10.4 Key Responsibilities of the Leader

The Leader will:

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

10.5 Role and Function of the Deputy Leader

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

10.6 Political Group Leaders

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

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



CONSTITUTION OF THE COUNCIL

Part 2 Article 11

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

11.1 Introduction

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

11.2 Appointment of Committee Chairs and Vice-Chairs

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

11.3 Role and Function of Committee Chairs

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

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

11.4 Key Responsibilities of Committee Chairs

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

11.5 Role and Responsibilities of Committee Vice-Chairs

The Vice Chair will:

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

11.6 Group Spokespersons

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



CONSTITUTION OF THE COUNCIL

Part 2 Article 12

ARTICLE 12 – OFFICERS

12.1 Management Structure

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

12.2 Functions of Chief Officers

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

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

12.3 Governance Chief Officers

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

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

Such posts will have the functions described below

(b) Functions of the Head of Paid Service

- (i) **Discharge of functions by the Council** - The Head of Paid Service where he or she considers it appropriate to do so will report to the authority on:

- (1) the manner in which the discharge of the Council's functions is co-ordinated;
- (2) the number and grade of officers required for the discharge of functions;
- (3) the organisation of officers; and
- (4) the appointment and proper management of the authority's staff.

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

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

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

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

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

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

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

- (vi) **Providing advice** - The Chief Finance Officer will provide advice on issues concerning the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and whether decisions made under delegated authority are in accordance with the terms of delegation established by the Council (the Budget and Policy Framework) to all Members and will support and advise Members and officers in their respective roles.
- (vii) **Personal duty** - The duties of the Chief Finance Officer under Section 114 of the Local Government Finance Act 1988 shall be performed by him or her personally or, where he or she is unable to act owing to absence or illness, personally by such member of his or her staff as have for the time being been nominated by the chief finance officer for these purposes under sub-section 114(6) of that Act.
- (viii) **Restrictions on functions** - The Chief Finance Officer may not hold the post of Monitoring officer and should not hold the post of Head of Paid Service.

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

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

12.4 **Conduct**

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

12.5 **Employment**

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



CONSTITUTION OF THE COUNCIL

Part 2 Article 13

ARTICLE 13 – DECISION MAKING

13.1 Responsibility for Decision Making

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

13.2 Principles of Decision Making

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

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

13.3 Key Decisions

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

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

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

13.4 Decision Making

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

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

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

13.5 Decision Making by Council Bodies Acting as Tribunals

- (a) **Fair Hearing** - The Council, a Councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person shall follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.
- (b) **Decision making in private** - Subject to any statutory rules or procedures detailed elsewhere in the Constitution, a body acting as a tribunal is permitted, when all evidence has been submitted and speakers (if any) have finished, will hold discussion in the presence of the speakers and, as appropriate and in compliance with the Access to information Procedure Rules, the public and press, and the decision making may thereafter be taken in private adjournment. Decisions will then normally be announced to those present and remaining post-adjournment, at least in summary form, before a decision is issued in writing.



CONSTITUTION OF THE COUNCIL

Part 2 Article 14

ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS

14.1 Financial management

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

14.2 Contracts

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

14.3 Legal proceedings

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

14.4 Authentication of documents

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

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

14.5 Common Seal of the Council

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



CONSTITUTION OF THE COUNCIL

Part 2 Article 15

ARTICLE 15 – REVIEW AND REVISION OF THE CONSTITUTION

15.1 Duty to Monitor and Review the Constitution

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

15.2 Protocol for Monitoring and Review of Constitution by Monitoring Officer

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

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

15.3 Changes to the Constitution

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

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

may be made by the Monitoring Officer.

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



CONSTITUTION OF THE COUNCIL

Part 2 Article 16

ARTICLE 16 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

16.1 Suspension of the Constitution

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

16.2 Interpretation

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

16.3 Publication

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



CONSTITUTION OF THE COUNCIL

Part 3 Section A

RESPONSIBILITY FOR FUNCTIONS - (A) THE COUNCIL

1. Introduction

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

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

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

2. Council Functions

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

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

- (bb) is authorised by a determination made by the local authority—
 - in pursuance of arrangements made for the discharge of functions as set out in the Budget and Policy Framework Procedure Rules set out at Part 4(3) of this Constitution (including virements); and
 - at the time when the local authority approves or adopts the plan or strategy, as the case may be.

- (ii) **Policy Framework (Required)** – The making or revoking or amending the following policies, plans and strategies required to form a part of the Council’s Policy Framework:
 - (1) Annual Library Plan;
 - (2) Crime and Disorder Reduction Strategy;
 - (3) Development Plan Documents;
 - (4) Licensing Authority Policy Statement;
 - (5) Policies made under the Gambling Act (including any resolution relating to casinos);
 - (6) Local Transport Plan;
 - (7) Plans and alterations which together comprise the Development Plan;
 - (8) Sustainable Community Strategy; and
 - (9) Youth Justice Plan;

except for any amendment, modification, variation or revocation which—

 - (aa) is required for giving effect to requirements of the Secretary of State or a Minister of the Crown in relation to a plan or strategy submitted for approval, or to any part submitted; or
 - (bb) is authorised by a determination made by the local authority—
 - in pursuance of arrangements made for the discharge of functions as set out in the Budget and Policy Framework Procedure Rules set out at Part 4(3) of this Constitution; and
 - at the time when the local authority approves or adopts the plan or strategy, as the case may be.

- (iii) Making of a Members Allowance Scheme and amending the same.
- (iv) Determination of Mayor’s and Deputy Mayor’s allowances.
- (v) Making a request for single member electoral wards to the Local Government Boundary Commission.
- (vi) Resolution to change a scheme for elections.

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

- (q) Consideration of reports from committees or any other body constituted by the Council.
- (r) To receive the minutes of committees and sub-committees acting under delegated powers for question and comment.
- (s) Making recommendations to the Secretary of State on the Borough boundaries, ward boundaries, electoral divisions, ward or polling districts; and
- (t) any other function which must by law be reserved to full Council.

Note

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



CONSTITUTION OF THE COUNCIL

Part 3 Section B

RESPONSIBILITY FOR FUNCTIONS - (B) COMMITTEES

1. Composition and Terms of Reference of Committees

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

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

Articles 6,7 and 8 of this Constitution list the standing committees of the Council, which are grouped as Policy and Service Committees from Article 6, Review and Partnerships Committees (overview and scrutiny) from Article 7 and Regulatory Committees and other Committees from Article 8. Each of these has a different set of functions ascribed to it as set out below. The Committees in turn will reserve a number of decisions to themselves or to a sub-committee they or Council might establish but will otherwise delegate their functions to a relevant officer.

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

Described below are the Committees that the Council has established, their terms of reference and details of their membership and approach. The powers and duties that are delegated, listed under the various committees' terms of reference, are across broad functional descriptions and include powers and duties under all legislation, present and future, within those descriptions and all powers and duties including any statutory re-enactment or modification of the legislation referred to or associated with those functions.

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

2. Working Groups Involving Members

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

They usually fall into one of the following categories:

(a) Advisory groups relating to policy development or service functions

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

(b) Task & Finish Groups

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

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

The terms of reference and purpose are specified by the relevant Committee.

1. POLICY AND RESOURCES COMMITTEE

1.1 Composition:

Fifteen (15) Members of the Council, which may be altered to accommodate the overall political balance calculation, and which may be amended from year to year to ease political balance calculations and to incorporate the membership requirements. The membership shall include:

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

1.2 Terms of Reference

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

The Committee is charged by full Council to:-

- (a) formulate, co-ordinate and implement corporate policies and strategies and the medium term financial plan (budget), which includes responsibility for any decision:
 - (i) that relates to such matters to the extent that they are not reserved to full Council;
 - (ii) on any cross-cutting policies that impact on other committee areas;
 - (iii) on policy matters not otherwise allocated to any other committee; and
 - (iv) to determine any dispute or difference between committees;
- (b) provide a co-ordinating role across all other service committees and retain a 'whole-council' view of performance, budget monitoring and risk management, which includes responsibility for a decision:
 - (i) that has a major impact on a number of Council services or on the Council as a whole;
 - (ii) on any virement between Budget funds (revenue) requested by a Committee or officer in excess of **£100,000**;
 - (iii) on any virement between Budget funds (capital) or any amendment to the Capital Programme requested by a Committee or officer in excess of **£100,000**;
 - (iv) regarding land and property including major acquisition and disposals, which includes reserved decision making concerning any purchase, sale or transfer of a value in excess of, or likely to exceed, **£100,000**;
 - (v) regarding companies or limited liability partnerships including acquisition and disposals; and

- (vi) which is deemed significant in terms of impact on the Council’s revenue or capital (to be determined by the Head of Paid Service and/or Section 151 Officer in consultation with the Leader);
- (c) without limiting the generality of responsibility for cross-cutting policies (at (a) above), lead on behalf of the Council:
 - (i) in matters concerning relationships with HM Government, the Liverpool City Region Combined Authority and other major public and non-public bodies; and
 - (ii) in the Council’s response to the Climate Emergency, including but not limited to reducing carbon emissions, improving resource efficiency and developing sustainable energy solutions;
- (d) appoint Council representatives as required;
- (e) nominate councillors and other persons to outside bodies; and
- (f) undertake responsibility for developing and monitoring the enabling corporate services, including, finance and investment, project support and risk management, strategic procurement and commercial strategies, ICT, property and asset management, human resources and organisational development, law and governance, communications and public affairs, emergency planning and business continuity.

1.3 Senior Officer Appointments & Staffing Sub-Committee

A Sub-Committee of five (5) members of the Policy and Resources, subject to politically balance, with delegated authority to recommend or make appointments and related matters in respect of chief officers and deputy chief officers, as set out at Part 4(7) of the Constitution, together with oversight of employment policies, terms and conditions..

1.4 Other staffing sub-committees

A sub-committee or panel may be required from time to time to act in relation to Standing Order 7 or 8 of the Employment procedure Rules (set out at Part 4(7) of this Constitution. The membership of any such sub-committee or panel shall be made up in accordance with statutory or contractual requirements and may consist of members of the Policy and Resources Committee or members of the whole Council.

1.5 Finance and Procurement Sub-Committee

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

1.6 Shareholder Board

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

2. ADULT SOCIAL CARE AND HEALTH COMMITTEE

2.1 Composition:

Eleven (11) Members of the Council, which may be altered to accommodate the overall political balance calculation.

2.2 Terms of Reference

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

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

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

(viii) preventative services.

2.3 Methodology

- (a) **Enquiries and Policy Development** -The Committee may undertake enquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations.
- (b) **Overview and Scrutiny** - The Committee may scrutinise and review decisions made or actions taken by the Authority in so far as they have a direct impact on the role or functions of the committee and the Committee can make recommendations to the relevant Committee on policies, budget and service delivery. Overview and scrutiny of the Council is an important part of the Committee's remit as part of a 'doing and reviewing' approach. Upon conclusion of a scrutiny exercise the Committee will produce a report containing recommendations for decision by the Policy and Resources Committee or other Committee as may be relevant. In doing so, the Committee shall have regard to the overview and scrutiny means of working set out at Part 4(4) of this Constitution.
- (c) **Stakeholders** - The Committee may invite stakeholders to address the committee on issues of local concern and/or answer questions in so far as it impacts directly or indirectly on the role of functions of the committee.

3 CHILDREN, YOUNG PEOPLE AND EDUCATION COMMITTEE

3.1 Composition:

Eleven (11) Members of the Council, subject to proportionality, which may be altered to accommodate the overall political balance calculation, together with:

- (i) [one] representative of the Church of England Diocesan Board and [one] representative of the Roman Catholic Diocesan Board, who may only vote on education matters;
- (ii) [N] Co-opted Parent Governor Representatives (non-voting); and
- (iii) [N] Co-opted advisory members (non-voting) representing:- [...]

3.2 Terms of Reference

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

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

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

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

3.3 Methodology

- (a) **Enquiries and Policy Development** -The Committee may undertake enquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations.
- (b) **Overview and Scrutiny** - The Committee may scrutinise and review decisions made or actions taken by the Authority in so far as they have a direct impact on the role or functions of the committee and the Committee can make recommendations to the relevant Committee on policies, budget and service delivery. Overview and scrutiny of the Council is an important part of the Committee's remit as part of a 'doing and reviewing' approach. Upon conclusion of a scrutiny exercise the Committee will produce a report containing recommendations for decision by the Policy and Resources Committee or other Committee as may be relevant. In doing so, the Committee shall have regard to the overview and scrutiny means of working set out at Part 4(4) of this Constitution.
- (c) **Stakeholders** - The Committee may invite stakeholders to address the committee on issues of local concern and/or answer questions in so far as it impacts directly or indirectly on the role of functions of the committee

3.4 Corporate Parenting Panel

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

4. ECONOMY, REGENERATION AND DEVELOPMENT COMMITTEE

4.1 Composition:

Eleven (11) Members of the Council, subject to proportionality, which may be altered to accommodate the overall political balance calculation.

4.2 Terms of Reference

The Economy, Regeneration and Development Committee has responsibility for developing and delivering a vision for Wirral as a place. It is responsible for developing and determining or recommending all planning and transport policies, including the Local Plan, and infrastructure planning. It is also responsible for promoting regeneration, economic development and associated activities, including the tourism, culture and visitor economy, and for removing barriers to growth.

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

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

- (h) reviewing major projects and any project boards having regard to capacity to deliver, corporate priorities and resources, and advise the Policy and Resources Committee as appropriate;
- (i) providing a view of performance, budget monitoring and risk management in relation to the Committee's functions; and
- (j) undertaking the development and implementation of policy in relation to the Committee's functions, incorporating the assessment of outcomes, review of effectiveness and formulation of recommendations to the Council, partners and other bodies, which shall include any decision relating to the above functions.

4.3 Methodology

- (a) **Enquiries and Policy Development** -The Committee may undertake enquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations.
- (b) **Overview and Scrutiny** - The Committee may scrutinise and review decisions made or actions taken by the Authority in so far as they have a direct impact on the role or functions of the committee and the Committee can make recommendations to the relevant Committee on policies, budget and service delivery. Overview and scrutiny of the Council is an important part of the Committee's remit as part of a 'doing and reviewing' approach. Upon conclusion of a scrutiny exercise the Committee will produce a report containing recommendations for decision by the Policy and Resources Committee or other Committee as may be relevant. In doing so, the Committee shall have regard to the overview and scrutiny means of working set out at Part 4(4) of this Constitution.
- (c) **Stakeholders** - The Committee may invite stakeholders to address the committee on issues of local concern and/or answer questions in so far as it impacts directly or indirectly on the role of functions of the committee

4.4 Local Plan Steering Sub-Committee

A Sub-Committee of five (5) members of the Economy, Regeneration and Development Committee, politically balanced, with responsibility for the Council's functions to formulate the policies and strategies that together will form the Council's other spatial planning documents (Local Plan).

HOUSING COMMITTEE

5.1 Composition:

Eleven (11) Members of the Council, which may be altered to accommodate the overall political balance calculation.

5.2 Terms of Reference

The Housing Committee has responsibility for taking a strategic approach to the Council's various housing functions, including Council housing, homelessness, allocations and standards of housing.

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

- (a) the Authority's role and functions in relation to strategic and private sector housing policies and as the housing authority, including but not limited to
 - (i) the Council's Housing Strategy;
 - (ii) homelessness and the allocation of housing;
 - (iii) private sector housing, including taking action to remedy overcrowding, disrepair, unfitness and statutory nuisances; to promote fire safety in private sector housing and the Council's functions in relation to houses in multiple occupation;
 - (iv) licensing schemes;
 - (v) tenancy relations and the provision of housing advice;
 - (vi) housing loans and grants;
 - (vii) housing related support services; and
 - (viii) policies and actions with a view to reducing and eliminating street homelessness to ensure that appropriate action is taken;
- (b) analysis, development and overview of housing policies in terms of spatial planning to submit to the Economy, Regeneration and Development Committee to inform the Local Plan and planning policies;
- (c) providing a view of performance, budget monitoring and risk management in relation to the Committee's functions; and
- (d) undertaking the development and implementation of policy in relation to the Committee's functions, incorporating the assessment of outcomes, review of effectiveness and formulation of recommendations to the Council, partners and other bodies, which shall include any decision relating to the above functions.

5.3 Methodology

- (a) **Enquiries and Policy Development** -The Committee may undertake enquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. They

may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations.

- (b) **Overview and Scrutiny** - The Committee may scrutinise and review decisions made or actions taken by the Authority in so far as they have a direct impact on the role or functions of the committee and the Committee can make recommendations to the relevant Committee on policies, budget and service delivery. Overview and scrutiny of the Council is an important part of the Committee's remit as part of a 'doing and reviewing' approach. Upon conclusion of a scrutiny exercise the Committee will produce a report containing recommendations for decision by the Policy and Resources Committee or other Committee as may be relevant. In doing so, the Committee shall have regard to the overview and scrutiny means of working set out at Part 4(4) of this Constitution.
- (c) **Stakeholders** - The Committee may invite stakeholders to address the committee on issues of local concern and/or answer questions in so far as it impacts directly or indirectly on the role of functions of the committee

6. TOURISM, COMMUNITIES, CULTURE AND LEISURE COMMITTEE

6.1 Composition:

Eleven (11) Members of the Council, which may be altered to accommodate the overall political balance calculation.

6.2 Terms of Reference

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

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

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

- (ix) food safety; and
- (x) control of nuisances;
- (j) in respect of emergency planning and community resilience (community, regulatory and asset services);
- (k) providing a view of performance, budget monitoring and risk management in relation to the Committee's functions; and
- (l) undertaking the development and implementation of policy in relation to the Committee's functions, incorporating the assessment of outcomes, review of effectiveness and formulation of recommendations to the Council, partners and other bodies, which shall include any decision relating to the above functions.

6.3 Methodology

- (a) **Enquiries and Policy Development** -The Committee may undertake enquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations.
- (b) **Overview and Scrutiny** - The Committee may scrutinise and review decisions made or actions taken by the Authority in so far as they have a direct impact on the role or functions of the committee and the Committee can make recommendations to the relevant Committee on policies, budget and service delivery. Overview and scrutiny of the Council is an important part of the Committee's remit as part of a 'doing and reviewing' approach. Upon conclusion of a scrutiny exercise the Committee will produce a report containing recommendations for decision by the Policy and Resources Committee or other Committee as may be relevant. In doing so, the Committee shall have regard to the overview and scrutiny means of working set out at Part 4(4) of this Constitution.
- (c) **Stakeholders** - The Committee may invite stakeholders to address the committee on issues of local concern and/or answer questions in so far as it impacts directly or indirectly on the role of functions of the committee.

7. ENVIRONMENT, HIGHWAYS AND INFRASTRUCTURE COMMITTEE

7.1 Composition:

Eleven (11) Members of the Council, subject to proportionality, which may be altered to accommodate the overall political balance calculation.

7.2 Terms of Reference

The Environment, Highways and Infrastructure Committee has responsibility for parks and open spaces, highways management and infrastructure, coastal protection and flood defence and environment and waste matters.

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

- (a) in relation to all highways matters and as highway authority, street authority, bridge authority, including but not limited to public open spaces, street furniture on the highway and open spaces or parts of open spaces immediately adjacent to the highway;
- (b) in relation to traffic management and transport and as traffic authority, including but not limited to public passenger transport and the co-ordination of transport for service users, traffic orders and rights of way issues;
- (c) in relation to parking, including on and off-street parking and civil parking enforcement;
- (d) in respect of parks, open spaces, countryside management, allotments, playgrounds and cemeteries, including arboricultural, gardening and warden services;
- (e) in relation to the management of authorised and unauthorised sites and encampments, this to include all activities necessary or incidental to the Council's performance of its responsibilities in relation to Gypsies, Roma and Travellers;
- (f) in relation to waste and as waste collection authority, litter authority, including but not limited to dealing with litter, street cleansing, abandoned vehicles and dog fouling, and the Council's relationship with Merseyside Recycling & Waste Authority (MRWA) as the joint waste disposal authority;
- (g) as coast protection authority and lead local flood authority;
- (h) in respect of emergency planning and community resilience (infrastructure and contract services);
- (i) providing a view of performance, budget monitoring and risk management in relation to the Committee's functions; and
- (j) undertaking the development and implementation of policy in relation to the Committee's functions, incorporating the assessment of outcomes, review of effectiveness and formulation of recommendations to the Council, partners and other bodies, which shall include any decision relating to the above functions.

7.3 Methodology

- (a) **Enquiries and Policy Development** -The Committee may undertake enquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations.
- (b) **Overview and Scrutiny** - The Committee may scrutinise and review decisions made or actions taken by the Authority in so far as they have a direct impact on the role or functions of the committee and the Committee can make recommendations to the relevant Committee on policies, budget and service delivery. Overview and scrutiny of the Council is an important part of the Committee's remit as part of a 'doing and reviewing' approach. Upon conclusion of a scrutiny exercise the Committee will produce a report containing recommendations for decision by the Policy and Resources Committee or other Committee as may be relevant. In doing so, the Committee shall have regard to the overview and scrutiny means of working set out at Part 4(4) of this Constitution.
- (c) **Stakeholders** - The Committee may invite stakeholders to address the committee on issues of local concern and/or answer questions in so far as it impacts directly or indirectly on the role of functions of the committee

8. **DECISION REVIEW COMMITTEE**

8.1 **Introduction**

The process of overview and scrutiny fulfils a critical role in demonstrating openness and accountability in the Council's decision-making process and, as such, the Council has retained a formal scrutiny function in relation to Part 3 of the Local Authorities (Committee System) (England) Regulations 2012.

In relation to the Council, the overview role and long-term review of policy and decisions is largely carried out by the Policy and Service Committees themselves. A key role of overview and scrutiny, however, is to both to hold others to account and be able to have a decision challenged and reviewed with an independent mind. In this respect the statutory power to review a decision made but not yet implemented, triggered by Members of the Council in certain circumstances, is conducted by the Decision-Review Committee.

8.2 **Composition:**

Eleven (11) Members of the Council, subject to proportionality, which may be altered to accommodate the overall political balance calculation.

A Member may not sit as a member of the Committee where that Committee is due to consider, or is likely to consider, something that has been or might be considered by a committee of which the Councillor is a member.

8.3 **Terms of Reference**

The Decision Review Committee is a committee established by the Council with powers set out in Regulation 4(2)(a) of Part 3 of the 2012 Local Authorities (Committee System) (England) Regulations.

The Decision Review Committee is charged by full Council to undertake responsibility to review or scrutinise a decision made but not yet implemented, triggered by being called-in to the Committee by Members of the Council in certain circumstances, in accordance with the Overview and Scrutiny Procedure Rules set out at Part 4(4) of this Constitution. The Decision Review Committee may either

- (a) uphold the original decision, in which case it has immediate effect, or
- (b) refer it back to the decision-making Committee, Policy and Resources Committee or (exceptionally), a meeting of the Full Council)

with or without recommendations for change. This is the only function of the Committee.

For clarification, the process of decision review is not an alternative or additional mechanism to appeals procedures in respect of the decisions of the Council's regulatory committees.

9. PARTNERSHIPS COMMITTEE

9.1 Composition:

Eleven (11) Members of the Council, subject to proportionality, which may be altered to accommodate the overall political balance calculation.

9.2 Terms of Reference

The principal role of the Partnerships Committee is to look outwards to the Council's functions as the area's democratically elected local government, representing the people and businesses of the Borough. In terms of reviewing the decisions of relevant partner authorities on health service provision, on crime and disorder and on flood risk management, this role extends to include a statutory role and powers given by Parliament to the Council. The Committee can produce reports to which a relevant partner authority must have regard in the exercise of its functions.

The Committee is established by Council to fulfil those functions as an overview and scrutiny committee, not undertaken by the Decision Review Committee, provided under Part 3 of the 2012 Local Authorities (Committee System) (England) Regulations.

The Committee is charged by full Council to:-

- (a) undertake reviews and make recommendations on services or activities carried out by external organisations which affect the Borough of Wirral or any of its inhabitants, including the review and monitoring of the contractual and operational performance of shared service partnerships, joint ventures and outside organisations to which the Council makes a resource contribution, focussing on examination of the benefits of the Council's contribution and the extent to which the body concerned makes a contribution to achievement of the Council's priorities;
- (b) consider and implement mechanisms to encourage and enhance community participation in the development of policy options and to investigate, take evidence and consult upon issues within their remit;
- (c) undertake responsibility for the Council's responsibilities for scrutiny as stated in the Police and Justice Act 2006, the Health and Social Care Act 2006 as amended, the Local Government Act 2000 as amended, the Localism Act 2011 and the subsequent Local Authority (Committee System) (England) Regulations 2012, which includes
- (d) in respect of the Health and Social Care Act 2006, the functions to:
 - (i) investigate major health issues identified by, or of concern to, the local population.
 - (ii) consult, be consulted on and respond to substantial changes to local health service provision, including assessing the impact on the local community and health service users.

- (iii) scrutinise the impact of interventions on the health of local inhabitants, particularly socially excluded and other minority groups, with the aim of reducing health inequalities.
 - (iv) maintain an overview of health service delivery against national and local targets, particularly those that improve the public's health.
 - (v) receive and consider referrals from local Healthwatch on health matters.
- (e) in respect of the Police and Justice Act 2006, the functions to:
- (i) review or scrutinise decisions made or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions; and
 - (ii) make reports or recommendations to the local authority with respect to the discharge of those functions
- (f) in respect of Section 9JB of the Local Government Act 2000, the functions to review and scrutinise the exercise by risk management authorities of flood risk management and of coastal erosion management functions which may affect the local authority's area; and
- (g) undertake responsibility for those overview and scrutiny functions provided for under Part 3 of the 2012 Local Authorities (Committee System) (England) Regulations. not otherwise fulfilled.

9.3 Methodology

The process and meetings of the Committee in carrying out will be conducted in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4(4) of this Constitution

9.4 Joint Health Scrutiny Committee

A Joint Health Scrutiny Committees has been established under Regulations made under the Health and Social Care Act 2001 and directions issued by the Secretary of State for Health. These committees comprise representatives of the authorities in the area affected and are appointed to examine proposals by NHS Trusts and commissioners that affect more than one local authority area. They are authorised formally by the local authorities to scrutinise and report on the proposals and to consider whether, in the light of the decision of the NHS Board(s), the consultation process was flawed or that the decision is not in the interest of the residents and health needs in the area and, in either case, whether to refer the matter to the Secretary of State for Health.

Procedures at meetings of Joint Health Scrutiny Committees will be as decided by the Joint Committee and in accordance with the Memorandum of Understanding agreed by the respective authorities [dated xx], except where otherwise prescribed by legislation.

10. PLANNING COMMITTEE (DEVELOPMENT CONTROL)

10.1 Composition:

Eleven (11) Members of the Council, subject to proportionality, which may be altered to accommodate the overall political balance calculation.

10.2 Terms of Reference

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

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

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

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

10.3 Methodology

The process and meetings of the Committee will be conducted in accordance with the rules set out in Part 4(4) of this Constitution but shall also be subject to:

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

10.4 Strategic Applications Sub-Committee

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

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

from the policies of the statutory development plan, where they are recommended for approval;

- (iv) any application where the Director responsible for the planning service considers it inappropriate to exercise delegated powers having regard to the public representations received and consultee responses; and
- (c) consideration of documents relating to the Local Development Framework and advise the Economy, Regeneration and Development Committee (or Housing Committee) where appropriate

11 REGULATORY AND GENERAL PURPOSES COMMITTEE

11.1 Composition:

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

11.2 Terms of Reference

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

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

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

to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference and the power to institute proceedings for offences in respect of unclaimed land;

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

11.3 **Trustee Sub-Committee**

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

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

11.4 **Regulatory Licensing Panels**

Sub-Committees of between three (3) and five (5) members of the Regulatory and General Purposes Committee, politically balanced, with responsibility for the Council's functions to deal with applications, determinations and reviews of licences or for registration, and any related matter, in respect of any licensed activity that is the responsibility of the Authority (other than under the Licensing Act 2003 or the Gambling Act 2005).

11.5 **Methodology**

The process and meetings of the Committee will be conducted in accordance with the rules set out in Part 4(4) of this Constitution but shall also be subject to:

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

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

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

12 LICENSING ACT COMMITTEE

12.1 Composition:

Fifteen (15) Members of the Council, who will be those same Members as are appointed to the Regulatory and General Purposes Committee (whose appointments must be in accordance with the proportionality rules). There shall be no power to co-opt.

12.2 Terms of Reference

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

12.3 Licensing Panels

Sub-Committees of between three (3) and five (5) members of the Regulatory and General Purposes Committee with responsibility for the Council's functions to deal with applications, determinations and reviews of licences, permissions and any related matter in respect of the Licensing Act 2003 or the Gambling Act 2005.

12.4 Methodology

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

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

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

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

13 **AUDIT AND RISK MANAGEMENT COMMITTEE**

13.1 **Composition:**

Eleven (11) Members of the Council, subject to proportionality, which may be altered to accommodate the overall political balance calculation, together with a co-opted person.

A person who is not a Member or officer of the Council shall be a co-opted member of the Committee, who will not be entitled to vote at meetings

[Discussion concerning as now, CIPFA suggested revision or other ToR and membership]

14 CONSTITUTION AND STANDARDS COMMITTEE

14.1 Composition:

Eleven (11) Members of the Council (other than the Leader), who will be appointed by Council and include members of all Political Groups. The appointment need not be in accordance with the proportionality rules (minute 13 of 2019/20 refers).

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

14.2 Terms of Reference

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

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

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

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

14.3 Standards Panels

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

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

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

15 PENSIONS COMMITTEE

15.1 Composition:

Nine (9) Members of the Council, which may be altered to accommodate the overall political balance calculation.

Co-opted members, being:

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

15.2 Terms of Reference

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

In particular, the Committee is charged by full Council:

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

16 HEALTH AND WELL BEING BOARD

16.1 Establishment:

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

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

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

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

16.2 Composition:

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

(a) Core Membership

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

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

(b) Appointed Membership

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

(c) Co-options and engagement

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

16.3 Terms of Reference

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

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

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

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

16.4 **Chairing the Board**

The Board will be chaired by the Leader of the Council or, in his/her absence, the Deputy Leader.



CONSTITUTION
OF THE COUNCIL

Part 3
Section B
Annexe

RESPONSIBILITY FOR FUNCTIONS - (Annexe) STATUTORY AND ADVISORY BODIES

TO BE INSERTED



CONSTITUTION OF THE COUNCIL

Part 3 Section C

OVERVIEW AND SCHEME OF DELEGATIONS OF AUTHORITY TO OFFICERS

1. All matters which have not been reserved to Council or a Committee are delegated to Officers. Each Chief Officer, in consultation with Committees of the Council as may be required, must develop and maintain a **Scheme of Authorisation** for their Directorate, which will be published on the Council's website as required by Section 100G of the Local Government Act 1972. Delegated decisions are to be taken in accordance with the relevant internal Scheme of Authorisation. Officers may take decisions within the responsibilities of their Directorate as determined by the Head of Paid Service.
2. Decisions not reserved to or by a Committee or Sub-Committee are expected to be taken by an officer only where:
 - (a) the proposed decision concerns the award of contract or otherwise materially affects the Council's financial position, by a financial saving or expenditure, of no more than **£1,500,000** (unless the decision has specifically been delegated to the Officer by a Committee or Sub-Committee);
 - (b) the item of business has not been previously requested by a Committee or Sub-Committee or the Chair or Group Spokesperson of a Committee to be referred to a Committee or Sub-Committee; or
 - (c) the officer concerned is not of the opinion that, due to its sensitive or high profile nature, the item of business is to be referred to a Committee or Sub-Committee for determination (but shall not do so if any third party rights would be adversely affected solely as a result of the officer declining to exercise their delegated power).
3. Chief Officers are otherwise authorised to take the necessary action to implement decisions taken by Committees of the Council
4. Under this scheme Officers must keep Members properly informed of action arising within the scope of these delegations. Officers must liaise closely with the relevant Chair and Vice-Chair when the matter falls within the remit of that Committee. Officers should inform the local Ward Members when they exercise delegated powers specifically affecting their ward and when the matter is likely to be politically sensitive or contentious unless legal reasons prevent this.
5. The Council may use provisions of the Local Government Act 1972 and the Localism Act 2011 to commission and monitor work for and on behalf of the Council. When services remain the responsibility of the Council but are delivered by people who are not officers of the authority, Chief Officers may authorise non-Council employees to

take delegated decisions. Such people will be bound by the Constitution, this scheme, and the obligations contained in it, at all times when engaged on Council business. All such authorisations by Chief Officers must be recorded in the relevant internal scheme of authorisation.

6. Any formal decision which requires the approval of a Chief Officer is required to be published on the Council's Forward Plan and recorded using a Delegated Decision Notice which will be published on the Council's website. Chief Officers and Deputy Chief Officers are responsible for ensuring that items are included on the Forward Plan and that Committee Chairs and Group Spokespersons are appropriately consulted prior to decisions by Chief Officers.
7. Officers must comply with requirements of Article 13 (Decision Making) and Part 4(2) (The Access to Information Procedure Rules) of this Constitution when making relevant decisions. It is noted that these comply with The Openness of Local Government Bodies Regulations 2014, which require every local authority to publish details of certain decisions taken by officers under delegated authority as soon as practicable. Chief Officers are responsible for ensuring that decisions taken within their areas of responsibility are recorded in accordance with these regulations.
8. In exercising their delegated powers, Chief Officers and Deputy Chief Officers must act within the law, comply with the Council's Standing Orders and Financial Regulations and follow Council policy and the instructions of Council Committees. If, exceptionally, it is necessary to depart from Council policy or a Committee's instructions, a full report must be submitted to the relevant Committee as soon as is practicable.
9. Chief Officers, subject to consultation with the Chair or, in their absence, the Vice-Chair of the relevant Committee, and that of both the Head of Paid Service and the Monitoring Officer, may perform all functions within the Powers and Duties of that Committee in any case of urgency in which the prompt performance of any of the Council's functions is desirable and necessary, having regard to the process set out in Article 6.5 but in accordance with Part 4(2) (The Access to Information Procedure Rules) of this Constitution
10. The Head of Paid Service, or in his or her absence, Chief Officers who are members of the Strategic Leadership Team, have the authority to perform any functions of the Authority in an emergency.
11. Where an officer has delegated powers, the Council or relevant Committee can still exercise that power in a particular case if it considers it appropriate to do so. Equally it is always open to an Officer not to exercise delegated powers but to refer the matter up as appropriate.
12. The Council's list of proper officer functions is annexed to this Scheme.
13. The Head of Paid Service's nominated Deputy at the time and the Deputy Monitoring Officer may exercise any of the functions of the Chief Executive or the Monitoring Officer respectively in the absence of those Officers.

14. The Monitoring Officer is responsible for interpretation of all aspects of the Scheme of Delegation where there is doubt or dispute.

PROPER OFFICER FUNCTIONS

<i>Legislation</i>	<i>Responsibility</i>	<i>Proper Officer</i>



CONSTITUTION OF THE COUNCIL

Part 4 Section 1

COUNCIL STANDING ORDERS

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1. ANNUAL MEETING OF THE COUNCIL

1.1. Timing and business

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

1.2 Part 1: The Ceremonial Meeting (Mayor Making)

The Meeting will:

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

1.3 Part 2: The Business Meeting

The Meeting will:

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

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

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

2. **ORDINARY MEETINGS**

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

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

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

3. **EXTRAORDINARY MEETINGS**

3.1. **Calling extraordinary meetings**

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

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

3.2. **Business**

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

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

4.1 Allocation

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

4.2 Number

For each Committee or Sub-Committee, the Council may appoint the same number of substitutes in respect of each political group as that group holds ordinary seats on that committee or sub-committee, [up to a maximum of 50% of the political group's seat allocation on that committee].

4.3 Powers and duties

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

4.4 Substitution

Substitute members may attend meetings in that capacity only:

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

4.5 Absence

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

5. TIME AND PLACE OF MEETINGS

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

6. NOTICE OF AND SUMMONS TO MEETINGS

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

business to be transacted at the meeting (the agenda) together with accompanying reports.

7. CHAIR OF MEETING

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

8. QUORUM

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

9. DURATION OF MEETING

9.1 Interruption of the meeting

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

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

9.2 Motions and recommendations not dealt with

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

9.3 Recorded vote

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

9.4 Motions which may be moved

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

9.5 Close of the meeting

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

10. QUESTIONS BY THE PUBLIC AT MEETINGS OF COUNCIL

10.1 General

Members of the public who are residents of the Borough, or are a representative of a local firm or organisation, may ask questions of the Leader or Deputy Leader of the Council or the Chair of any Policy and Services Committee or a leader of a political group at ordinary meetings and, at the discretion of the Mayor, extraordinary meetings of the Council.

10.2 Order of questions

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

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

10.3 Notice of questions

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

10.4 Number of questions

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

10.5 Scope of questions

If the Monitoring Officer considers a question:

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

– requires the disclosure of confidential or exempt information

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

10.6 Record of questions

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

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

10.7 Asking the question at the meeting

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

10.8 Supplemental question

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

10.9 Answers

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

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

10.10 Reference of question to a Committee

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

10.11 Regulatory Committees

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

11. STATEMENTS AND PETITIONS

11.1 Representations

A member of the public may speak on up to two non-procedural items on any Agenda if notice has been given no later than 15 minutes before the start of the meeting. The Mayor may, at his or her discretion, limit the number of speakers and the time each speaker may speak for. No speech should exceed three minutes. Each member of the public may only speak once. Public speaking on any one item shall not exceed 10 minutes, subject to the Mayor's discretion to extend the time if he or she considers it appropriate.

11.2 Petitions

Petitions may be presented to the Council. The person presenting the petition will be allowed to address the meeting briefly (not exceeding one minute) to outline the aims of the petition. The Mayor will refer the matter to another appropriate body of the Council within whose terms of reference it falls without discussion, unless a relevant item appears elsewhere on the Agenda.

12. QUESTIONS BY MEMBERS AT COUNCIL

12.1 On reports of Committees

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

12.2 Questions on notice at full Council

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

12.3 Questions on notice at committees and sub-committees

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

12.4 Notice of questions

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

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

12.5 **Scope of questions**

If the Monitoring Officer considers any question:

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

requires the disclosure of confidential or exempt information;

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

12.6 **Response**

An answer may take the form of:

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

12.7 **Supplementary question**

Every question, which will be limited to one part, will be asked and answered without discussion. Upon receiving the answer, the Member who put the question shall be allowed one supplementary question, provided that it arises directly out of the original question or the reply and does not introduce any new subject matter.

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

12.8 **Time limits for questions and responses**

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

13. MOTIONS ON NOTICE

13.1 Notice

Except for motions which can be moved without notice under Standing Order 14, written notice of every motion, must be delivered to the Monitoring Officer in its initial form by nine clear working days before the date of the meeting (the Monday of the second week before each ordinary meeting of the Council where held on a Monday) and in final form noon seven clear working days before the date of the meeting (the Wednesday of the second week before each ordinary meeting of the Council where held on a Monday).

13.2 Motion set out in agenda

Motions for which notice has been given will be listed on the agenda, unless the member giving notice states, in writing, that they propose to move it to a later meeting. The motions will be listed in the order of political group size on a rotational basis, i.e.,

1. first received or preferred notice of motion from the largest Political Group;
2. first received or preferred notice of motion from the next largest Political Group;
3. and so forth;
4. first received notice of motion from a Member who is not a member of a Political Group;
5. after which the order above is to be repeated.

13.3 Amendments to Motions on Notice

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

The Member submitting the amendment must then confirm in writing to the Monitoring Officer by 12 noon one working day before the meeting whether the amendment is to go forward, or notify the Monitoring Officer of any changes to the amendment. If no withdrawal, confirmation or change is received by the Monitoring Officer, it will be assumed that the amendment is to be considered in its initial form.

The Mayor may allow amendments without notice, or alterations to amendments, in exceptional circumstances where the Mayor considers it conducive or necessary to the business of the Council to do so.

13.4 Scope

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

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

- requires the disclosure of confidential or exempt information
- he or she will inform the Mayor who will then decide whether or not to reject the motion.

14 **MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- a) to appoint a chair of the meeting at which the motion is moved;
- b) in relation to the accuracy of the minutes;
- c) to change the order of business in the agenda;
- d) to refer something to an appropriate body or individual;
- e) to appoint a committee or member arising from an item on the summons for the meeting;
- f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- g) to withdraw a motion;
- h) to amend a motion;
- i) to proceed to the next business;
- j) that the question be now put'
- k) to adjourn a debate;
- l) that the meeting continues beyond 3 hours in duration (2 in the case of an extraordinary meeting);
- m) to suspend a particular Council Standing Order;
- n) to exclude the public and press in accordance with the Access to Information Rules;
- o) to not hear further a member named under Standing Order 20.3 or to exclude them from the meeting under Standing Order 20.4; and
- p) to give the consent of the Council where its consent is required by this Constitution.

15. **RULES OF DEBATE**

15.1 **No speeches until motion seconded**

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

15.2 **Right to require motion in writing**

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

15.3 **Secunder's speech**

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

15.4 **Content and length of speeches**

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

15.5 **When a Member may speak again**

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

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

15.6 **Amendments**

- a) An amendment to a motion must be relevant to the motion and will either be:
 - i. to refer the matter to an appropriate Committee, body or individual for consideration or reconsideration;
 - ii. to leave out words;
 - iii. to leave out words and insert or add others; or
 - iv. to insert or add words.as long as the effect of (ii) to (iv) is not to negate the motion.
- b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.

- c) If an amendment is not carried, other amendments to the original motion may be moved.
- d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- e) After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

15.7 **Alteration of motion**

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

15.8 **Withdrawal of motion**

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

15.9 **Right of reply**

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

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

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

- a) to withdraw a motion;
- b) to amend a motion;
- c) to proceed to the next business;
- d) that the question be now put;

- e) to adjourn a debate;
- f) that the meeting continues beyond 3 hours in duration (2 in the case of an extraordinary meeting);
- g) to exclude the public and press in accordance with the Access to Information Rules; and
- h) to not hear further a member named under Standing Order 20.3 or to exclude them from the meeting under Standing Order 20.4.

15.11 Closure motions

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

15.12 Point of order

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

15.13 Personal explanation

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

15.14 Motions affecting persons employed by the Council

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

15.15 Joint Debates

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

16. PREVIOUS DECISIONS AND MOTIONS

16.1 Motion to rescind a previous decision

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

16.2 Motion similar to one previously rejected

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

16.3 Reconsideration during the meeting

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

17. VOTING

17.1 Majority

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

17.2 Casting Vote

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

17.3 Method of Voting

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

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

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

17.4 Recorded Vote

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

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

17.5 Right to Require Individual Vote to be Recorded

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

17.6 Voting on Appointments

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

18. MINUTES

18.1 Signing the minutes

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

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

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

suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 of the Local Government Act 1972 relating to signing of minutes.

18.3 Form of minutes

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

19. EXCLUSION OF PUBLIC

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

20. MEMBERS' CONDUCT

20.1 Standing to speak

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

20.2 Mayor standing

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

20.3 Member not to be heard further

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

20.4 Member to leave the meeting

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

20.5 General disturbance

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

21. DISTURBANCE BY PUBLIC

21.1 Removal of member of the public

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

21.2 Clearance of part of meeting room

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

22. PHOTOGRAPHY AND AUDIO/VISUAL RECORDING OF MEETINGS

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

23. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

23.1 Suspension

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

23.2 Amendment

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

24. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

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

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

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



CONSTITUTION OF THE COUNCIL

Part 4 Section 2

ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

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

2. ADDITIONAL RIGHTS TO INFORMATION

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

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

3. RIGHTS TO ATTEND MEETINGS

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

4. NOTICES OF MEETINGS

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

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

6. SUPPLY OF COPIES

The Council will supply copies of the following:

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

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

The Council will make available

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

8. **RECORD OF DECISIONS TAKEN BY OFFICERS**

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

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

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

for publication in accordance with paragraph 7 above.

9. **BACKGROUND PAPERS**

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

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

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

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

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

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

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

(c) Meaning of confidential information

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

(d) Meaning of exempt information

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

CATEGORY	CONDITION
1. Information relating to an individual	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular living individual in the roles indicated.</p> <p>Information is only exempt:</p> <ul style="list-style-type: none"> (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

	<p>particular living individual in the roles indicated.</p> <p>Information is only exempt:</p> <ul style="list-style-type: none"> (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.
<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding the information)</p> <p><i>‘financial or business affairs’ includes contemplated, as well as past or current, activities</i></p> <p><i>This category will include commercial and contractual interests</i></p>	<p>Information is not exempt information if it is required to be registered by law e.g. Companies Act 1985, the Charities Act 1993 etc</p> <p>Information is only exempt if and for so long as:</p> <ul style="list-style-type: none"> (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.

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

<p>(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</p>	<p>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.</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>	<p>Information is only exempt if its disclosure would, or would be likely to, prejudice-</p> <ul style="list-style-type: none"> (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.

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

12. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

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

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

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

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

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

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

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



CONSTITUTION OF THE COUNCIL

Part 4 Section 3

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. The Framework for Decisions

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

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

2. Process for Agreeing the Annual Budget

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

(a) Timetable

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

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

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

(c) Individual Policy Committees develop detailed budget proposals

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

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

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

(e) Initial Full Council Meeting

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

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

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

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

(f) Further Meeting of the Policy and Resources Committee

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

(g) Final Meeting of the Council

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

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

(a) Outline proposal developed

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

(b) Consultation on initial draft of Plan or Strategy

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

(c) Consideration by Policy and Resources Committee

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

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

(d) Initial Full Council Meeting

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

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

(e) Further Meeting of the Policy and Resources Committee

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

(f) Meeting of Full Council

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

4. Decisions Outside the Budget or Policy Framework

- (a) Subject to the to the provisions of paragraph 6 (virement), Committees of the Council and any officers, area committees or joint arrangements discharging Council functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by Full Council, then that decision may only be taken by the Council, subject to paragraph 5 below.
- (b) If the Committee and any officers, area committees or joint arrangements discharging Council functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 5 (urgent decisions outside the Budget and Policy Framework) shall apply.

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

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

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

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

6. Virements

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

- (a) **Revenue budget** – Policy and Services Committees and Chief Officers may approve virement of revenue budget up to £100,000 (cumulatively up to £200,000 over the financial year) provided that there is no virement of revenue budget transfer between 'Directorates' (Budget Heads) with the exception of virement or the transfer of Budgets Heads as a direct result of any management restructure;
- (b) **Capital budget** - Policy and Services Committees and Chief Officers may approve virement of capital budget up to £10,000 for schemes up to £100,000, and for schemes over £100,000, up to 10% or £500,000, whichever is the lesser; and
- (c) **Policy and Resources Committee** (or sub-committee) may vire:
- (i) **Revenue** - an amount over £100,000, up to £5 million and up to 4 [?] occasions during the municipal year, where it considers that virement across budget heads or budgets has become necessary or desirable, is consistent with approved Council policy and there would be no consequential revenue effects in later years; and

- (ii) **Capital** – subject to reporting decisions to full Council, an amount over £100,000 where it considers virement across budget heads or amendment of the Council's Capital programme has become necessary or desirable.

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

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

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

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



CONSTITUTION OF THE COUNCIL

Part 4 Section 4

PROCEDURES FOR DEALING WITH MATTERS AT REVIEW COMMITTEE MEETINGS

1. PROCEEDINGS

- (a) **Application of procedure rules** - The following procedures apply to the Decision Review and Partnerships Committees.
- (b) **Legislative requirements** - The Decision Review Committee and the Partnerships Committee must comply with the provisions of the Local Authorities (Committee System) (England) Regulations 2012, Parts 3, 4 and 5 (overview and scrutiny) and have regard to Guidance issued by the Secretary of State when conducting its business.
- (c) **Decision making** - Neither the Decision Review Committee nor the Partnerships Committee are a decision making committee but may make recommendations to Committees, Full Council or any other relevant authority.
- (d) **Quorum** - The quorum for either the Decision Review Committee and Partnerships Committee meetings is one quarter of the total membership, but not less than four.

2. MEMBERSHIP

- (a) **Members** - Substitute members are permitted on the Decision Review Committee and the Partnerships Committee.
- (b) **Co-option** - Advisory, non-councillor representatives may be members of the Partnerships Committee. Such members may participate at meetings but may not vote, unless they have statutory authority to do so.
- (c) **Speakers and guests** - The Decision Review Committee and the Partnerships Committee can request individuals from outside organisations to attend meetings but cannot compel them to do so unless otherwise stated in legislation.

3. INTERESTS AND PARTICIPATION

- (a) **Member's right to speak** - A councillor may speak at a meeting of a Decision Review Committee or the Partnerships Committee where a specific decision or proposal of a Committee of which he or she is a member is being reviewed, but must then leave the meeting for the remainder of the debate on that item.

- (b) **Review or scrutiny of one's own decisions** - Decision Review Committee and Partnerships Committee members may not review or scrutinise decisions they have made as a member of another Committee. In this case, they should declare an interest and leave the meeting room. If a member feels that there is a particular reason why he or she should participate, a dispensation must be sought from the Constitution and Standards Committee or Monitoring Officer.
- (c) **Whipping** - When considering any matter in respect of which a Member of the Decision Review Committee is subject to a Political Group whip, the Member must declare the existence of the whip and the nature of it before the Committee's consideration of the matter. The declaration and detail of the whipping arrangement shall be recorded in the minutes of the meeting.

4. **BUSINESS AT MEETINGS**

- (a) **Agenda** - The business at each meeting of the Decision Review Committee and the Partnerships Committee will be conducted as set out on the agenda for the meeting, subject to the Chair having discretion to change the order of the items to be discussed.
- (b) **Functions** - The Decision Review Committee and the Partnerships Committee are, between them, to fulfil the functions pursuant to Regulation 4 (overview and scrutiny committees) of the Local Authorities (Committee System) (England) Regulations 2012 and set out in Article 7 of this Constitution.
- (c) **Member referral** - Any Member of the Authority is entitled to refer to the Decision Review Committee and to the Partnerships Committee any matter which is relevant to these functions. In requesting to the proper officer that s/he wishes an item relevant to the functions of the Committee to be included on the agenda for discussion, the Member must have regard to Guidance for the time being issued by the Secretary of State.
- (d) **Decision Review Process** – In conducting a meeting to review a decision referred to the Committee, the Committee shall follow as far as is reasonably practicable the procedure set out at Annexe 1 to these procedure rules.
- (e) **Support to business** - Officer support to the Committees will be provided to advise members in discharging their functions.

5. **WAYS OF WORKING**

The Decision Review Committee and the Partnerships Committee may adopt innovative ways of working. It will operate more like select committees, taking oral evidence through select committee style witness hearings.

6. **SPEAKERS**

- a) **Summoned** -The Decision Review Committee and the Partnerships Committee may require Members of the local authority, and officers of the authority, to attend before it to answer questions and it shall be the duty of any such Member

or Officer to comply with the requirement, provided that they will not be obliged by that requirement to answer any question which he or she would be entitled to refuse to answer in, or for the purposes of proceedings in, a court of law in England and Wales.

- b) **Invited** - The Decision Review Committee and the Partnerships Committee may request any of the following to attend a meeting:
- i) any Member, elected or co-opted, to attend and advise;
 - ii) a representative of any outside body, whose powers or interests are relevant to the matter in hand, to give their views;
 - iii) any external expert to give evidence, provided arrangements can be made within the budget to pay any expenses or fees so incurred; or
 - iv) (or allow to speak) any resident of the Borough or any person with a legitimate interest in the topic under consideration to attend and give their views.
- c) **Conditions** - In applying the Committees' powers contained in (a) and (b) above, the proceedings of the Committee will be subject to the following provisions:
- i) Any requirements to attend shall be subject to not less than five clear working days' notice, except in a case of urgency;
 - ii) A chair of the committee concerned or relevant Member may ask the appropriate chief officer or other senior officer to attend with them to assist in providing technical advice;
 - iii) Where a Committee asks or requires an officer to attend who is not a chief or statutory officer, the appropriate chief and/or statutory officer shall also be entitled to be heard, and the officer required to attend may, if they wish, nominate a senior officer to attend on their behalf;
 - iv) Where someone requested or required to attend is genuinely unable to attend then, in the case of a Chair or Member, another Member of the relevant committee shall attend in their place. In the case of an officer, another officer who is able to speak on the topic under consideration shall attend;
 - v) Anyone asked to speak to a meeting of the Decision Review Committee or Partnerships Committee shall be entitled to see the terms of reference of the particular matter under consideration by the Committee before attending to speak;
 - vi) Anyone asked to speak to a to a meeting of the Decision Review Committee or Partnerships Committee shall be entitled to see the public papers which have been made available to the Committee and, wherever possible, on the same timescale as for a member of that Committee;
 - vii) Anyone asked to speak to a to a meeting of the Decision Review Committee or Partnerships Committee shall, wherever possible, be given access to statements submitted by individuals from whom the Committee has already heard, but not those who have not yet given evidence. The Chair shall have a discretion to disclose other papers, including statements

submitted by following speakers and confidential or exempt material, if he or she considers that will help the speakers to address a particular point, or will otherwise assist the Committee's examination of the issue;

- viii) All speakers shall respect the confidentiality of any confidential or exempt information they receive, and shall not disclose it without the authorisation of the Committee;
- ix) Speakers may submit papers in advance to the Committee, but such papers shall be clear and succinct;
- x) Papers for consideration by Committee will not be admissible less than one hour before the start of the relevant Committee meeting;
- xi) Speakers shall be able to bring such notes and diaries as are helpful to them in assisting the Committee, but shall expect to make available any such notes to the Committee, on the request of the Chair;
- xii) Papers submitted by speakers shall become public documents once they have presented their evidence, and shall be cited as background papers in any published report by the Committee;
- xiii) Officers shall not be required to give personal opinion on any Committee's decision which is different from the recommendation they made;
- xiv) Committee Members may expect to ask searching questions, but will always behave in a polite and respectful way to anyone contributing to the Committee's proceedings;
- xv) The Chair may specify a time limit for a contribution, in advance of the commencement of such contribution, which shall not be less than five minutes. If someone making such a contribution exceeds the time limit given, the Chair may stop them. The Chair may also structure a discussion and limit the time allowed for questioning by members of the Committee;
- xvi) Speakers shall be entitled to a copy of any draft minute or other record taken of their contribution for comment wherever possible. Should they feel that such record is not accurate, then they shall be given the opportunity to make a written representation asking for the correction to be submitted to the next meeting of the Committee.

7. **DECISION REVIEW**

- (a) Key decisions made by one of the Policy and Services Committees, or an officer acting under delegated authority from one of those committees, are published within a decision notice, normally within a period of two working days after the relevant meeting. Unless the relevant decision-making body has stated that the decision is not suitable for review, the decision will not be implemented for a period of three working days from the date of publication, during which time any six (6) Members of the Council may call-in the decision for review.
- (b) A notice of referral for review should meet the criteria set out at paragraph 8 below. The referral must be submitted by any six elected Members of the Council who have given detailed reasons for the referral. The detailed reasons must be provided by the Lead signatory by the deadline

- (c) The decision will then be referred to a meeting of the Decision Review Committee for review, together with a statement of the reasons for the review request. Implementation of the decision shall be held in abeyance pending the conclusion of the process unless the matter is considered urgent as defined in paragraph below.
- (d) The proper officer shall call a special meeting of the Decision Review Committee on such date (where possible within 15 working days of the receipt of the accepted referral notice) and of such membership as he/she may determine following consultation with the Political Group Leaders and the Chair of the Committee
- (e) The Decision Review Committee shall follow, as far as is reasonably practicable, the procedure set out at Annexe 1 to these procedure rules.
- (f) The Decision Review Committee can, at its meeting, resolve:
 - (i) to make no recommendation to the decision-taker, in which case the initial decision shall be implemented at any time after the end of the meeting of the Decision Review Committee
 - (ii) to make recommendation(s) in terms of improvement(s) to services or procedures, in which case the initial decision shall be implemented at any time after the end of the meeting of the Decision Review Committee;
 - (iii) to make a recommendation, with a statement of reasons, to the decision-taker to alter the decision, or reconsider any part of it, in which case the implementation of the initial decision shall be delayed until such a recommendation has been considered;
 - iv) exceptionally, to refer the decision, with a statement of reasons why, to another decision-maker of higher authority (be that a Policy and Services Committee, Policy and Resources Committee or Council as appropriate) to consider all or any part of it as a fresh decision, in which case the implementation of the initial decision shall be delayed until such a recommendation has been considered; or
 - v) to defer consideration of the proposal for further reports. In this case, the Decision Review Committee must set a date and time for such deferred consideration, and the decision shall not be implemented until the end of that subsequent meeting.
- (g) A decision may only be subject to review once.

8 CRITERIA FOR DECISION REVIEW

In administering the decision review procedure, the Committee, Chair, Chief Executive and proper officer shall have regard to the following criteria to enable a Call-in to be effected:

- (a) Does the proposal affect more than one Committee terms of reference (portfolio)?
- (b) Does the proposal affect more than one Ward?
- (c) Is the proposal one against which the Council has received substantial public representations?
- (d) Are there significant legal, financial or propriety issues relating to the proposal?
- (e) Has the decision-taker failed to seek or to take into account any views previously expressed by the relevant Committee?
- (f) Is the decision likely to cause significant concern or distress to the local community or prejudice to individuals within it?
- (g) Has more than one Member of the Decision Review Committee or have members of more than two committees requested the Call-in?
- (h) Is the issue one which has not been the subject of significant consultation?
- (i) Will any damage to the interests of the Council from delay in taking or implementing the decision be insignificant?

9. **URGENCY**

The decision review procedure set out at paragraph 7 above shall not apply at or from any point where the decision being taken considered is urgent. A decision will be urgent if any delay likely to be caused by the decision review 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 review. The Chief Executive must agree both that the decision proposed is reasonable 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.

ANNEX 1 PROCEDURE AT A DECISION REVIEW COMMITTEE

Chair's opening remarks (5 minutes)

The Chair will open the Committee meeting convened to review the decision referred and set out the procedure as follows:

Explanation of the call in by the lead signatory (5 minutes)

The Chair will invite the lead signatory to set out the reasons for the decision review. Members of the Committee will be invited to ask the lead signatory questions.

Overview and explanation of the decision taken by the relevant Cabinet Member (5 minutes)

The Chair will invite the decision-making officer or Committee Chair (or nominee) to explain the reasons for the decision.

Members of the Committee will be invited to ask the decision-maker questions.

Evidence from call in witnesses

The Chair will invite the following witnesses to come forward. Witnesses may read out a written statement (not to exceed 5 minutes) if they wish, prior to questions from Members of the Committee.

(Running order of witnesses)

Evidence from decision-maker's witnesses

The Chair will invite the following witnesses to come forward. Witnesses may read out a written statement if they wish (not to exceed 5 minutes), prior to questions from Members of the Committee.

Summary of the lead signatory (5 minutes)

The Chair will invite the lead signatory to summarise the key points of evidence given in support of their case.

Summary of the decision-taker (5 minutes)

The Chair will invite the decision-taker to summarise the key points of evidence given in support of the initial decision.

Committee Debate

The Chair will invite comments, observations and discussion from members of the Committee.



CONSTITUTION
OF THE COUNCIL

Part 4
Section 5

FINANCIAL REGULATIONS

TO BE INSERTED



CONSTITUTION
OF THE COUNCIL

Part 4
Section 6

CONTRACT STANDING ORDERS

TO BE INSERTED



CONSTITUTION OF THE COUNCIL

Part 4 Section 7

OFFICER EMPLOYMENT PROCEDURE RULES

1 Purpose

These standing orders set out the rules dealing with the appointment and dismissal of staff.

2 Recruitment and Appointment

(a) All staff to be appointed on merit

Subject to those exceptions set out in section 7 of the Local Government and Housing Act 1989, every appointment of a person to a paid office or employment under the Authority (an officer of the Council) shall be made on merit.

(b) Declarations:

(i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether:

- (1) they are the parent, grandparent, spouse, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or Officer of the Council; or of the partner of such persons; and
- (2) to their knowledge there exists a potential conflict of interest between the candidate and the local authority, as might be required under s.117 of the Local Government Act 1972 (direct or indirect pecuniary interest in contracts) or otherwise, that the local authority should be made aware of.

(ii) No candidate making such a declaration will be appointed without the authority of the Head of Paid Service or relevant Chief Officer or an officer nominated by him/her.

(c) Seeking support for appointment

(i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor or officer for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

- (ii) No Councillor or officer will seek support for any person for any appointment with the Council.

3. **Recruitment of Chief Officers**

- (a) A 'Chief Officer' is defined in Part 1 of the Localism Act 2011 and as listed in Article 12 of this Constitution, which definition includes both a Chief Officer and a Deputy Chief Officer. 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:
 - (i) draw up a statement specifying:
 - (1) the duties of the officer concerned; and
 - (2) any qualifications or qualities to be sought in the person to be appointed;
 - (ii) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
 - (iii) make arrangements for a copy of the statement mentioned in paragraph (i) above to be sent to any person on request.
- (b) Where a post has been advertised as provided in (a), the Council shall:
 - (i) interview all qualified applicants for the post, or
 - (ii) select a short list of such qualified applicants and interview those included on the short list.
- (c) Where no qualified person has applied, the authority shall make further arrangements for advertisement in accordance with (a)(ii) above.

4. **Appointment of Head of Paid Service, Monitoring Officer and the Chief Finance (S.151) Officer**

- (a) The full Council must appoint the Head of Paid Service following consideration of any recommendation of the Senior Officer Appointments & Staffing Sub-Committee (Appointment Panel) as to the person to be appointed.
- (b) The full Council shall appoint the Monitoring Officer and the Chief Finance (S.151) Officer following consideration of any recommendation of the Senior Officer Appointments & Staffing Sub-Committee (Appointment Panel) as to the person to be appointed.
- (c) The full Council shall also appoint the officer designated as the Returning Officer and the Electoral Registration Officer.

5. **Appointment of Chief Officers**

- (a) The Senior Officer Appointments & Staffing Sub-Committee (Appointment Panel) will appoint all those Chief Officers whose grading is designated as 'Director' or 'Assistant Director'.
- (b) The appointment of other Chief Officers, whose grading is designated as 'Head of Service', 'Service Manager' or similar, are delegated to the Head of Paid Service or an officer nominated by him or her.

6. **Other appointments**

- (a) **Officers below Chief Officer** – The appointment 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.

7. **Disciplinary action in respect of the Head of Paid Service, Monitoring Officer or Chief Finance (s.151) Officer**

- (a) **Suspension** - The Head of Paid Service, Monitoring Officer or Chief Finance Officer and other Chief Officer(s) may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months, without a review of such suspension first taking place.
- (b) **Potential for dismissal** - Disciplinary action or situations in which there is the potential to dismiss either the Head of Paid Service, Monitoring Officer or Chief Finance Officer on the grounds of misconduct and potential to dismiss for other reasons such as capability and some other substantial reason will require the involvement of an Independent Investigator. Where it results in a proposal to dismiss, it will require the involvement of an Independent Panel before the Council considers the proposal (in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015)).
- (c) **Procedure** - Paragraphs 13 and 13A and Model Procedure A (England) of the Conditions of Service Handbook of the Joint Negotiating Committee for Local Authority Chief Executives (13th October 2016) give effect to these provisions and will be used in circumstances where disciplinary action against the Head of Paid Service, Monitoring Officer or s151 Officer is contemplated.

8. **Disciplinary action and dismissal of, and disciplinary action against, Chief Officers and Deputy Chief Officers**

Subject to Standing Order 7 above, the Head of Paid Service or an officer nominated by him or her is authorised to discharge the functions of dismissal of, and taking disciplinary action against, chief officers and deputy chief officers, although the Council's disciplinary, capability and related procedures or individual contracts of employment, as adopted from time to time, may allow a right of appeal to Members in respect of disciplinary action resulting in dismissal.

9. **Dismissal of and disciplinary action against other officers**

Councillors will not be involved in the dismissal of or taking disciplinary action against any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct.

10. **Statement of Pay Policy**

A statement of the Council's pay policy will be published annually.



CONSTITUTION OF THE COUNCIL

Part 5 Section 1

THE MEMBERS CODE OF CONDUCT

Introduction

The Council has adopted this Code of Conduct to promote and maintain high standards of conduct and underpin public confidence in the authority and its members and co-opted members.

The Code sets out general obligations about the standards of conduct expected of members and co-opted members of the authority, together with provisions about registering and declaring interests. It has been adopted under section 27 of the Localism Act 2011 and is required, when viewed as a whole, to be consistent with the following general principles of conduct identified by the Committee on Standards in Public Life as set out in Appendix 1 - selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Interpretation

In this Code:

- “member” includes a co-opted member or non-voting member;
- “co-opted member” is a person who is not a member of the authority but who is appointed as a member of any of its committees or sub-committees, or a member of and represents the authority on any joint committee or joint sub-committee of the authority, and who is entitled to participate at such meetings;
- “meeting” means;
 - any meeting of the authority or any of its committees, sub-committees, joint committees or joint sub-committees
 - any briefing by officers
 - any site visit to do with business of the authority; and
 - includes for these purposes a time and place where a member may act as an individual consultee.

General Obligations

1. When acting in your role as a member of the Authority you are expected to observe the general principles of conduct identified by the Committee on Standards in Public Life (as set out in Appendix 1) and, in particular, that you:
 - (a) **DO** treat others with respect.
 - (b) **DO NOT** conduct yourself in a manner which is contrary to the Authority's duty to promote and maintain high standards of conduct of members.
 - (c) **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;
 - (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
 - (d) **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 –
 - (a) **DO** act in accordance with the Authority's reasonable requirements including the requirements of the Authority's ITC policy and the policies, copies of which have been provided to you and which you are deemed to have read;
 - (b) **DO** make sure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) **DO** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986

Registration of Interests

3. You must within 28 days of
 - (a) this Code being adopted by the authority; or
 - (b) your election or appointment to office (as appropriate)

register with the Monitoring Officer the interests which fall within the description of interests set out in Appendix 2 (Disclosable Pecuniary Interests) and Appendix 3 (Other Interests).

4. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest in Appendix 2 or 3, or of any change to a registered interest, notify the Monitoring Officer of that new interest or change.

Disclosure of Interests and Participation in Meetings

5. If you are present at a meeting and you or your spouse/partner have an interest as set out in Appendix 2 (Disclosable Pecuniary Interests):
 - (a) you must not participate in any discussion of the matter at the meeting and you must not vote on the matter;
 - (b) you must make a verbal declaration of that interest if an item of business affects or relates to that interest, at or before the item is considered or as soon as the interest becomes apparent;
 - (c) you must leave the room where the meeting is held during any discussion or vote; and
 - (d) if the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.
6. Where a matter arises at a meeting which relates to an interest as set out in Appendix 3 (Other Interests):
 - (a) you must not vote on the matter;
 - (b) you may speak on the matter only if members of the public are allowed to speak at the meeting;
 - (c) you must declare your interest if you speak on the matter at the meeting or if the interest is not already on your register of interests or if you have not notified the Monitoring Officer of it. Otherwise, you do not need to declare the interest at the meeting.
7. Where a matter arises at a meeting which relates to or is likely to affect any of the interests listed in Appendix 2 in respect of a member of your family (other than your spouse/partner) or a friend or close associate of yours, and you are aware or ought reasonably to be aware of the existence of that interest:
 - (a) you must declare the interest;
 - (b) you must not vote on the matter;
 - (c) you may speak on the matter only if members of the public are allowed to speak at the meeting.

Pre-determination and bias

8. 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 a 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.
9. 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.

Gifts and Hospitality

10. You must within 28 days of receipt notify the Monitoring Officer of any gift, benefit or hospitality with an estimated value of £50 or more which you have accepted as a member from any person or body other than the authority. The notification will be entered on a public register of gifts and hospitality.

Sensitive interests

11. Where you consider that disclosure of the details of an interest could lead to you or a person connected with you being subject to violence or intimidation and the Monitoring Officer agrees that it is a “sensitive interest”, you need only declare the fact that you have an interest but not the details of that interest. Copies of the public register of interests may state you have an interest the details of which are withheld.

APPENDIX 1

The Seven Principles of Public Life

Principle	Description [Revised as of January 2013]
<i>Preamble</i>	The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.
<i>Selflessness</i>	Holders of public office should act solely in terms of the public interest.
<i>Integrity</i>	Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
<i>Objectivity</i>	Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
<i>Accountability</i>	Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
<i>Openness</i>	Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
<i>Honesty</i>	Holders of public office should be truthful.
<i>Leadership</i>	Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

APPENDIX 2

Disclosable Pecuniary Interests

The definition of a “disclosable pecuniary interest” in relation to a Member is if it is of a description specified in the table below and either—

- (a) it is an interest of the Member's; or
- (b) it is an interest of —
 - (i) the Member's spouse or civil partner,
 - (ii) a person with whom the Member is living as husband and wife, or
 - (iii) a person with whom the Member is living as if they were civil partners,and the Member is aware that that other person has the interest.

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority – (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.

Subject	Prescribed description
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge) – (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where – (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

The definition above is as set out at section 30(3) of the Localism Act 2011 and the description of interests are as specified in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Failure to register these interests, or to participate in any discussion or voting at a meeting in respect of these interest without a dispensation, is a criminal offence.

Nb. The definition of a sensitive interest is:

An interest which the elected member or co-opted member and the Monitoring Officer consider, if disclosed, could lead to the elected or co-opted member or a person connected with them being subject to violence or intimidation.

APPENDIX 3

Other Interests

In addition to the requirement to register disclosable pecuniary interests and in the interest of openness and transparency, the Authority also requires you as an elected or co-opted member to register any involvement which you have either as a member of, or as someone who holds a position of general control or management in, the following bodies:

- (i) a body to which you have been appointed or nominated by the Authority as its representative;
- (ii) any public authority or body exercising functions of a public nature;
- (iii) any company, industrial and provident society, charity or body directed to charitable purposes;
- (iv) any body whose principal purposes include the influence of public opinion or policy;
- (v) any trade union or professional association This requirement applies only to you as the elected or co-opted member. It does not require you to register interests (other than the pecuniary interests referred to) of any other person.

APPENDIX 4

Standard Dispensations

Where the decision 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 the Authority *unless* those functions that 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, levy or a precept under the Local Government Finance Act 1992



CONSTITUTION
OF THE COUNCIL

Part 5
Section 2

THE MEMBERS PLANNING CODE OF CONDUCT

TO BE INSERTED



CONSTITUTION OF THE COUNCIL

Part 5 Section 3

SOCIAL MEDIA PROTOCOL FOR MEMBERS

1. Purpose of this Protocol

The Council welcomes Members' use of social media and would like to support this by giving guidance so that Members have greater clarity as to what is and is not acceptable usage of social media. This protocol is intended to provide such guidance and complements the general rules under the Code of Conduct for Members.

2. What is Social Media?

Social media is the term to describe websites and online tools which allow people to interact with each other. This could, for example, be blogs, and postings on a wide range of social media platforms including (but not limited to) Facebook, Twitter, LinkedIn, Snap-chat, Instagram etc.

On many social media sites users share information, give opinions and may create interest groups or pages leading to longer exchanges. Ultimately people use these sites and tools to build online communities and networks which encourage participation and engagement.

3. Social Media and Members

It is not a requirement for Members to have a Facebook or Twitter account or to use other forms of social media to fulfil their job as a Member. However, if you are using or planning to use social media in connection with your work as a Councillor, or are already using such media in your private capacity, these guidelines will be relevant. Remember that, whenever you act or appear to act in your official capacity, you must comply with the Code of Conduct.

Social Media can be used:

- To support councillors in performing their community leadership role.
- To keep in touch with or obtain local views and opinions.
- For political campaigning.
- For campaigning on local issues.

Types of Social Media:

- Blogging and micro blogging – online journals – Twitter is an example of micro blogging, where entries are limited to 280 characters.

- Online Forums – people with similar interests sharing information and opinions – AccyWeb is an example.
- Social networking sites – these facilitate connections between those who already know each other, often in a social context, but are increasingly used by businesses to promote their products or services- Facebook is an example.
- Video and photo publishing – sharing videos and photographs worldwide – Flickr is an example.

4. Things to Bear in Mind

- Any communication is capable of being misinterpreted. While the use of social media should not be more susceptible to this problem than any other form of communication, something about the immediacy of social media seems to magnify the problem.
- By the nature of such media, misinterpretation or misrepresentation, particularly with regard to something that is perceived as being more controversial than it was expected to be, is likely to lead to rapid and wide broadcasting of that apparently “controversial” item.
- There are no special, additional legal or ethical burdens relating to the use of social media. The same rules apply here that govern the rest of your behaviour as a councillor – you just need to think about them in this new context – their immediacy and ease of dissemination.
- Although the best use of social media is conversational in tone, publishing to the internet is still publishing. What you’ve said online is recorded and it is permanent. Most pitfalls will be avoided if your online content is accurate, informative and thought through. Think of it as speaking in public. Think before you commit each word.
- This doesn’t mean that members cannot, in the appropriate context, communicate politically. This is expected of a councillor, but you should be careful not to say anything that you wouldn’t be comfortable repeating or justifying, for example, at a public meeting.

5. Some Legal Issues:

- **Libel** – If you publish an untrue statement about a person which is damaging to their reputation, they may consider it as defamatory and consider legal action. The same thing may happen if, for example, someone else publishes something defamatory on your social media or webpages; you know about it and don’t take swift action to remove it. A successful legal claim could result in the award of damages against you.
- **Defamation** – the Communications Team endeavour to monitor local social media channels. However, it cannot police every single comment that is made about the Council or Councillors. The Communications Team can directly remove postings on social media channels which it owns but not those on third party sites. Some sites are private or closed for which the team has no access to comment or report offending postings. Comments can be reported to some sites, for example to Facebook, if they are distasteful, illustrate use of drugs, guns or products of harm or if it is a comment based on race, gender, sexual orientation or disability. It is then in the hands of the social media channel to decide on the

removal of the comment. Regarding defamation and social media, a complainant would need to prove that comments actually caused damage to a Member's reputation. This may be very difficult to quantify, and generally, the Council is unable to commit resources to an action for defamation by an individual or group of members but would provide supporting evidence to those wishing to take such action.

- **Copyright** – Placing images or text on your site / channel from a copyrighted source (for example extracts from publications or photos), without obtaining permission, is likely to breach copyright laws. Therefore don't publish anything you are unsure about, or make sure you obtain prior permission. Again, a successful claim for breach of copyright would be likely to lead to an award of damages against you.
- **Data Protection** – Do not publish the personal data of individuals unless you have their express permission. Personal information in an email or personal exchange should not be presumed to imply any consent to pass it on to others. If you place personal information on a public forum you should expect it to be published by others.
- **Bias and Predetermination** – if you are involved in making planning, licensing or other quasi-judicial decisions, do not say anything through social media (or indeed anywhere) that suggests you have made your mind up on an issue that is due to be formally decided. While your likely view on a particular application may be well known, you need to be able to show that you attended the committee or hearing prepared to take on board and weigh all the evidence, and were genuinely persuadable to a different view, otherwise, the decision may be later challenged as invalid. If a person has suffered some sort of detriment as a result of such an invalid decision, they may have a claim against the council for damages.
- **Electoral periods** – be mindful that when you are using social media for campaigning during election periods you will need to provide a return of expenditure on any advertising or campaign literature, including web advertising and the design and website costs of downloadable material.

6. **Social Media and the Code of Conduct for Members Generally:**

- Aspects of the Code of Conduct for Members will apply to your online activity in the same way as they do to any other communication you may use. The key to whether your online activity is subject to the Code is whether you are, or appear to be, acting in your capacity as a Councillor rather than as a private individual. If you have a Facebook or Twitter account which includes your role as a Councillor, you should keep this separate from your personal accounts or you risk being subject to the Code of Conduct.
- It can be presumed by others that you are speaking as a Councillor. This can happen where you have a social media account where you comment both as a Councillor and as an individual. Although you may be clear in your mind that you are acting in a private capacity it may be less clear to others. This can also mean that your views can be taken as being those of your organisation or party (rather than you personally) when this may not be the case.

- The presumption can arise simply because you are commenting on council business, because you are known to be a Councillor or make reference to this, use party political symbols or references in the text.
- One way of trying to avoid this, and perhaps avoiding some of the potential problems related to the Code of Conduct, may be to consider keeping your online accounts as a Councillor separate from those where you communicate in a personal capacity. Another is to spell it out in the text (e.g. “speaking entirely personally...”). This is a decision for each Member and some Members may find the convenience of having one account outweighs the advantages of separate accounts. The Council’s Communications Team can help you with more specific advice if needed.

7. **Relevant Elements of the Members’ Code of Conduct:**

- **You must treat others with respect –**
 - do not use social media to make personal attacks or indulge in rude, disrespectful or offensive comments;
 - comply with equality laws, so do not publish anything that might be seen as racist, sexist, ageist, homophobic or anti-faith; and
 - do not say anything, particularly if it is part of a series of similar comments about a person or on a theme that might be construed as bullying or intimidation.
- **You must not conduct yourself in a manner which is contrary to the Authority’s duty to promote and maintain high standards of conduct of members –** you should not publish anything that could reasonably be perceived as reflecting badly upon or lowering the reputation of your office as a Councillor.
- **You must not disclose confidential information** - you must not, in your use of social media, just as in any other circumstances, disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature. Inadvertent leaks of the Council’s confidential information are more likely to take place when a Councillor is using social media, rather than, say, when they are carefully drafting a letter for publication in the local paper. This may be because of the more immediate, conversational, off- the cuff nature of much social media communication. Members must be careful to apply exactly the same standards to their social media communications as they would to statements made in a more formal context.

8. **Staying out of Trouble - Some Do’s and Don’ts**

Some Do’s

- set appropriate privacy and security settings for your blog or networking site – especially if you have a private, non-political blog.
- keep an eye out for defamatory or obscene posts from others on your blog or page and remove them as soon as possible to avoid the perception that you condone such views. Be aware that the higher your profile as an elected

member, the more likely it is you will be seen as acting in your official capacity when you blog or network.

- consider keeping your personal and elected member profile on social networking sites separate and maintain appropriate professional boundaries.
- ensure you use Council facilities appropriately; if you use a Council provided blog site or social networking area, any posts you make will be viewed as made in your official capacity.
- be aware that you will be seen as acting in your official capacity if you publish information that you could only have accessed by being an elected member.
- feel able to make political points, but be careful about being too specific or personal if referring to individuals. An attack on individuals may be seen as disrespectful, whereas general comments about another party or comments on policy are less likely to be viewed as disrespect.

Some Don'ts

- Blog in haste, particularly in circumstances where your judgement might be impaired; for example if you are tired or have consumed alcohol.
- post comments that you would not be prepared to make on paper or face to face.
- request or accept a Council employee or contractor providing services to the Council as a “friend” on a social networking site where this suggests close personal association. For the avoidance of doubt, this does not apply to sites which are intended as a neutral, professional connections registry (such as LinkedIn.)
- use social media in any way to attack, insult, abuse, defame or otherwise make negative, offensive or discriminatory comments about Council staff, service users, their family or friends, colleagues, other professionals, other organisations, or the Council.
- publish confidential information that you may have learned or had access to as part of your role as an elected member. This includes personal information about service users, their families or friends or others e.g. contractors, Council staff as well as Council related information.
- represent your personal views, or those of any political party or interest group you belong to, as being those of the Council, on any social medium.
- browse, download, upload or distribute any material that could be considered inappropriate, offensive, defamatory, illegal or discriminatory.
- make conspicuous or excessive use of social media technology during the course of a Council or committee meeting so that you give the impression to the public of not being respectful of the proceedings and, more seriously, taking decisions that are not based on full engagement with the facts and arguments.

9. General

The Council wishes to encourage Members' use of new technology, including social media. This guidance is intended to help Members use social media in a way that avoids legal and reputational risk.

The Monitoring Officer and the Communications Team are happy to help Members by providing additional advice and guidance as appropriate.

10. **Further Information**

Local Government Association - Digital Councils <http://www.local.gov.uk/digital-councils/get-started>



CONSTITUTION OF THE COUNCIL

Part 5 Section 4

PROTOCOL FOR MEMBER/OFFICER RELATIONS

1. Introduction

- 1.1 The purpose of this protocol is to guide Members and Officers of the Council in their relations with one another. It is hoped the Protocol will help build and maintain good working relationships between Members and Officers as they work together. Employees who are required to give advice to members are referred to as “Officers” throughout.
- 1.2 A strong, constructive, and trusting relationship between Members and Officers is essential to the effective and efficient working of the Council.
- 1.3 It is recognised that relationships between Members and Officers are very varied and can often be complex. Therefore, this Protocol does not seek to be prescriptive or comprehensive and may not cover all situations. However, it is hoped that the framework it provides will serve as a guide to dealing with a wide range of circumstances. This protocol is to a large extent no more than a statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty.
- 1.4 This protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of Local Government and they therefore demand very high standards of personal conduct.
- 1.5 The following extract from the beginning of the previous national guidance on conduct for councillors remains relevant in its description that:
 - “1. Both Councillors and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council’s work under the direction and control of the council, their committees and sub-committees.
 - “2. Mutual respect between Councillors and Officers is essential to good local government.”
- 1.6 The provisions of this Protocol will be interpreted having regard to the requirements of the Members’ Code of Conduct, the Officers’ Code of Conduct, the Council’s Whistleblowing Protocol and the Council’s policies, procedures and processes.

- 1.7 The principles underlying the protocol are:
- Selflessness – serving only the public interest.
 - Honesty and integrity – not allowing these to be questioned; not behaving improperly.
 - Objectivity – taking decisions on merit.
 - Accountability – to the public; being open to scrutiny.
 - Openness – giving reasons for decisions.
 - Personal judgement – reaching one’s own conclusions and acting accordingly
 - Respect for others – promoting equality; avoiding discrimination; respecting others (Member/Member, as well as Member/officer and officer/officer).
 - Duty to uphold the law – not acting unlawfully.
 - Stewardship – ensuring the prudent use of a council’s resources.
 - Leadership – acting in a way which has public confidence.

2. Members

- 2.1 Mutual respect between Councillors and Officers is essential to good Local Government. Close personal familiarity between individual Councillors and Officers can damage this relationship and prove embarrassing to other Councillors and Officers.

It is important that any dealings between Members and Officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.

- 2.2 In line with the Code of Conduct, as set out in Part 5(1) of this Constitution, a Member must treat others with respect and must not do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Council.

- 2.3 Officers can expect Members:

- to act within the policies, practices, processes and conventions established by the Council
- to work constructively in partnership with Officers acknowledging their separate and distinct roles and responsibilities
- to understand and support the respective roles and responsibilities of Officers and their associated workloads, pressures and reporting lines
- to give political leadership and direction and to seek to further their agreed policies and objectives with the understanding that Members have the right to take the final decision in issues based on advice to treat them fairly and with respect, dignity and courtesy
- to act with integrity, to give support and to respect appropriate confidentiality
- to recognise that Officers work to the instructions of their Senior Officers and not to individual Members

- not to subject them to intimidation, harassment, or put them under undue pressure. Members will have regard to the seniority of Officers in determining what are reasonable requests, having regard to the relationship between the Member and Officer, and the potential vulnerability of Officers, particularly at junior levels
- not to request them to exercise discretion which involves acting outside the Council's policies and procedures
- not to authorise, initiate, or certify any financial transactions or to enter into any contract, agreement or undertaking on behalf of the Council or in their role as a Member without proper and lawful authority
- not to use their position or relationship with Officers to advance their personal interest or those of others or to influence decisions improperly
- to comply at all times with the Members Code of Conduct, the law, the Constitution and such other policies, procedures, protocols and conventions agreed by the Council.

2.4 It is important that Members of the Authority:

- respect the impartiality of Officers and not undermine their role in carrying out their duties
- do not ask Officers to undertake work, or act in a way, which seeks to support or benefit a particular political party or gives rise to an Officer being criticised for operating in a party political manner
- do not ask Officers to exceed their authority where that authority is given to them in law, by the Council or by their Managers

2.5 The Head of Paid Service, the Monitoring Officer and the Chief Finance (section 151) Officer and other Statutory Officers have specific responsibilities placed on them by law. These responsibilities go beyond their obligations as employees of the Council. Where an Officer is discharging his/her responsibilities under any statutory office a Member or Members shall not:

- improperly interfere with or obstruct the Officer in exercising those responsibilities
- victimise any Officer who is discharging or has discharged his/her responsibilities of the Statutory Office

3. Officers

3.1 The primary role of Officers is to advise, inform and support all members and to implement the lawfully agreed policies of the Council.

3.2 Officers are responsible for day-to-day managerial and operational decisions within the Council. Members should avoid inappropriate involvement in such matters.

3.3 In performing their role Officers will act professionally, impartially and with political neutrality. Whilst Officers will report a Member's view on an issue, the Officer should

not be influenced or pressured to make comments, or recommendations which are contrary to his professional judgement or views.

3.4 Officers should:

- implement decisions of the Council and its subordinate bodies which are lawful, which have been properly approved in accordance with the requirements of the law and the Council's Constitution and are duly recorded.
- work in partnership with Members in an impartial and professional manner
- assist and advise all parts of the Council. Officers must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
- respond to enquiries and complaints in accordance with the Council's standards protocol
- be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.
- act with honesty, respect, dignity and courtesy at all times
- provide support and learning and development opportunities for Members to help them in performing their various roles
- not seek to use their relationship with Members to advance their personal interests or to influence decisions improperly
- comply, at all times, with the Officer Code of Conduct, and such other Policies or Procedures approved by the Council

3.5 Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on Officers' involvement in political activities.

3.6 Some Officers may be appointed to local, regional or national bodies because of their particular skills and expertise. They may be appointed specifically to represent the Council or in their personal capacity.

4. The Relationship: General

4.1 Members and Officers are indispensable to one another. However, their responsibilities are distinct. Members are accountable to the public, whereas Officers are accountable to the Council as a whole.

4.2 At the heart of the Codes, and this Protocol, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party.

4.3 Councillors should not raise matters relating to the conduct or capability of an officer, or of officers collectively, in a manner that is incompatible with this Protocol at

meetings held in public. This is a long-standing tradition in public service. An officer has no means of responding to criticisms like this in public.

- 4.4 A Member who is unhappy about the actions taken by, or conduct of, an officer should:
- avoid personal attacks on, or abuse of, the officer at all times,
 - ensure that any criticism is well founded and constructive,
 - ensure that any criticism is made in private,
 - take up the concern with the appropriate Director or Deputy Chief Officer.
 - If the matter is of a particularly serious nature to inform the Chief Executive
- 4.5 Neither should an officer raise with a councillor matters relating to the conduct or capability of another officer or to the internal management of the section or Directorate in a manner that is incompatible with the objectives of this Protocol.
- 4.6 Where an officer feels that he or she has not been properly treated with respect and courtesy, or is concerned about any action or statement relating to him/herself or a colleague by a councillor, they should raise the matter with their line manager, Director or the Chief Executive as appropriate. In these circumstances the Chief Executive or Director will take appropriate action either by approaching the individual councillor and/or the party group leader.

5. Officer Advice to Party Groups

- 5.1 There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups.
- 5.2 The support provided by Officers can take many forms, ranging from a briefing meeting with a Chair or Spokesperson prior to a Committee meeting to a presentation to a full party group meeting. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.
- 5.3 Certain points must however be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
- (i) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of *Council* business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of *party* business are to be discussed;
 - (ii) Party Group Meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and

(iii) Similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.

5.4 Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting which includes persons who are not members of the Council. Such persons will not be bound by the Council's codes of conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, Officers may not be able to provide the same level of information and advice as they would to a Members only meeting.

5.5 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.

5.6 Any particular cases of difficulty or uncertainty in this area of officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

6. Support Services to Members and Party Groups

6.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport, etc.) to Members is to assist them in discharging their role as members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

7. Members' Access to Information and to Council Documents

7.1 Members are free to approach any Council Directorate to provide them with such information, explanation and advice (about the Directorate's functions) as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Directorate's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Director or Deputy Chief Officer concerned.

7.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.

7.3 Members have a statutory right to inspect any Council document *which contains material relating to any business which is to be transacted at a Council, Committee or Sub-Committee meeting*. This right applies irrespective of whether the Member is a member of the Committee or Sub-Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items which may appear in Part II (exempt) of the Agenda for meetings. Further details are contained in the Access to Information Procedure Rules of the at

Part 4(2) of the Council's Constitution. Examples are documents that contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, contract and industrial relations negotiations, advice from Counsel and criminal investigations.

- 7.4 The common law right of Members is much broader and is based on the principle that any member has a prima facie right to inspect Council documents *so far as his or her access to the documents is reasonably necessary to enable the member properly to perform his/her duties as a member of the Council*. This principle is commonly referred to as the "need to know" principle.
- 7.5 The exercise of this common law right depends therefore upon the Member's ability to demonstrate that he/she has the necessary "need to know". In this respect a member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must be determined by the particular Director or Deputy Chief Officer who holds the document in question (with advice from the Monitoring Officer).
- 7.6 In some circumstances (e.g. a Committee Member wishing to inspect documents relating to the functions of that Committee) a Member's "need to know" will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms.
- 7.7 Whilst the term "Council document" is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a Member of one party group will not have a "need to know", and therefore a right to inspect, a document which forms part of the internal workings of another party group.
- 7.8 Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Monitoring Officer.
- 7.9 Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided i.e. in connection with the proper performance of the Member's duties as a Member of the Council.
- 7.10 The Code of Conduct states that a Member must not disclose confidential information or information which he or she believes to be of a confidential nature, except in some specific circumstances detailed in the Code.
- 7.11 For completeness, Members do, of course, have the same right as any other member of the public to make requests for information under the Freedom of Information Act 2000.

8. Officer/Chair Relationships

- 8.1 It is clearly important that there should be a close working relationship between the Chair of a Committee and the Directors or Deputy Chief Officers who support that Committee. However, such relationships should never be allowed to become so

close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members and other Party Groups.

- 8.2 Whilst the Chair of a Committee (or Sub-Committee) will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, usually together with the Spokespersons of a Committee, it must be recognised that in some situations an Officer will be under a duty to submit a report on a particular matter. Similarly, an Officer will always be fully responsible for the contents of any report submitted in his/her name. Any issues arising between a Chair or Spokespersons and an Officer in this area should be referred to the Chief Executive for resolution.
- 8.3 It is important to remember that the law allows for decisions (relating to the discharge of any of the Council's functions) to be taken only by the Council, Committees, Sub-Committees or an officer.
- 8.4 The Council's delegation scheme and resolutions passed at Committee meetings authorise a named officer to take action, sometimes in consultation with one or more Members such as the Chair and Vice-Chair of a Committee. In these circumstances it is the officer, rather than the Member, who takes the decision or action and it is the officer who is accountable for it.
- 8.5 Finally, it must be remembered that officers within a Directorate are accountable to their Chief Officer or Deputy Chief Officer and that whilst officers should always seek to assist a Chair (or indeed any Member) they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Chief Officer or Deputy Chief Officer

9. Correspondence

- 9.1 Correspondence between an individual Member and an Officer should not normally be copied (by the officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of "silent copies" should not be employed. Acknowledging that the "BCC" system of e-mailing is used, it should be made clear at the foot of any e-mails if another Member has received an e-mail by adding "cc Councillor x."
- 9.2 Official letters or emails on behalf of the Council should normally be sent out over the name of the appropriate Officer, rather than over the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter or email to appear over the name of a Member, but this should be the exception rather than the norm. Letters or emails which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.
- 9.3 Correspondence to individual Members from officers concerning regulatory matters such as planning, enforcement, licensing and environmental health matters should not be sent or copied to complainants or other third parties if they are marked "confidential". This is to avoid recriminations and allegations of unfair treatment.

10. Press Comments and Press Releases

- 10.1** For more detailed information regarding the role of Members in connection with the issue of press releases, reference should be made to the Council's Social Media Protocol contained at Part 5(3) of this Constitution.
- 10.2 A Chief Officer or Deputy Chief Officer or nominated representative may respond to press enquiries but should confine any comments to the facts of the subject matter and the professional aspects of the function concerned. On no account must an officer expressly or impliedly make any political opinion, comment or statement.
- 10.3 Any press release that may be necessary to clarify the Council's position in relation to disputes, major planning developments, court issues or individuals' complaints should be "signed off" by the appropriate Director or the Monitoring Officer after consultation with the Leader or Deputy Leader of the Council.

11. Involvement of Ward Councillors

- 11.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise.

12. Breaches of the Protocol

- 12.1 Where a Member is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the appropriate Director or Deputy Chief Officer. Where the Officer concerned is a Director or Deputy Chief Officer, the matter should be raised with the Chief Executive. Where the employee concerned is the Chief Executive, the matter should be raised with the Monitoring Officer.
- 12.2 On the Members' side, where the relationship between Members and Officers breaks down or becomes strained, every effort will be made to resolve matters informally, through conciliation by an appropriate senior manager or Members. Officers will also have recourse to the Grievance Procedure or to the Council's Monitoring Officer, as appropriate. In the event of a grievance or complaint being upheld, the matter will be referred to the Chief Executive who, having advised the Leader of the Council and the other appropriate Group Leaders, will decide on the course of action to be taken, following consultation with the Constitution and Standards Committee if appropriate.
- 12.3 Breaches of this Protocol by a Member may constitute a breach of the Members' Code of Conduct.
- 12.4 Breaches of this Protocol by an Officer may be referred for disciplinary action.



CONSTITUTION OF THE COUNCIL

Part 5 Section 5

THE OFFICERS CODE OF CONDUCT

TO BE INSERTED



CONSTITUTION OF THE COUNCIL

Part 5 Section 6

MONITORING OFFICER PROTOCOL

This protocol has been produced according to the model, introduced following the recommendation of the former District Auditor Service, that guidelines be produced for the benefit of Members and Senior Officers on the role of the Monitoring Officer.

1. Introduction

This Protocol explains the role and functions of the Council's Monitoring Officer and the arrangements for ensuring this role is effectively carried out. It is based on the understanding that the ability of the Monitoring Officer to undertake this role effectively depends on excellent working relations with colleagues and Members and on the flow of information and access to debate particularly at early stages.

2. Functions

The specific functions of the Council's Monitoring Officer are detailed in Article 12 of this Constitution. The chief responsibilities can be summarised as these:-

- (a) a duty to report to the Council in any case where the Monitoring Officer is of the opinion that any proposal or decision is or is likely to be illegal or to constitute maladministration. These matters are referred to in this Protocol as "reportable incidents";
- (b) a range of functions relating to Members' conduct; and
- (c) specific functions under the Council's Constitution.

3. Discharge of Functions

3.1 In order to ensure the effective undertaking of these duties, the Monitoring Officer will:-

- (a) have regular meetings with each of the Head of Paid Service and Chief Finance (S.151) Officer in order to review current and likely future issues with legal, constitutional or ethical implications.
- (b) maintain good liaison and working relations with the Head of Internal Audit and the external audit service.
- (c) ensure that the Council is kept up to date on new legislation and changes in the law which are relevant to the carrying out of the Council's activities. This will generally take the form of reports to Members and briefing notes to Chief

Officers but where appropriate will involve training sessions for relevant Members and officers. These activities will be carried out in consultation and conjunction with relevant Chief Officers.

3.2 In addition, Chief Officers will ensure that:-

- (a) The Monitoring Officer or his/her Senior Staff are consulted at an early stage on new policy proposals and on matters which have potentially significant legal implications. Where there is any doubt, the Chief Officer should always consult.
- (b) All draft reports to the Council and Committees should as a matter of routine be cleared with the Monitoring Officer or his/her senior staff.
- (c) The Monitoring Officer is informed of all emerging issues of concern of a legal, ethical or constitutional nature. Similarly, Members should ensure that the Monitoring Officer is routinely informed and consulted in respect of new policy proposals.

The Monitoring Officer will always seek to resolve any potential illegality by identifying alternative and legitimate means of achieving the objective of the purpose. (See also para. 3.5(a)).

3.3 Also, in cases where external lawyers are acting for the Council, it will be necessary for the Monitoring Officer to appoint a client officer from within Legal Services and to agree with the relevant Chief Officer arrangements for ensuring that vires and constitutional issues are satisfactorily addressed.

3.4 These working arrangements will mean that:

- (a) The Monitoring Officer will seek to resolve potential reportable incidents (as defined in para 2(a)) by avoiding the illegality, etc., or by identifying alternative and legitimate means of achieving the objective of the proposal. Accordingly, and given that Council officers and Members are encouraged to consult the Monitoring Officer in respect of any proposal, the Monitoring Officer will only need to make a public report on the matter if the proposal were to be a potential reportable incident and the officer or Member subsequently took any action to progress that proposal despite being advised to the contrary by the Monitoring Officer.
- (b) Where the Monitoring Officer receives a complaint of a potential reportable incident, he/she must in appropriate cases seek to resolve the matter amicably, by securing that any illegality or failure of process is rectified. However, it is recognised that the Monitoring Officer may decide that the matter is of such importance that a statutory report is the only appropriate response.
- (c) In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer will be entitled to add his/her written advice to the report of any other Council officer.
- (d) Notwithstanding the above, the Monitoring Officer retains the right to make a statutory report where, after consultation with the Head of Paid Service and the

S.151 Officer, he/she is of the opinion that such is necessary in order to respond properly to a reportable incident.

- 3.5 In pursuance of his or her duties, and to assist in effective and efficient undertaking of these working arrangements, the Monitoring Officer will have the right:-
- (a) To receive advance notice of meetings, whether formal or informal between Chief Officers and Members of the Council or Committee Chairs where any procedural, vires or other constitutional issues are likely to arise, together with the right to attend such meetings.
 - (b) To receive advance notice of meetings of the Senior Leadership Team and the agenda and reports together with the right to attend and speak.
 - (c) To see all documents and information held by or on behalf of the Council, including documents and information held by any Council officer or Member. However, this right does not extend to documents and information held by or on behalf of any political party represented on the Council.
 - (d) To attend any meetings of officers or Members (or both), whether or not such meetings include any other persons. However, this right does not extend to any meetings held by or on behalf of any political party represented on the Council.
 - (e) To require any Council officer or Member, or any contractor to provide an explanation of any matter under investigation.
 - (f) To report to the Council, and its Committees, including a right to present a written report and to attend and advise orally.
 - (g) To have access to the Chief Executive (Head of the Paid Service) and to the S.151 Officer.
 - (h) After consultation with the Chief Executive and the S.151 Officer, to notify the Police, the Council's Auditors and other regulatory agencies of concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions.
 - (i) To obtain, at the Council's expense, legal advice, either internally or from an independent external solicitor, barrister or forensic consultant, on any matter which it is believed may be a reportable incident.

4. **Conflicts**

Where the Monitoring Officer is in receipt of a complaint or is aware of a potential reportable event relating to a matter upon which he/she has previously advised the Council, he/she must consult the Head of the Paid Service who may then either refer the matter to the Deputy Monitoring Officer for investigation and report back to the Head of the Paid Service or request a neighbouring authority to make their Monitoring Officer available to the Council to investigate the matter and report to the Head of the Paid Service and/or the Council as appropriate.

5. **Insurance and indemnity arrangements**

The S.151 Officer will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council, and the proper discharge of the Monitoring Officer role.

6. Sanctions for breach of the Council's Codes of Conduct and this Protocol

Complaints relating to any breach of the Council's Code of Conduct for Members must be dealt with in accordance with the arrangements adopted by Council.

Complaints relating to any breach of this Protocol by a Member may be referred to the relevant leader and/ or whip of the political party group and as a breach of the members Code of Conduct to the Constitution and Standards Committee.

Complaints relating to any breach of this Protocol by an officer may be referred for disciplinary action.



CONSTITUTION
OF THE COUNCIL

Part 5
Section 7

CODE OF CORPORATE GOVERNANCE

TO BE INSERTED



CONSTITUTION OF THE COUNCIL

Part 5 Section 8

GOVERNANCE OF COUNCIL INTERESTS IN COMPANIES **A CODE OF PRACTICE**

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1. Introduction

- 1.1 The purpose of this Code of Practice is to provide a reference point to the Council and interested parties (councillors, officers, company representatives and contractors) in understanding the requirements of the Council in setting up a local authority company, and in particular a local authority trading company (LATC), and how the governance arrangements for that company will work once set up.
- 1.2 The OECD/G20 helps define corporate governance by saying that it:
- *“involves a set of relationships between a company’s management, its board, its shareholders and other stakeholders; and*
 - *“provides the structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performance are determined”.*¹
- 1.3 This Code of Practice therefore sets out how the Council will normally go about managing those relationships and ensuring that a company will go on to deliver the objectives established for it by the Council. It also briefly explains and makes reference to the law and basic requirements placed upon a local authority in establishing or owning companies.
- 1.4 The Code of Practice is set out as:
- an explanatory background;
 - a set of guiding principles; and then
 - a set of working expectations.
- 1.5 Attached, as appendices, are also key documents used in this process.

2. Background

(a) Local authority trading and the local authority trading company ²

- 2.1 There are long-established powers for councils to trade. Among the most important is the Local Authorities (Goods and Services) Act 1970, which authorises councils to enter into agreements with other local authorities and other designated public bodies, for the provision of goods, materials and administrative, professional and technical services, for the use of vehicles, plant and apparatus and associated staff, and for the carrying out of maintenance. Payment terms are set out in an agreement. These are not limited to cost recovery. The 1970 Act is the bedrock of trading within the public sector and there is substantial experience of its operation. But the Act is limited in scope. For example, it does not allow trading with the private sector or the public at large. Other established trading powers are specific in nature, such as the Local Government (Miscellaneous Provisions) Act 1976, which enables councils to enter into

¹ “G20/OECD Principles of Corporate Governance - OECD Report to G20 Finance Ministers and Central Bank Governors” - September 2015

² Source: Local Government Association Briefing

agreements with anyone for the use of spare computer capacity.

- 2.2 The Local Government Act 2003 added new possibilities to charge for services, to both provide extra services at cost and to trade with the private sector. Under the 2003 Act, the Government authorizes trading by means of a trading order. The Trading Order currently in force was made in 2009³, which permits all councils in England to trade or "to do for a commercial purpose", anything which they are authorised to do for the purpose of carrying on their ordinary functions, which includes use of the granted general power of competence.
- 2.3 Under that 2003 Act and Trading Order, as augmented by the Localism Act 2011, for a local authority to exercise the power to do things for a commercial purpose (which the authority couldn't otherwise do), then it must be done through a company. Councils are thus enabled to establish a company by which they can trade with the private sector for a profit - that is to enter into commercial contracts. The profits may then go back to the council through dividends or service charges.
- 2.4 The reason given for this legislative requirement is that:
"local authorities and their trading arms have to be on a level playing field with the private and commercial sector in both a positive and negative way. They should not be at a disadvantage, but they should not have an outstanding advantage. Taxation is a particular issue. It is right to carry forward the requirement that such bodies should be companies and trading as such."
- 2.5 To exercise the power to establish a company and trade, a local authority must first approve a business case ('a comprehensive statement') covering:
- the objectives of the business;
 - the investment and other resources required to achieve those objectives;
 - any risks the business might face and how significant these risks are; and
 - the expected financial results of the business, together with any other relevant outcomes that the business is expected to achieve.
- 2.6 That business case is then implemented and refreshed by way of a business plan, which should be updated and submitted for approval each year, to guide the company in carrying out its continuing activities.
- 2.7 The local authority must also recover the costs of any accommodation, goods, services, staff and anything else they supply to the company under any agreement or arrangement. This is an absolute requirement and distinct from the various rules on procurement or providing state aid.
- 2.8 Other important legal, commercial and financial considerations for councils (or combined authorities such as fire and rescue authorities) setting up a trading company include company law issues, the cost of bidding for contracts, tax liability (corporation tax and VAT), EU procurement law and state aid rules and employment law (TUPE and pensions).

³ The Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009

(b) The Local Authority Company

- 2.9 The kind of company that must be utilized to enable the Council to trade in this way is defined in Part V of the Local Government and Housing Act 1989 ('LGHA 89'). That lists:
- a company limited by shares;
 - a company limited by guarantee and not having a share capital;
 - a company limited by guarantee and having a share capital;
 - an unlimited company;
 - a society registered or deemed to be registered under the Industrial and Provident Societies Act 1965.
- 2.10 The LGHA 89, and the current Order⁴ made under it, places local authority companies into one of three categories, being controlled or influenced by the local authority (a regulated company) or a company in which the local authority has a minority interest. It then goes on to set out a number of additional restrictions and requirements to which the local authority and the companies must adhere.
- 2.11 The reasons for these limitations were described by the Government of the day, when setting out the reasons for the LGHA 89, as being that:
- "when a company is effectively under the control of a local authority... the most significant controls that Parliament has laid down for the conduct of local authorities should apply to that company."*
- 2.12 A regulated local authority company and any subsidiary of it, for example, is required to state on all correspondence that it is "**a local authority controlled company**" or "**a local authority influenced company**" (as the case may be) and name the relevant authority or authorities and is subject to rules concerning access by the Council's auditors and for delivery of information to the authority and its members.

(c) Other Local Authority Entities

- 2.13 If it isn't needed as a means by which it can trade, a local authority is free to involve itself in any one of a number of different forms of sole and joint ventures to best assist it in achieving its goals and aims, which may or may not involve establishing an entity that has a separate legal personality. These may also be as above, companies as defined by the Companies Act and which can include an industrial or provident society or a community interest company. They may alternatively be established as a distinct trust, with the council or appointees as trustee. They may be embodied as limited liability partnerships. They may also exist simply as unincorporated partnerships, with other public bodies or private persons (that can often act as if they were a distinct entity), such as the Local Economic Partnership.
- 2.14 There are certain rules yet to be brought into force, and the Secretary of State holds reserve powers, that may require, prohibit or regulate the taking of specified actions by entities connected with a local authority and those appointed to or representing the

⁴ The Local Authorities (Companies) Order 1995

local authority at them⁵. In this respect:

- “entity” means any entity, whether or not a legal person, and
- an entity is stated to be “connected with” a local authority if financial information about that entity must be included in the local authority’s statement of accounts.

2.15 Whilst this Code of Practice will apply to all companies in which the Council has an interest, it may not be as appropriate for the governance of the Council’s relationship with other entities which it is connected to, is a member of or has an interest in. In these instances, regard will be had to this Code but its application will be determined on a case by case basis.

3. Guidance

3.1 In exercising the power to establish a local authority trading company (LATC), local authorities were obliged under the 2003 Act to have regard to Statutory Guidance. The “*General Power for Local Authorities to Trade in Function Related Activities Through a Company*”⁶ was issued and it is to this document that this and other councils in establishing the companies have had regard to.

3.2 That Statutory Guidance is now out of date, however, and was withdrawn as of 17th June 2014. Whilst new guidance is awaited, the withdrawn guidance nevertheless remains useful and largely very relevant. Where it is still relevant, this Code has had regard to it and, where associated with the principles of this Code, accompanying direct quotes from the Government Guidance are included throughout.

3.3 All listed companies are subject to the *UK Corporate Governance Code*⁷. The Council will expect all of its companies and their subsidiaries, and indeed any company with which it is associated, to adopt the “comply or explain” approach of the UK Corporate Governance Code as a demonstration of best practice in corporate governance.

3.4 The *Corporate Governance Guidance and Principles for Unlisted Companies in the UK*⁸ and also the *Corporate Governance Handbook*⁹ have additionally been utilised in the compiling of this Code of Practice.

3.5 The Council itself has adopted a Code of Corporate Governance and the approach of this Code of Practice will fall to be associated with the provisions of that Code.

4. Principles of Governance of Council Companies

4.1 In setting out the governance relationship between the Council and its companies,

⁵ S.212 *Local Government and Public Involvement in Health Act 2007*

⁶ First published: 29 July 2004: UK Govt Archive

⁷ September 2014: Financial Reporting Council

⁸ First edition: November 2010: Institute of Directors (IoD) and European Confederation of Directors’ Associations (ecoDa)

⁹ Third edition 2013: Institute of Chartered Secretaries and Administrators (ICSA)

group of companies and organisations it has invested in, this Code has three key underpinning principles. These are as follows, preceded by a relevant quote on the subject from the Government Guidance.

I. Controls and Freedoms

The Guidance:

- 4.2 *“A successful company will be one that works alongside the authority in delivering joint objectives. The authority will have to consider how to balance the need to assist the company to achieve its trading objectives with the principles of transparency, accountability and probity.”*

The Principles

- 4.3 It is recognised that, whilst appreciating this should not be unfettered, a trading company needs to be given commercial freedoms to enable it to succeed.
- 4.4 Accordingly, governance arrangements will seek to ensure that:
- the company will be provided with sufficient freedoms to achieve its objectives; and
 - the Council will retain sufficient controls to ensure that its investment is protected, that appropriate social and financial returns on investment can be obtained and that the trading activities of the companies are conducted in accordance with the values of the Council.

II. Relationship, Integrity and Accountability

The Guidance:

- 4.5 *“It is important that trading companies can operate on an equal footing with their competitors, but it is equally important that they are not used as a device for inhibiting legitimate public access to information about local government and local government services.”*

The Principles

- 4.6 It is recognised that, whilst appreciating its procedures operate in a way that protects the company’s commercial interests, those procedures should ensure that the Council can carry out its functions as an investor, as a trustee of public funds and a local authority committed to both due responsibility for the exercise of its functions and for providing a vision for the locality.
- 4.7 Accordingly, governance arrangements will seek to ensure that:
- the Council can make investment decisions based upon complete and accurate consideration of business cases and business plans;

- the Council can evaluate social and financial benefits and returns on investment; and
- the Council’s committees are able to exercise their powers in relation to the reviewing of decision making

in a manner that ensures the companies can provide full and frank financial and business reporting against their business plans and be open to an appropriate level of scrutiny without fear of commercial confidentiality being breached.

III. Understanding of role

The Guidance:

- 4.8 *“A trading company will be a separate legal entity from a local authority. It will derive its legal authority from its Memorandum of Association and the Companies Acts. Its directors and officers will derive their authority from the articles of association and the law relating to companies.*

...

“Those “who are appointed directors will participate directly in the activities of the company and are answerable to the company and have the powers and duties of company directors whilst they do so.

...

“Local authority members and officers should be aware of potential conflicts of interest when carrying out their roles for their authorities, or when acting as directors of trading companies.”

The Principles

- 4.9 It is recognised that, as company ventures have a separate legal personality to the local authority, the success and good governance of the company venture depends upon those involved understanding their role and responsibilities collectively and individually.
- 4.10 Accordingly, governance arrangements will seek to ensure that there is sufficient induction, training and other materials in place so that:
- their legal duties;
 - stewardship of assets;
 - the provisions of the governing documents;
 - the external environment; and
 - the total structure of the organizations and the venture
- are appropriately understood by Members of the Council in their role as part of the Council, by officers of the Council associated with these duties and by the directors of the companies.

5. Ownership and control of the company

- 5.1 Wirral Borough Council, the local authority as a corporate body, will be a member of the company. The membership will be as guarantor if a company limited by guarantee or, as will be the norm if a LATC, the holder of shares (perhaps the only share) in a company limited by shares.
- 5.2 The rights and duties as a member of the company will, however, almost always fall to be exercised as a corporate responsibility. This means that decisions to be taken by the Council as a member of the company (as shareholder) fall to be decided on in the normal way. That is, that these functions may be delegated by the Council to a committee, sub-committee or an officer and will be subject to access to information rules and review by the Council or appropriate overseeing committee.
- 5.3 The authority of the shareholder is exercised where decisions of the company are reserved for approval of the Council before they can be implemented, but also directly in the form of a shareholder's written resolution or at the company's general meetings.
- 5.4 At the company general meetings the Council will be present and voting as a member of the company, where this presence and voting will be in the form of a single person known as the 'shareholder representative'.
- 5.5 Decisions to be made by the Council, rather than left to the company itself, are known as 'reserved matters'. Reserved matters cover such things as the approval of the company's annual business plan or mid-year amendments to it, the appointment of directors, certain key financing decisions and so forth. These are established either through agreement with the company, known as a shareholders' agreement, or as set out in the company's governing articles of association.
- 5.6 The relationship between the local authority (and the companies it is a member of) is governed by these and other key documents that are required to establish a local authority company, and a trading company in particular. In establishing the local authority's company and then in governing the relationship with what is now a separate legal personality, the Council will need to put in place the following documents:
- The **business case** which assesses the risk involved in the proposed trading enterprise and decides whether or not it should be established and proceed to trade. It starts the process of business planning.
 - The **articles of association**, or the memorandum and articles of association as it used to be called, which is the constitution of the company. This is the legal documents required to set up a limited company and give details of its name, aims and authorised share capital, conduct of meetings, appointment of directors and registered office.
 - The **shareholders agreement**, or management agreement, which sets out the rights of the Council as the sole or co-shareholder and how it can exercise those rights. It details the powers of the board of the company and how and when the shareholder might influence those powers. It is important to note that the shareholder agreement is capable of being developed and added to as the

company develops.

- The **financial agreements** which are the commercial agreements that set out what assistance is to be provided and on what terms. This may be purely financial, such as a direct loan or a facility such as a parental guarantee, and made on commercial terms. It may also be in the form of goods, services or staff to be provided and set out in a resourcing agreement or a service level agreement, which is likely to be on a service charge or cost recovery basis. The agreements may require regular and detailed access to information and financial reporting to the Council and/or holding company.
- The **business plan** which sets out the objectives of the business, how they are to be achieved and standards met adjusted in the light of experience and changing circumstances. It is a comprehensive analysis of the business situation at a particular point in time. It is often referred to as the annual business plan because it is expected to be submitted for shareholder approval annually.

5.7 A model shareholder agreement for use with the holding company, setting out the principal decisions reserved for the Council's approval, including subsidiaries of the company as a group, is outlined at Appendix 2.

6. The Council's Shareholder Board

6.1 The structure described above creates a governance process whereby, so far as appropriate under this Code's Principles, the company is left to get on with its business. Following the UK Corporate Governance Code, the companies will utilise a unified board, with appropriate non-executive directors providing outside expert help and with board committees (such as an audit committee) to provide oversight and ensure delivery.

6.2 The Council, in turn, will seek to inform decision making and holding the company to account utilising a reflection of the company board structure in the form of a Shareholder Board. Alongside the formal sub-committee structure when meeting in public, the Board may also invite independent advisors, appointed from time to time as may be required, brought in to provide their expertise in the commercial sector and the business of the trading company or companies concerned. The role of this group is to provide the necessary oversight from a shareholder's perspective that the parameters, policies and boundaries that the Council as the shareholder has established for the company are being adhered to. In it, the Shareholder Board Sub-Committee remains the decision maker but the wider Shareholder Board act as advisors in the making of those decisions.

6.3 Such a Shareholder Board, acting as a mixture of formal Sub-Committee meeting in public for decision-making purposes and as a working group meeting in private to consider regular performance reporting, is considered to be an effective means of governance of the companies. This is because it allows for decision making and discussion in an informed atmosphere, which also provides the Council with:

- a mechanism to communicate the shareholders' views to the company; and

- a means to evaluate the effectiveness of the company board and the delivery of the company performance against strategic objectives.
- 6.4 Decisions to be made as shareholder representative in, for example, an annual meeting of a company will be delegated to the responsible Director or a Member of the Council.
- 6.5 Within the context of this arrangement, the Sub-Committee, will remain the sole decision maker, meeting in public and subject to Access to Information Rules, but the wider Board will act as advisors in the making of those decisions and working group style meetings may be in private. As described above, the role of the shareholder representative is to:
- (a) exercise the Council's vote at general meetings of the company;
 - (b) determine those matters that are reserved to the shareholder to decide upon; and
 - (c) hold the companies to account on a day to day basis for:
 - performance against their agreed business plan;
 - contractual matters between the Council and the company;
 - the company's state of financial health; and
 - the social and financial return the company provides on the Council's investment.
- 6.6 The Terms of Reference for the Shareholder Board are set out at Appendix 1.

7. Relationships

- 7.1 The Policy and Resources or other Committees of the Council are responsible for approving the business case to establish a company, of setting the right balance between the economic, social and environmental objects of a company when it is established and of subsequently overseeing and scrutinising the exercise the Council's powers as shareholder
- 7.2 It is the Sub-Committee, advised within the remainder of the Shareholder Board, who will ensure that the company is able, and the Council has properly required the company, to make sufficient returns for the investment to be worthwhile and, indeed, ensure that the social objects set for it are not lost in the drive towards the overriding and essential requirement for the company to be economically successful.
- 7.3 Once established, the company must then get on with the business of delivering the objectives with which it has been tasked, within the parameters set for it. It must be otherwise free, however, to operate in its own best interests and to compete on an even basis with its competitors in the marketplace.
- 7.4 This creates a flow of information and accountability, in which
- the company needs to get on with the business of delivery;
 - the Council needs to make the company decisions reserved to it and to hold the company to account for performing against them; and
 - Members as part of their overview role within committee need to advise on or

scrutinise the decisions made on the Council's behalf.

This needs to be done in a trading environment that requires them all to make speedy and reactive commercial decisions and to handle often highly valuable and commercially sensitive information.

- 7.5 Members, to fulfil their role within committee and Council, require a means of access to the sensitive information and debate that inform the Sub-Committee and Director's decision making, without either oppressing that process or endangering its own strictly non-Council role.
- 7.6 It is worth noting that the legal framework for local authority companies includes an express requirement concerning the provision of information to Members of the Council, which reflects the similar provision in relation to local authorities generally. This states that a local authority regulated company "shall provide to a Member of the Council such information about the affairs of the company as the member reasonably requires for the proper discharge of his duties."
- 7.7 The exception here is that the company cannot be required to provide information in breach of any enactment, or of an obligation owed to any person.
- 7.8 It is also worth noting that, where a Member or an officer has become a member or director of a local authority company, the local authority must make arrangements for them to be open to questioning about the company's activities by Members of the Council at a meeting of the authority or a committee or sub-committee. In the course of proceedings of the committee, the Member or officer is not required to disclose confidential information about the company.

8. Investment and Finance

- 8.1 The balance of how each company venture may be financed will be assessed and set out in the business case, required at the very beginning of the venture and the incorporation of the company as described above, and in business plans as made or amended and agreed by the Council. Each decision will take into account state aid implications and such matters as where legislative and regulatory requirements demand full cost recovery or standard commercial terms to be applied.
- 8.2 Where the purpose of a company is to better utilise assets owned by the Council, for example, the principal investment in the company is likely to be those assets. The assets may then be made use of by the company through their being transferred in their entirety from the Council to the company or by being provided to the company by the Council under a lease, loan or use agreement.
- 8.3 Investment at the initial stage of a trading company will normally be by way of purchase of share capital, often together with a loan or loan facility on commercial terms. This is to fund those costs which arise at the start of the company or company joint venture, including the holding company and its subsidiaries, to cover initial set up costs, working capital costs and collateral costs. For purchased company interests, share value

should reflect the fair value of the going concern.

- 8.4 Direct investment may well also be by various other forms of agreement. This may be for the supply of monies, directly as a loan or under a parental guarantee, credit agreement, facility and so forth, which should be on standard commercial terms. It may also be for the supply of goods, property or staff, as described above and at section 12 below.

9. Companies Structure

- 9.1 Wherever advantageous and reasonably practicable to do so, the Council's companies and any subsidiary companies will be expected to adopt a common 'group' approach. Especially where a Teckal company, this will involve the companies using existing Council policies and strategies where appropriate and, in particular, the Council will require the company and its subsidiaries to adopt a common approach across the group on branding and its finance, ethics and procurement policies and practices wherever practicable. For example, the Council will require a Teckal and potentially other companies owned by the Council to approve the procurement and authorisation of spend levels set by each company for its directors and staff.
- 9.2 More detailed matters may also be set as a common approach by the Council, where it considers that that will increase effectiveness, efficiency and engender common understanding. This is likely to include such things as group financial procedure rules, fraud and whistle-blowing policies, decision making levels and procedures, capability and disciplinary procedures, health and safety practices and so forth.
- 9.3 The Council and any holding company may similarly provide a natural home and conduit for support and control roles that will be common across the group, such as company secretarial services, procurement, finance and human resources. These fall into two groups. The first is those services that would be better employed directly by the company within any group structure, such as financial and payroll systems for example. The other are those provided as managed services to the companies by the Council, under a resourcing agreement (or service level agreement), because this is more cost effective, appropriate or is a demand of the shareholder, such as HR or company secretarial and legal services. (This is described further at section 12 below).
- 9.4 The secondary purpose is financial, in that a range of company activities can share VAT registration where appropriate and more than one company, one arranged as a subsidiary to another, can be treated as holding group accounts. The latter means that reporting is as one set of accounts and that profit and loss can be distributed across the group, setting one off against another, as might be desired to meet the aims and values set for the group.
- 9.5 The Council will approve the appointment of auditors for any company and its accounts may be required to appear as part of the Council's financial statements.

10. The Company's Board

- 10.1 The Government Guidance advised that a local authority company will be run by its board of directors answerable to the shareholders, in accordance with the articles of association, and goes on to suggest that a board of between 3 and 8 directors is most likely to be practical (although this will be dependent on the circumstances of each company). The participating Local Authority should be represented on the board of its company.
- 10.2 The representatives who are appointed directors by the Council will participate directly in the activities of the company and are answerable to the company and have the powers and duties of company directors whilst they do so. Accordingly, the Government Guidance goes on to suggest that this requirement in a trading company and the accompanying conflict of interests that may arise means that officers are better placed to fulfil this role.
- 10.4 Specific arrangements may be required outside of the norm in certain circumstances. For example, the Council may require that it appoints the Chair of the board of directors and that the Chair will have a deciding say to be exercised through means of a 'golden vote' procedure on the board. This approach may be needed in a specific kind of company, for instance, to ensure that the Council's officers will always be able to out-vote the directly appointed directors on the holding company. Such matters as the quorum requirement for board meetings of the company and the like will be expected to reflect that objective.
- 10.5 A Council owned company will normally be required to have two standing committees, which will be as follows:
- The Remuneration Committee, which will conduct appointments and remuneration decisions and recommendations to the Council (where an appointment is not wholly reserved to the Council).
 - The Audit Committee, which will fulfil the same role and function as the Council's Audit Committee, the outputs of which will feed into the holding company board, the company business plans and the Council's own statement of accounts and Annual Governance Statement.
- 10.6 In respect of the individual wholly owned trading companies, non-trading (Teckal) companies and joint ventures, the appointment of directors of the company will be as are considered best to meet the requirements of the subsidiary or venture concerned.
- 10.7 Where an officer is placed on a company board, he or she will be provided with an indemnity for their actions in that role. This is provided for under the Local Authorities (Indemnities for Members and Officers) Order 2004. It should be noted, however, that any such indemnity only covers actions taken honestly and in good faith.
- 10.8 Appointments to company director will be of the relevant post or office of the Council, not as an individual. This will be reflected within each of the companies' articles in that if any one of the Council appointed directors ceases to be an employee or office holder of the Council, then they automatically also cease to be a director of the company.

- 10.9 The remuneration of Council appointed directors to a company controlled or influenced by the Council, other than permitted expenses, will be met by the Council and not the company. This is because, whilst that director's overriding duty is to the company, that person's role as director on the company board is only because of, and in fulfilment of, their employment as an officer of the Council, for which they are remunerated by the Council under that contract of employment. The position on the company is an inherent part of their job, for which payment is not to be made twice, directly or by different persons, for the same work
- 10.10 That is not to say that the Council would fail to recognise that the position of an officer appointed as a company director or company officer will include distinct and potentially onerous additional responsibilities. Rather, it is that it is the Council that needs to recognise the value of those responsibilities, through a job evaluation process or other means by which the Council sets salaries, in considering any review of an officer's remuneration. To do otherwise risks a future action against the officer or the Council and, if a payment were made to a Council officer by the company that was considered to be a fee or reward accepted under the colour of his or her office or employment other than his proper remuneration, that officer may also have committed a criminal offence¹⁰.
- 10.11 For the purposes of completeness, where a Member of the Council is a director of a regulated company the law only permits such a Member to receive payment for that directorship up to the amount payable for that role under the authority's Special Responsibility Allowance (SRA)¹¹, set as a result of the recommendation of the Independent Remuneration Panel¹². These payments may be made by the company directly or, more normally and as would be the case here, by the Council for reasons of simplicity, accounting and accountability.
- 10.12 The view behind this is that the regulated company is, in fact, simply a part of the Council. In the same way that there is a bar on Members of the Council being employees, the philosophy runs akin to that for officers in that the Council may not pay a councillor for any other activities they may carry out as a Member of the Council other than through their SRA.

11. Conflicts of interest

- 11.1 The Government Guidance states that "*Local authority members and officers should be aware of potential conflicts of interest when carrying out their roles for their authorities, or when acting as directors of trading companies.*"
- 11.2 There will always arise a point where, in matters of reporting, contractual discussion,

¹⁰ s117(2) of the Local Government Act 1972

¹¹ Article 5 of the Local Authorities (Companies) Order 1995

¹² Reg 21 of the Local Authorities (Members' Allowances) (England) Regulations 2003.

investment requests or resourcing agreements, there is potential for the same person to be a decision maker or advisor both for the Council and the company.

- 11.3 This is a reflection of the position of each company as a separate legal entity and that the directors of each company are subject to. As the Corporate Governance Guidance and Principles puts it:

‘An important principle of Company Law is that directors have a duty to promote the success of the company as a whole. They are specifically prohibited from directing the activities of the company in favour of themselves or particular shareholders and/ or stakeholders’.

- 11.4 Appendix 3 sets out a briefing for directors’ duties.

- 11.5 An essential element of this in terms of this Code is that, whilst changes to the Companies Act and current articles of association allow for appropriate provisions dealing with conflicts of interest and the ability of company directors to authorise them, an officer of the Council or a Member can never waive their duty to act in the public interest in exercising their responsibility for functions of the Authority. This will, on occasion therefore, create an inescapable conflict of interest between someone’s role as a Member or, more likely, as an officer of the Council and as a director of a company, of which those involved need to be aware.

- 11.6 There are also natural points where it is expected that the Council and one of its trading companies will take a different approach. In this respect, the Government Guidance states that:

“The local authority should consider appointing a ‘contract officer’ and/or ‘contract member’ with primary responsibility for liaison between the company and the authority, and for access to information about it. It might wish to place limitations on these individuals to ensure that they are fully accountable to the authority as a whole and to ensure that the Section 151 Officer/Monitoring Officer countersigns major decisions about the company’s operations.”

- 11.7 This is the role of the Shareholder Board. In support of that function, the Council will appoint a lead authority and client-side officer to lead on managing contractual arrangements with the companies and in holding of the companies to account.

- 11.8 A certain form of wholly owned local authority also exist to provide services directly to or for the Council (known as a ‘Teckal’ company). The relationship between the authority and the company are set out in a contract for services. In this scenario, clear separation is required between commissioner and provider and there will be a requirement for further support to be provided, beyond the position of lead authority and client officer.

- 11.9 Officers placed into any of these roles are, at some point, likely to find themselves in a position where they are, or are negatively seen to be, acting against the interest of their own authority and also challenging the Council as their employers or senior managers to whom they might normally answer to. As a result of such activities, their performance in the company or actions they feel are required of them by the company,

some of those officers may even find themselves in a position where it is no longer felt tenable that they can be appointed by the authority as a director of a company. The Council as an employer, from the viewpoint of both the shareholder and possible contractor or client, wholly recognises these unusual positions that such officers may find themselves. The Council therefore undertakes that no officer will suffer any ill affect to his or her employment or career with the authority for fulfilling these activities to the best of their ability or in undertaking these actions asked of them.

12. Managed Services, Support Arrangements and Employees

12.1 The authority is required under the 2009 regulations to recover the costs of any accommodation, goods, services, staff or any other thing it supplies to a company in pursuance of any agreement, or arrangement in place. It cannot subsidise the operation of the company in this way.

12.2 The Government Guidance in addition clarifies that

“Because the power to trade is subject to a restriction requiring it to be exercised through a company, it follows that the authority has the requisite power to enter into arrangements with a company in order for the trading power ... to be exercised. It is not necessary therefore, for the company to be expressly designated as a public body under the Local Authorities (Goods and Services) Act 1970, in order for the authority to be able to provide it with staff, goods etc, for the purpose of exercising the power to trade.”

12.3 This means that the authority may enter into an agreement with the companies to provide services at cost or as a surplus service charge and that staff time and resources utilized for company purposes should be carefully accounted for. Where this is done at cost, which shall be the norm, it is helpfully stated in the Guidance that the approach should be in accordance with the CIPFA definition of ‘whole cost’.

12.4 Referred to above as the ‘managed services’, those areas of the authority’s resources so utilized might include project management, initial set-up staff, human resources, audit, business continuity, communications, procurement, legal or finance and so on. It is for the company and the Council to agree what is the appropriate level of authority led resource that is appropriate, should or can be delivered to the company in each case. The parameters of those services can be agreed through a Resourcing Agreement or what is known as a Service Level Agreement (SLA).

12.5 The authority as shareholder, however, does need to be assured that there are effective and robust support services in place in certain areas. This is to satisfy itself that sufficient standards of operational governance, legal and company secretarial compliance and effective financial management within the company are adhered to. The authority will reserve to itself the ability under the Shareholder Agreement to insist on supplying these services to a controlled company, at cost, if it feels that these standards are not otherwise being met or are not in its opinion likely to be met.

12.6 In particular, the Company Secretary role should have a consistent approach across all of the Council owned companies or group of companies. This is to ensure

consistent interpretation of the compliance standards across the companies and of the governance relationship between the companies and between the companies and the Council. In addition, it ensures that appropriate and proper intelligence is shared across the companies and the authority. In relation to all authority-controlled companies and their subsidiaries, therefore, the position of company secretary as an officer (not a director) of each company in the group is to be fulfilled by the Council's Monitoring Officer, being the equivalent corporate governance, assurance and general counsel position for the Council. All company secretarial and general counsel duties for the companies will then be carried out through that office, either directly or through the position of an assistant company secretary, with the exception of where a conflict of interest is identified and is acknowledged by that officer.

- 12.7 In relation to company staffing, it is expected that staff of the local authority trading companies will be directly recruited and employed by the companies themselves, with the exception of those support staff supplied by or seconded from the authority as described above. Where the business case includes that staff are transferred, however, this will be subject to full reporting and then consultation and requirements under TUPE legislation and guidance.

(Based on the LLG Guidance Note for England & Wales February 2018)

WIRRAL BOROUGH COUNCIL
SHAREHOLDER BOARD - TERMS OF REFERENCE

As per existing terms of ref

OUTLINE OF THE
SHAREHOLDER AND COMPANY AGREEMENT

1. DEFINITIONS AND INTERPRETATION
2. FINANCING THE COMPANY
3. DIVIDEND POLICY
4. SUBSIDIARIES
5. MANAGEMENT OF THE COMPANY
6. SHAREHOLDER GROUP
7. THE BUSINESS PLAN AND COMPLIANCE WITH THE BUSINESS PLAN
8. REPORTING AND ACCOUNTING MATTERS
9. BANKING ARRANGEMENTS
10. TERMINATION
11. UNLAWFUL FETTER ON THE COMPANY'S POWERS
12. ASSIGNMENT AND SUB-CONTRACTING
13. FURTHER ASSURANCE
14. REMEDIES AND WAIVERS
15. ENTIRE AGREEMENT
16. VARIATION
17. CONFLICT WITH THE ARTICLES
18. SEVERANCE
19. CONFIDENTIALITY
20. NOTICES
21. NO PARTNERSHIP OR AGENCY
21. COUNTERPARTS
22. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999
23. GOVERNING LAW AND JURISDICTION

Guidance Note to Council Members and Officers when acting as Directors of
Council Companies



CONSTITUTION
OF THE COUNCIL

Part 5
Section 9

WHISTLEBLOWING PROTOCOL

TO BE INSERTED



CONSTITUTION
OF THE COUNCIL

Part 5
Section 10

FREEDOM OF THE BOROUGH PROTOCOL

TO BE INSERTED



CONSTITUTION OF THE COUNCIL

Part 6

Members Allowances Scheme

TO BE INSERTED



CONSTITUTION OF THE COUNCIL

Part 7

MANAGEMENT STRUCTURE

TO BE INSERTED