

# CONSTITUTION

Wednesday, 15th March, 2023  
12.00 pm





# CONSTITUTION

Wednesday, 15th March, 2023 at 12.00  
pm

## AGENDA

- |   |           |
|---|-----------|
| 1) <i>Index</i>   | 5 - 8     |
| a) <i>Part 1 Summary and Explanation</i>  | 9 - 18    |
| 2) <i>Part 2 Articles</i>   | 19 - 48   |
| 3) <i>Part 3 Scheme of Delegation Council and Executive Functions</i>             | 49 - 156  |
| 4) <i>Part 4</i>  |           |
| a) <i>Council Procedure Rules</i>   | 157 - 174 |
| b) <i>Access to Information Procedure Rules</i>                                   | 175 - 186 |
| c) <i>Budget and Policy Framework Procedure Rules</i>                             | 187 - 192 |
| d) <i>Executive Procedure Rules</i>   | 193 - 196 |
| e) <i>Scrutiny Procedure Rules</i>  | 197 - 204 |
| f) <i>Financial Procedure Rules</i>   | 205 - 246 |
| g) <i>Contracts Procedure Rules</i>   | 247 - 272 |
| h) <i>Officer Employment Procedure Rules</i>                                      | 273 - 274 |
| i) <i>Officer Disciplinary Procedure Rules</i>                                    | 275 - 278 |
| 5) <i>Part 5</i>  |           |
| a) <i>Code of Conduct for Members</i>   | 279 - 338 |
| b) <i>Code of Conduct for Employees</i>   | 339 - 364 |
| c) <i>Protocol for Chief Executive, Directors and Political Groups</i>            | 365 - 366 |
| d) <i>Council's Petition Scheme</i>   | 367 - 372 |
| e) <i>Appointment of Mayor and Deputy Mayor Elect</i>                             | 373 - 374 |
| f) <i>Protocol for Scrutiny Call-in Procedure</i>                                 | 375 - 376 |
| g) <i>Guidance for Councillors and Officers involved in Outside Organisations</i> | 377 - 414 |

h)	<i>Local Code for Corporate Governance</i>	415 - 418
i)	<i>Protocol for Awards to Recognise Service to the Council or the Community</i>	419 - 422
j)	<i>Protocol Members of Standards Committee or Sub Committees</i>	423 - 428
k)	<i>Protocol for Monitoring Officer</i>	429 - 434
l)	<i>Recording and use of Social Media at Council and Other meetings open to the public</i>	435 - 438
m)	<i>Protocol for Chief Finance (Section 151) Officer</i>	439 - 444
6)	<i>Part 6 Members Allowance Scheme</i>	445 - 450
7)	<i>Part 7 Management Team Structure</i>	451 - 452
8)	<i>Proper Officer List</i>	453 - 464

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The Council's constitution

## **Part 1 – Summary and Explanation**

## **Part 2 – Articles of the Constitution**

- Article 1- The Constitution
- Article 2- Members of the Council
- Article 3- Citizens and the Council
- Article 4- The Full Council
- Article 5- Chairing the Council
- Article 6- Scrutiny Committee
- Article 7- The Executive
- Article 8- Regulatory and other Committees
- Article 9- The Standards Committee
- Article 10- Area Structures
- Article 11- Joint Arrangements
- 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

## Schedule 1- Description of Executive

### **Part 3 - Responsibility for Functions**

Responsibility for Functions -Scheme of Delegation for Council and Executive Functions

### **Part 4 – Rules of Procedure**

- 4.1- The Council's Procedure Rules
- 4.2- Access to Information Procedure Rules
- 4.3- Budget and Policy Framework Procedure Rules
- 4.4- Executive Procedure Rules
- 4.5- Scrutiny Procedure Rules
- 4.6- Financial Procedure Rules
- 4.7- Contracts Procedure Rules
- 4.8- Officer Employment Procedure Rules February 2018
- 4.9- Officer Disciplinary Procedure Rules

### **Part 5 – Codes and Protocols**

- 5.1 New Code of Conduct for Members and Guidance

- 5.2- Code of Conduct for Employees, Whistleblowing Policy and Anti Fraud/Corruption Policy
- 5.3- Protocol: Chief Executive/Chief Operating Officer and Political Groups
- 5.4- Protocol: Petitions
- 5.5- Protocol: Appointment of Mayor/Deputy Mayor
- 5.6- Protocol: Call-in
- 5.7- Guidance: Member and Officer Appointments to Outside Organisations and requirement to declare related party transactions
- 5.8- Local Code of Corporate Governance
- 5.9- Protocol: Recognition of Service to the Community and Council
- 5.10- Protocol: Audit and Standards Committee Members
- 5.11- Protocol: Monitoring Officer
- 5.12- Protocol: Section 151 Officer
- 5.13- Recording and Use of Social Media

## **Part 6 – Members’ Allowances Scheme**

Members Allowances Scheme

## **Part 7 – Management Structure**

Management Structure

## **Part 8 – Proper Officer List**

Designated Statutory & Proper Officer list.

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**Part 1 - Summary and Explanation**

**BURNLEY BOROUGH COUNCIL**

**PART 1**

**SUMMARY AND**

**EXPLANATION**

## **The Council's Constitution**

Burnley 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. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

### **What's in the Constitution?**

Article 1 of the Constitution commits the Council to represent the wider community as well as individual citizens, improve services and to operate in an efficient, transparent and accountable manner. Articles 2 – 16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council

October 2014

- Citizens and the Council
- The Council meeting
- Chairing the Council.
- Scrutiny of decisions
- The Executive
- Regulatory and other committees
- The Audit and Standards Committee
- Area Structures
- Joint arrangements
- Officers
- Decision making
- Finance, contracts and legal matters
- Review and revision of the Constitution
- Suspension, interpretation and publication of the Constitution
- Codes of Conduct and Protocols

### **How the Council operates**

The Council is composed of 45 Members elected for four years with one-third elected three years in four. Members are democratically accountable to residents of their ward. The overriding duty of Members is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

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

All Members meet together as the Council. Meetings of the Council are normally open to the public. Here Members decide the Council's overall policies and set the budget each year. The Council elects the Leader of the Council who chairs the Executive. The Leader appoints the other members of the Executive.. In addition all Committees are appointed by the Council including their Chairs and Vice Chairs. Although most decisions of the Executive and Regulatory Committees will be taken with delegated powers and will not need the approval of the Council all business transacted by the Executive or Committees will be subject to scrutiny at full Council meetings. Members of the public can ask to speak at the Executive or Committee meetings on items indicated on the agenda, or at Council meetings on any issue affecting the Borough.

## **HOW DECISIONS ARE MADE**

The Executive is the part of the Council, which is responsible for most day-to-day decisions. The Executive is made up of a Leader with Cabinet - the total Number can be between 3 and 10. When major decisions are to be discussed or made, these are published in the Executive's Notice of Key Decisions and Private Part of Meeting in so far as they can be anticipated. If these major decisions are to be discussed with council officers at a meeting of the executive, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The Executive has to make decisions, which are in line with the Council's overall policies and budget. If it wishes to make a decision, which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

## **SCRUTINY**

There is 1 Scrutiny Committee which supports the work of the Executive and the Council as a whole. It allows citizens to have a greater say in Council matters by enquiring into matters of local concern. These lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery. The Scrutiny Committee also monitors the decisions of the Executive. It can 'call-in' a decision which has been made by the Executive but not yet implemented. This enables it to consider whether the decision is appropriate. It may recommend that the Executive reconsider the decision. It may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

## **The Council's Staff**

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

## **Citizens' Rights**

Citizens have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council's own processes. .

Where members of the public use specific council services, for example a sports centre, they may have additional rights. These are not covered in this Constitution.

Citizens have the right to vote at local elections if they are registered;

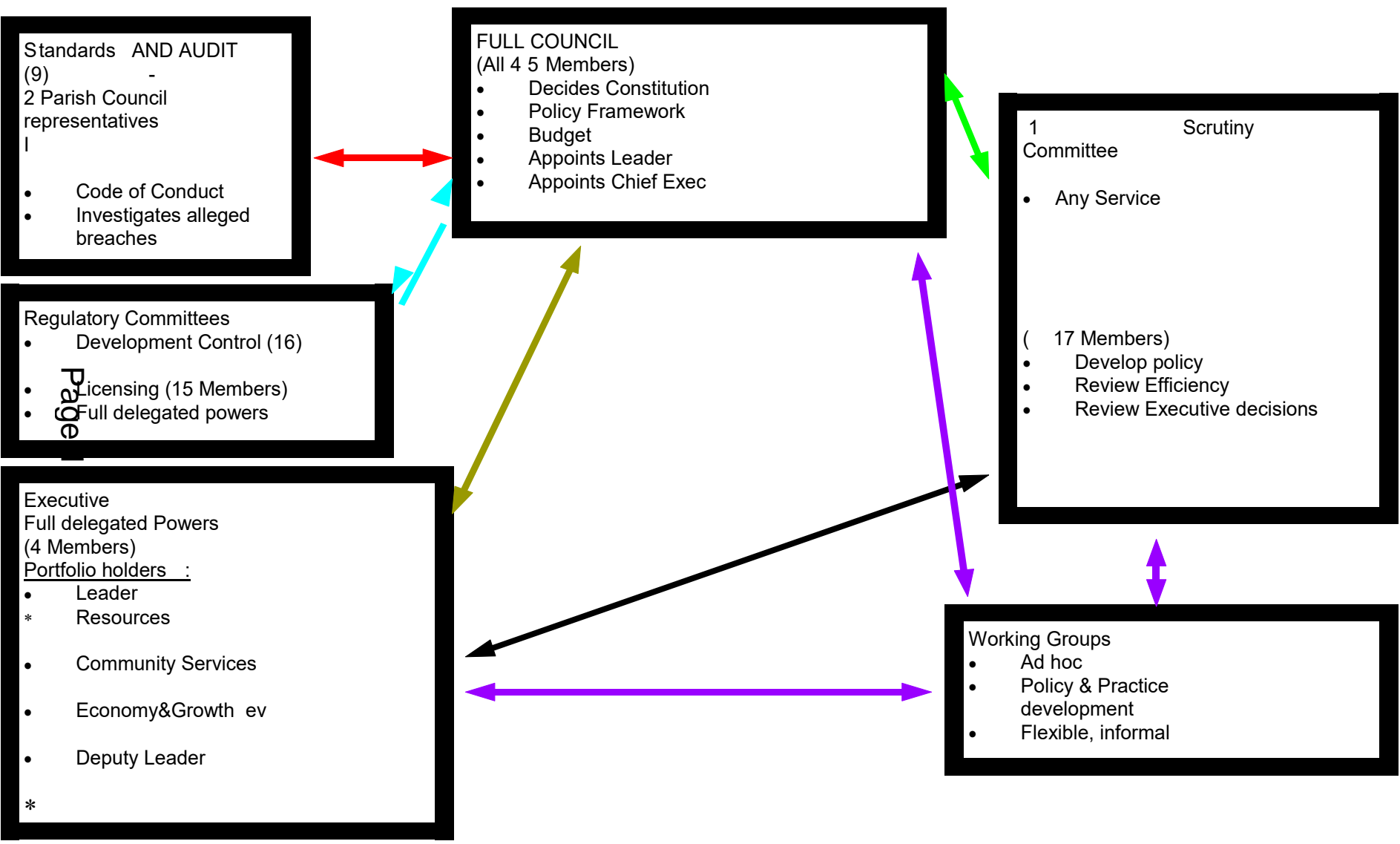
- contact their local Member about any matters of concern to them;
  - obtain a copy of the Constitution;
  - attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
  - petition to request a referendum on a mayoral form of executive;
  - if invited, participate in the Council's question time and contribute to investigations by the scrutiny committees
- Page 13
- find out, from the Executive's Notice of Key Decisions and Private Part of Meeting, what major decisions are to be discussed by the executive or decided by the Executive or officers, and when;
  - attend meetings of the Executive where key decisions are being discussed or decided;
  - see reports and background papers, and any record of decisions made by the Council and Executive;
  - complain to the Council. The Council has a complaints procedure set out in booklets available from reception points in main Council buildings.
  - complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
  - complain to the Council's Monitoring Officer if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
  - inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact :

October 2014

Your local Member, or:  
Democracy Unit  
Burnley Borough Council  
Town Hall  
Manchester Road  
Burnley  
Lancashire  
BB11 1JA  
Tel: (01282) 425011  
E-mail: [enquiries@burnley.gov.uk](mailto:enquiries@burnley.gov.uk)

### BURNLEY BOROUGH COUNCIL COMMITTEE STRUCTURE 2019/20









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**BURNLEY BOROUGH COUNCIL**

**PART 2**

**ARTICLES**

**OF THE CONSTITUTION**

28<sup>th</sup> September 2022

## **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 Burnley 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 Members represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively having regard to the law, appropriate policies, procedures and ethical standards;
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 or had a personal or prejudicial interest in;
7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. provide a means of improving the delivery of services to the community.
9. enable the Council to provide services to the community in an efficient, effective and economical manner

### **1.04 Interpretation and Review of the Constitution**

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

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

## Article 2 – Members of The Council

### 2.01 Composition and eligibility

- (a) **Composition.** The Council comprises 45 Members, otherwise called councillors. Three councillors are 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 the district or those living or working in the district, as defined by election law, will be eligible to hold the office of councillor.

### 2.02 Election and terms of Members

#### ELECTION BY THIRDS

**Election and terms.** The ordinary election of a third (or as near as may be) of all councillors will be held on the first Thursday in May in each year unless changed by Parliament starting in 2005 and every fourth year after there will be no regular election to allow for County Council elections. 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.

### 2.03 Roles and functions of all Members

- (a) **Key roles.** All Members 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 Borough and actively encourage community participation and citizen involvement in decision making;
  - (iii) effectively represent the interests of their ward and of individual constituents;
  - (iv) respond to constituents' enquiries and representations, fairly and impartially for the benefit of the Borough as a whole;
  - (v) participate in the governance and management of the Council;
  - (vi) maintain the highest standards of conduct and ethics; and
  - (vii) be available to represent the Council on other bodies
  
- (b) **Rights and duties**
  - (i) Members will have rights of access to documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
  - (ii) Members will not make public information which is confidential or exempt under the Access to Information Rules without the consent of Council

(iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.04 **Conduct**

Members will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

2.05 **Allowances**

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

## Article 3 – Citizens and The Council

### 3.01 Citizens' rights

Citizens have the following rights In relation to the business of the Council. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of local governance.
- (b) **Information.** Citizens have the right to:
  - (i) attend meetings of the Council and its committees and any decision making meeting of the Executive except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) find out from the Notice of Key Decisions and Private Meetings plan what key decisions will be taken by the executive and when;
  - (iii) see reports and background papers and any records of decisions made by the Council and the Executive other than exempt or confidential items;
  - (iv) inspect the Council's accounts and make their views known to the external auditor; and
  - (v) such other information as may be specified in the Council's Freedom of Information Act 2000 Publication Scheme
- (c) **Participation.** Citizens have the right to participate at Council, Executive and Committee/Sub-Committee meetings' question time and contribute to investigations by scrutiny committees in accordance with the procedures set out in Part 4 (Council Procedure Rules).
- (d) **Complaints.** Citizens have the right to complain to:
  - (i) the Council itself under its complaints scheme;
  - (ii) the Council's Monitoring Officer in respect of any alleged unlawful or illegal behaviour, action, inaction or decisions of Members and Officers;
  - (iii) the Ombudsman after using the Council's own complaints scheme;
  - (iv) the Council's Monitoring Officer about a breach of the Member's Code of Conduct
  - (v) any other relevant regulatory or law enforcement agency

### 3.02 Citizens' responsibilities

Citizens must obey the law and not be violent, abusive or threatening to Members or officers and must not willfully harm things owned by the council, Members or officers.

Citizens on the electoral roll should exercise their voting rights.

## Article 4 – The Full Council

### 4.01 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies to be approved by the Full Council either as required by law or decision of the Council:-
- Sustainable Community Strategy;
  - Crime and Disorder Reduction Strategy;
  - Local Transport Plan;
  - Plans and strategies which together comprise the Development Plan;
  - Council's Strategic Plan;
  - Food Law Enforcement Service Plan
  - The Housing Strategy;
  - Economic Vision Strategy
  - Corporate Community Engagement Strategy
  - Equal Opportunities Policy, Single Equality Scheme and Equality Action Plan
  - Statement of Licensing Policy regarding the Licensing Act 2003
  - Statement of Principles regarding the Gambling Act 2005
  - Matters related to local government pensions
  - Data Protection and Freedom of Information Policy
  - Pay Policy Statement - Localism Act 2011
- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.
- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

### 4.02 Functions reserved to the full Council

Only the Council will exercise the following functions:

- (a) adopting and approving changes to the Constitution or any that are likely to have a significant impact;
- (b) approving or adopting the policy framework and the budget and any application to the Secretary of State in respect of any Housing Land Transfer;



- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (d) appointing the Leader;
- (e) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council (see Part 3 of the Constitution – Local Choice Functions);
- (g) adopting an allowances scheme under Article 2.05;
- (h) changing the name of the area, conferring the title of honorary alderman/alderwoman or freedom of the borough
- (i) confirming the appointment of the head of paid service;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or Private Bills;
- (k) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the executive; and
- (l) all other matters which, by law, must be reserved to Council.

#### 4.03 **Council meetings**

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings/special meetings.

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

#### 4.04 **Responsibility for functions**

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

## **Article 5 – Chairing The Full Council**

### **TITLE OF THE PERSON CHAIRING COUNCIL MEETINGS**

#### **5.01 Role and function of the Mayor**

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

- (1) to uphold and promote the Borough , its Constitution, and to give rulings on the Constitution during Council meetings (when necessary and following appropriate advice from relevant Officers);
- (2) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- (3) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the executive are able to hold the executive and committee chairs to account;
- (4) to promote public involvement in the Council's activities;
- (5) to be an ambassador for the Borough; and
- (6) to attend such civic and ceremonial functions as the Council and he/she determines appropriate
- (7) if necessary to chair meetings between the Leader and the Leaders of all other political groups represented on the Council to plan for the efficient transaction of the Council's business.

#### **Ceremonial role**

In this role the Mayor, as the first citizen of Burnley, during his/her term of office, must uphold and preserve the dignity and honour bestowed upon him/her during the term of his/her office and take extra care to ensure that the office of Mayor and the Council are not brought into disrepute. In particular the Mayor must remain apolitical during his/her term of office and avoid taking or making decisions that may be seen by a reasonable person to be politically motivated.

Burnley Borough Council's Code of Conduct for Members applies to the Mayor and the Deputy Mayor.

## Article 6 – Scrutiny Committees

### SCRUTINY

#### 6.01 Terms of reference

The Council will appoint the scrutiny committee set out in the left hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations [proposed] under section 32 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the same table.

Committee	Scope
(From May 2014) Scrutiny Committee	To Scrutinise all actions which fall within the remit of any Service Unit or the Chief Executive and Chief Operating Officer.

#### 6.02 General role

Within their terms of reference, scrutiny committees will:

- i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- ii) make reports and/or recommendations to the full Council and/or the executive and/or any committee in connection with the discharge of any functions;
- iii) consider any matter affecting the area or its inhabitants; and
- iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the executive

#### 6.03 Specific functions

- (a) **Policy development and review** –scrutiny committees may:
  - i) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
  - ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
  - iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
  - iv) question members of the Executive and/or committees, Management Team and Service Managers about their views on issues and proposals affecting the policy area; and
  - v) liaise with other external organisations operating in the policy area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- (b) **Scrutiny-** the scrutiny committee may:
  - i) review and scrutinise the decisions made by and performance of the Executive and/or committees and council officers both in relation to individual decisions and over time;

28.09.22 AM

- ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
  - iii) question members of the Executive and Regulatory committees, Management Team and Service Managers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects. Other officers will only attend with the consent of the appropriate Service Manager (not to be unreasonably withheld);
  - iv) make recommendations to the Executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process including addressing any consequential financial implications;
  - v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the scrutiny committee and local people about their activities and performance, including the statutory requirement to scrutinize the Crime and Disorder Reduction Partnership by a designated Scrutiny committee at least once a year i.e. the Scrutiny Committee; and
  - vi) question and gather evidence from any person (with their consent).
- (c) **Finance-** the scrutiny committee may exercise overall responsibility for any finances which may be made available to it.
- (d) **Annual report-** the scrutiny committee must report annually to full Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

#### 6.04 **Proceedings of scrutiny committees**

The Scrutiny committee will conduct its proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution.

**Article 7 – The Executive****THE ROLE OF THE EXECUTIVE****7.01 Role**

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

**7.02 Form and Composition****LEADER APPOINTS EXECUTIVE**

The Executive will consist of the Executive Leader together with at least 2, but not more than 9, Members appointed to the Executive by the Leader (one of whom will be appointed by the Leader to act as the Deputy Leader).

**7.03 Leader**

The Leader will be a Member elected to the position of leader by the Council. The Leader's term of office will end on the day when the Council holds its first Appointment Council Meeting after the Leader's normal day of retirement as a Member, unless:

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a Member; or
- (d) he/she is removed by resolution of Council provided that no such resolution may be moved unless a Notice of Motion is delivered to the Head of Legal and Democratic Services not later than 7 days before the meeting at which it is to be debated, and signed by one third of the Members (for the time being) of the Council (which will also meet signing requirements in Part 4.1 Council Procedure Rule 15 Previous Decisions and Motions), and that this particular Motion be exempt from Council Procedure Rule 22 relating to waiving of Standing Orders

**7.04 Deputy Leader**

(a) The Leader will appoint one of the Members of the Executive to act as Deputy Leader. The Leader must give written notice of such appointment to both the person who he/she is appointing as Deputy Leader and the Head of Legal and Democratic Services. The appointment of the Deputy Leader will take effect on receipt of the Leader's written notice by both the person who the Leader is appointing as Deputy Leader and the Head of Legal and Democratic Services. The Head of Legal and Democratic Services will keep a written record of the appointment of the Deputy Leader, and the Leader will report the appointment to Council and the Executive at the earliest opportunity.

(b) The Deputy Leader will hold office until the end of the Leader's term of

office unless;

- (i) he/she resigns from the office; or
- (ii) he/she is suspended from being a Member under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (iii) he/she is no longer a Member; or
- (iv) he/she is no longer a member of the Executive; or
- (v) he/she is removed by the Leader who must give written notice of such removal to both the Deputy Leader and the Head of Legal and Democratic Services. The removal of the Deputy Leader will take effect on receipt of the Leader's written notice by both the Deputy Leader and the Head of Legal and Democratic Services. The Head of Legal and Democratic Services will keep a written record of any removal of the Deputy Leader, and the Leader will report any such removal of the Deputy Leader to Council and the Executive at the earliest opportunity.

(c) Where a vacancy occurs in the office of Deputy Leader, the Leader must appoint another person in his/her place. The Leader must give written notice of such appointment to both the person who he/she is appointing as Deputy Leader and the Head of Legal and Democratic Services.. The appointment of the Deputy Leader will take effect on receipt of the Leader's written notice by both the person who the Leader is appointing as Deputy Leader and the Head of Legal and Democratic Services. The Head of Legal and Democratic Services will keep a written record of the appointment of the Deputy Leader, and the Leader will report the appointment to Council and the Executive at the earliest opportunity

(d) If for any reason:

- (i) The Leader is unable to act or the Office of Leader is vacant, the Deputy Leader will act in his/her place; and
- (ii) The Deputy Leader is unable to act or the Office of Deputy Leader is vacant, the Executive must act in the Leader's place, or arrange for an Executive Member to act in his/her place

#### 7.05 **Other Executive members**

In addition to the Deputy Leader, the Leader will appoint between 1 and 8 further Executive Members to hold such portfolios as the Leader shall determine. When appointing an Executive Member the Leader must give written notice of such appointment and of the Portfolio to both the person who he/she is appointing as an Executive Member and the Head of Legal and Democratic Services.. The appointment of the Executive Member will take effect on receipt of the Leader's written notice by both the person who the Leader is appointing as an Executive Member and the Head of Legal and Democratic Services. The Head of Legal and Democratic Services will keep a written record of the appointment of an Executive Member, and the Leader will report the appointment of an Executive Member to Council and the Executive at the earliest opportunity.

An Executive Member shall hold office until the end of the Leader's term of office unless:

- (a) he /she resigns from office; or
- (b) he/she is suspended from being a Member under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a Member; or
- (d) he/she is removed by the Leader who must give written notice of such removal to both the Executive Member and the Head of Legal and Democratic Services. The removal of an Executive Member will take effect on receipt of the Leader's written notice by both the Executive Member and the Head of Legal and Democratic Services. The Head of Legal and Democratic Services will keep a written record of any removal of an Executive Member, and the Leader will report any such removal of the Executive Member to Council and the Executive at the earliest opportunity.

#### **7.06 Remits of Executive Members**

Within the above framework and any statutory requirements, the Leader will determine the detailed remits of Executive Members (including the Deputy Leader) and report such detailed remits (and any changes thereto) to the Executive Members concerned, the Head of Legal and Democratic Services, Council and the Executive at the earliest opportunity.

#### **7.07 Proceedings of the Executive**

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

#### **7.08 Responsibility for functions**

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(a) From the Appointments Council in 2011 the Leader may determine to exercise any of the Executive functions of the Council personally, or may arrange for the exercise of any of the Council's Executive functions as set out in Part 3 of the constitution by:

- (i) the Executive
- (ii) by another Member of the Executive
- (iii) by a Committee of the Executive
- (iv) by an Officer of the Council or joint arrangements

(b) The Head of Legal and Democratic Services will maintain a Register of the Delegation of Executive Functions as set out in Part 3 of the constitution and will record any alterations to the allocation of responsibility for the discharge of Executive functions.

(c) At the earliest opportunity following the election of a Leader, the Leader will review the allocation of responsibilities for the discharge of Executive functions recorded in Part 3 of this Constitution. Any alterations that the Leader wishes to make to the allocation of responsibility for the discharge of

28.09.22 AM

Executive functions will be dealt with in accordance with Executive Procedure Rule 1.4 in Part 4.4 of the Constitution

## **Article 8 – Regulatory and other committees**

### **8.01 Regulatory and other committees**

The Council will appoint the committees set out in the left hand column of the table Responsibility for Council Functions in Part 3 of this Constitution to discharge the functions described in column 3 of that table.

- Development Control
- Licensing
- Appeals
- Audit and Standards



## **Article 9 - The Audit and Standards Committee**

### **9.01 Audit and Standards Committee**

The Council has established an Audit and Standards Committee

### **9.02 Membership**

- a) The Audit and Standards Committee will comprise nine Councillors as Members (to include an Executive Member and the Chair of Scrutiny, as well as 2 co-opted independent members and 2 co-opted parish members.
- b) The nine Members to be appointed by Council.
- c) The external members to be approved by a majority of the Council.
- d) The Committee to be Chaired by a Member but the Chair and Vice-Chair of the Committee shall not be either an Executive Member nor the Chair of Scrutiny Committee.

### **9.03 Role and Functions relating to Audit and Standards**

That the terms of reference of the Committee are-

- To promote and maintain high standards of conduct by Members, Co-opted Members and employees of the Council
- To support Members, Co-opted members and employees to observe the Council's Code of Conduct
- To advise, train or arrange to train Members, Co-opted Members, Parish and Town Council Members and employees of the Council on the Council's Codes
- To monitor and advise the Council about the operation of its Code of Conduct for Members and Employees in light of best practice, changes in the law, and government guidance
- To advise the Council on the adoption or revision of the Codes of Conduct, including the adoption of Protocols which support high standards of conduct by Members and employees of the Council
- To actively engage with the Borough, Parish and Town Councils on the role and purpose of the Committee, governance and standards
- To actively engage with the public, the media and key partners on the role and purpose of the Committee, governance and standards to promote public confidence in the Council
- To grant dispensations to Members with disclosable interests
- To grant exemptions for politically restricted posts
- To determine complaints about Members in accordance with the Localism Act 2011 and associated Regulations and local procedures

28.09.22 AM

- To adopt and keep under review policies and procedures for the determination of complaints about Members
- To have oversight of the Council's Whistleblowing Policy
- The Head of Internal Audit and the representative of External Audit will have free and confidential access to the Chair of the Audit and Standards Committee. Members of the Audit and Standards Committee have free and confidential access to the Head of Internal Audit and the representative of External Audit

**To have a focus on Strategic Risk**

**Article 10– Area Structures**

Details to be inserted when agreed by the Council.

## Article 11 – Joint Arrangements

### 11.01 Arrangements to promote well being

The Council or the Executive, in order to promote the economic, social or environmental well-being of 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; and
- (c) exercise on behalf of that person or body any functions of that person or body.

### 11.02 Joint arrangements

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

The political balance requirements do not apply to such appointments.

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

### 11.03 Access to information

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the Members of a joint committee are Members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the Executive.
- (c) If the joint committee contains Members who are not on the Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

### 11.04 Delegation to and from other local authorities

28.09.22 AM

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

#### 11.05 **Contracting out**

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

**Article 12 – Officers****TERMINOLOGY****12.01 Management structure**

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

<b>Post</b>	<b>Functions and areas of responsibility</b>
1. Chief Executive	<p>Overall corporate management and operational responsibility (including overall management responsibility for all officers)</p> <p>Undertake the duties associated with the statutory role of Head of Paid Service (see 12.02 below)</p> <p>Provision of professional advice to all parties in the decision making process.</p> <p>Together with the monitoring officer, responsibility for a system of record keeping for all the Council's decisions.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p> <p>Oversee the activities of the following Service Unit or Team:</p> <ul style="list-style-type: none"> <li>• Economy and Growth</li> <li>• Policy and Engagement</li> </ul>
<b>Post</b>	<b>Functions and areas of responsibility</b>
2. Chief Operating Officer	<p>Provision of professional advice to all parties in the decision making process.</p> <p>Contribute to the overall corporate management and operational responsibility and offer corporate advice and personal leadership to specific tasks and projects</p> <p>Representing the Council on partnership and external bodies (as required by statute or the</p>

	<p>Council).</p> <p>Oversee the activities of the following Service Units:</p> <ul style="list-style-type: none"> <li>• Green Space &amp; Amenities</li> <li>• Streetscene</li> <li>• Housing &amp; Development Control</li> <li>• Revenues and Benefits (Liberata)</li> <li>• Finance and Property</li> <li>• Legal and Democratic Services</li> <li>• People &amp; Development</li> <li>• Customer and IT Services (Liberata)</li> </ul>
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- (c) **Head of paid service, monitoring officer and chief financial officer.** The Council will designate the following posts as shown:

Post	Statutory Designation
Chief Executive	Head of Paid Service
Chief Operating Officer	Monitoring Officer
Head of Finance and Property	Chief Finance Officer - Undertake the duties associated with the statutory role of Chief Finance Officer (see 12.04 below)

These posts will have the functions described in Article 12.02–12.04 below.

- (d) **Structure.** The head of paid service will determine and publicise a description of the overall structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

## 12.02 Functions of the head of paid service

- (a) **Discharge of functions by the Council.** The head of paid service will report to full Council on the manner in which the discharge of the

Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers, and the appointment and proper management of Officers

- (b) **Protocols.** The head of paid service's activities will be in accordance with the relevant legislation and the Protocol set out in Part 5 of this constitution consistent with that legislation
- (c) **Restrictions on functions.** The head of paid service may not be the monitoring officer but may hold the post of chief finance officer if a qualified accountant.

### 12.03 Functions of the monitoring officer

- (a) **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 consultation by Members, staff and the public.
- (b) **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 the executive in relation to an executive function, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Audit and Standards Committee.** The monitoring officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit and Standards Committee.
- (d) **Receiving reports.** The monitoring officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.
- (e) **Conducting investigations.** The monitoring officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Audit and Standards Committee.
- (f) **Proper officer for access to information.** The monitoring officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (g) **Advising whether Executive decisions are within the budget and policy framework.** The monitoring officer will advise whether decisions of the executive are in accordance with the budget and policy framework.
- (h) **Providing advice.** The monitoring officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- (i) **Restrictions on posts.** The monitoring officer cannot be the chief finance officer or the head of paid service
- (j) **Protocols.** The monitoring officer's activities will be in accordance with



the relevant legislation and the Protocol set out in Part 5 of this Constitution consistent with that legislation

#### 12.04 **Functions of the chief finance officer**

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the head of paid service and the monitoring officer, the chief finance officer will report to the full Council, or to the executive in relation to an executive function, and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The chief finance officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **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.
- (d) **Providing advice.** The chief finance officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Members and will support and advise Members and officers in their respective roles.
- (e) **Give financial information.** The chief finance officer will provide financial information to the media, members of the public and the community.
- (f) **Protocols.** The chief finance officer's activities will be in accordance with the relevant legislation and the Protocol set out in Part 5 of this Constitution consistent with that legislation

#### 12.05 **Duty to provide sufficient resources to the monitoring officer and chief finance officer**

The Council will provide the monitoring officer and chief finance officer with officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

#### 12.06 **Conduct**

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

#### 12.07 **Employment**

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

## **Article 13– Decision Making**

### **13.01 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.

### **13.02 Principles of decision making**

All decisions of the Council, the Executive, Committees/Sub Committees and Officers will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights (see below for further details);
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes.
- (f) explaining what options were considered and giving the reasons for the decision
- (g) taking account of all relevant considerations and discounting all irrelevant considerations.

### **13.03 Types of decision**

- (a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.
- (b) Key decisions.
  - (i) Key decision means an Executive decision which is likely:
    - (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant i.e £100,000 having regard to the local authority's budget for the service or function to which the decision relates; or
    - (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Borough
  - (ii) A decision taker may only make a decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

### **13.04 Decision making by the full Council**

Subject to Article 13.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **13.05 Decision making by the executive**

Subject to Article 13.08, the executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

**13.06 Decision making by the scrutiny committee**

Scrutiny committee will follow the Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

**13.07 Decision making by other committees and sub-committees established by the Council**

Subject to Article 13.08, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

**13.08 Decision making by Council bodies acting as tribunals**

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 will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

## **Article 14– Finance, Contracts and Legal Matters**

### **14.01 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the financial procedure rules set out in Part 4 of this Constitution.

### **14.02 Contracts**

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

### **14.03 Legal proceedings**

The Head of Legal and Democratic Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Legal and Democratic Services considers that such action is necessary to protect the Council's interests.

### **14.04 Authentication of documents**

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

Arrangements for the authentication of contracts are set out in the Contract Procedure Rules.

### **14.05 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal and Democratic Services or Senior Solicitor. 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 Head of Legal and Democratic Services should be sealed. The affixing of the Common Seal will be attested by any two persons from the group consisting of the Council's Solicitors and Fellows of the Chartered Institute of Legal Executives and Licenced Conveyancers, or by one of that group and either the Chief Operating Officer or the Chief Executive and an entry of every sealing of a document shall be made in a book to be provided for the purpose and shall be signed by the person or persons who have attested the seal."

## **Article 15 -Review and Revision of the Constitution**

### **15.01 Duty to monitor and review the constitution**

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

**Protocol for monitoring and review of constitution by monitoring officer**

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

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

#### 15.02 **Changes to the Constitution**

- (a) **Approval.** Changes to the constitution will only be approved by the full Council after consideration of the proposal by the Monitoring Officer and the Member Structures & Support Working Group. This consideration will include any requirements for consultation or for a referendum to be held under current legislation or statutory guidance.

15.03 Any Member, the Executive or a Committee may propose changes to the Constitution which must be submitted in writing to the Monitoring Officer who will report to the next available Council meeting after consulting the Member Structures & Support Working Group

## Article 16 – Suspension, Interpretation and Publication of the Constitution

### 16.01 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Members are present, failing which a notice of motion must previously have been given in writing under Rule 11.1. 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 and cannot exceed the duration of the meeting.
- (c) **Rules capable of suspension.** The following Rules may be suspended in accordance with Article 16.01:

#### **Council Procedure Rules**

- Rule 9 - Public Question Time
- Rule 10 - Questions by Members
- Rule 11 - Motions on Notice
- Rule 13 - Motion without Notice
- Rule 14 - Rules of Debate
- Rule 15 - Previous Decisions and Motions

### 16.02 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.

### 16.03 Publication

- (a) The Head of Legal and Democratic Services will provide an electronic copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) The Head of Legal and Democratic Services will ensure that copies are available on the internet.
- (c) The Head of Legal and Democratic Services will ensure that the Constitution is updated as necessary in electronic format.

## **Schedule 1: Description of Executive Arrangements**

The following parts of this Constitution constitute the executive arrangements:

1. Article 6 (scrutiny committees) and the Scrutiny Procedure Rules;
2. Article 7 The Executive and the Executive Procedure Rules;
3. Article 11 Joint arrangements;
4. Article 13 Decision making and the Access to Information Procedure Rules;
5. Part 3 Responsibility for Functions.

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BURNLEY BOROUGH COUNCIL

**PART 3**

**SCHEME OF DELEGATION**

**CONTENTS**

## **A. DELEGATIONS –COMMITTEES AND OFFICERS**

### **1. Council Functions**

- a) Development Control Committee**
  - Legal and Democratic Services (LDS)**
  - Housing & Development Control**
  - Streetscene**
  - Economy and Growth**
- b) Licensing Committee**
  - Licensing Sub Committees**
  - Legal and Democratic Services**
  - Housing & Development Control**
- c) Audit and Standards Committee**
  - Monitoring Officer**
- d) Appeals Committee**
- e) Chief Executive**
- f) Section 151 Officer**
- g) Legal and Democratic Services**
- h) Chief Operating Officer (COO)**
- i) Head of People and Development**

### **2. Executive functions:**

- a) Executive – Leader- Executive Members**
- b) Chief Executive**
  - Economy and Growth**
- c) Chief Operating Officer**
  - **Legal and Democratic Services**
  - **Senior Solicitor -removed from 190321**
  - **Senior HR Manager**
  - **Finance and Property**
    - Principal Accountant**
    - Internal Audit Manager**
    - Property Services Manager**
    - Principal Development Surveyor**
  - **Green Spaces and Amenities**
  - **Streetscene**
  
  - **Housing and Development Control**

## **B) TERMS OF REFERENCE OF COMMITTEES, PANELS AND WORKING GROUPS**

### **1. Council Functions**

- (a) Development Control Committee
- (b) Licensing Committee
- (c) Appeals Committee (JNC)
- (d) Appeals Panel
- (e) Redundancy Appeal Panel
- (f) Audit and Standards
- (g) Member Structures and Support Working Group
- (h) Joint Consultative Panel

### **2. Executive Functions**

- (a) Scrutiny Committee (including Budget Scrutiny)
- (b) Traffic Regulation Order Sub Committee
- (c) Parking and Traffic Regulation Outside London (PATROL)  
Adjudication Joint Committee
- (d) Pennine Lancashire Building Control Joint Committee
- (e) Pennine Lancashire Leaders and Chief Executives Joint Committee
- (f) Three Tier Forum
- (g) Assets of Community Value

# 1.COUNCIL FUNCTIONS

## a) Development Control Committee

- |    |  |
|----|--|
| 1. | <p><b>Planning and conservation</b> - functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (functions and responsibilities) (England) Regulations 2000 (the functions regulations) (and any miscellaneous functions in that Schedule related or ancillary to town and country planning ) and the Planning and Compulsory Purchase Act 2004 and relevant schedules and regulations</p>   |
| 2. | <p><b>Commons registration</b> - The registration of common land or town and village greens and to register the variation of rights of common as set out in Schedule 1 to the Functions Regulations</p>  |
| 3. | <p>To determine all matters as Local Planning Authority, except:</p> <ul style="list-style-type: none"> <li>• decisions which would be substantially contrary to Burnley Local Plan and the Local Development Framework or any other clearly stated Council Policy;</li> <li>• decisions which would give rise to substantial claims for compensation</li> </ul> <p>On a planning matter where the Head of Housing and Development Control/Legal Officer has advised before the vote is taken that the decision that the Development Control Committee is minded to take would represent:</p> <p>(a) decisions which would be substantially contrary to Burnley's Local Plan or any clearly stated Council policy ;or</p> <p>(b) decisions which would give rise to substantial claims for compensation</p> <p>and the Head of Legal and Democratic Services (having also consulted the Chairman (or in his or her absence the Vice Chairman) of the Development Control Committee) has confirmed in writing that he/she agrees with that view no later than 5 working days after the day of the relevant Development Control Committee, whether it is a decision relating to enforcement action or the determination of a planning application, then the matter will be determined by the Full Council.</p> |
| 4. | <p>To consider Local Impact Reports prepared by officers in respect of Nationally Significant Infrastructure Projects, and determine whether or not the LIR represents the position of Burnley Council in respect of the proposal.</p>   |

## **Head of Legal and Democratic Services**

1.	To sign and serve statutory notices except as are delegated to the Head of Housing and Development Control.
2.	To serve, where appropriate, Stop Notices.
3.	To take enforcement action, including Court proceedings, where there has been a breach of planning control
4.	To confirm unopposed Orders for the diversion or stopping up of footpaths and bridleways.
5.	To serve a Building Preservation Notice, Hedgerow Retention Notice or a Tree Preservation Order in cases where emergency action is necessary.
6.	To confirm unopposed Tree Preservation Orders.
7.	To execute all documents necessary to give effect to Council decisions
<b>Head of Housing &amp; Development Control</b>	
1.	To have responsibility for the conduct of planning appeals.
2.	<p>To exercise the Council's statutory duties and responsibilities under the Town and Country Planning Act 1990, the Planning and Compulsory Purchase Act 2004, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990 and the Environment Act 1995 and as might subsequently be amended in respect of:</p> <p>(i) determinations as to whether or not an application to the Local Planning Authority is required;</p> <p>(ii) all approvals to lop or fell trees covered by Tree Preservation Orders or in Conservation Areas and Hedgerow Retention Notices, except where the application has been submitted by a Member of the Council, Officer of the Council or their partners; and</p> <p>(iii) all decisions on applications for consent to display advertisements, except where the application has been submitted by a Member of the Council, Officer of the Council or their partners or where three Members have indicated that they wish the application to be considered by Development Control Committee - Members wishing for this to happen must notify the Head of Housing &amp; Development Control, or deputy, no later than the 'consultation expiry date' shown in the planning application record on the Council's website and must give material planning reasons for their request. The Head of Housing &amp; Development Control will determine whether these reasons are material and</p>

	arrange for the application be placed on the agenda for Development Control Committee. .
3.	<p>The approval of all other applications, apart from those in Paragraph 2, except:</p> <ul style="list-style-type: none"> <li>(i) where in the opinion of the Head of Housing &amp; Development Control the decision is likely to be contentious;</li> <li>(ii) where the application has been submitted by a Member of the Council, Officer of the Council or their partners;</li> <li>(iii) Proposals for the Council's own development which must not be treated under delegated powers and must be reported to Development Control Committee and identified as the Council's own development in the written report to Committee;</li> <li>(iv) where the decision is not in accordance with a stated Council policy e.g. Local Plan;</li> <li>(v) where three or more material planning objections have been received; or</li> <li>(vi) Where three Members have indicated that they wish the application to be considered by Development Control Committee - Members wishing for this to happen must notify the Head of Housing &amp; Development Control, or deputy, no later than the 'consultation expiry date' shown in the planning application record on the Council's website and must give planning reasons for their request. The Head of Housing &amp; Development Control will determine whether these reasons are material and arrange for the application be placed on the agenda for Development Control Committee.</li> </ul>
4.	<p>The refusal of applications which are contrary to a clearly-stated Council policy, except;</p> <ul style="list-style-type: none"> <li>(i) where the refusal could give rise to a claim for compensation;</li> <li>(ii) where the application has been submitted by a Member of the Council, Officer of the Council or their partners; and</li> <li>(iii) Proposals for the Council's own development which must not be treated under delegated powers and must be reported to Development Control Committee and identified as the Council's own development in the written report to Committee.</li> </ul>
5.	All decisions relating to the approval of reserved matters;
6.	In consultation with the Chair of Development Control Committee (or Vice-Chair if the Chair is not available) to decline to determine applications,pursuant to s.70A or s.70C of the Town and Country Planning Act 1990.

7.	To secure publicity by site notices, publicising development, and notifying interested parties for the following categories of application, over and above the statutory classes: <ul style="list-style-type: none"> <li>• applications which significantly affect the character of the neighbourhood;</li> <li>• applications which significantly affect the amenities enjoyed by the local population; and</li> <li>• applications which would have wide scale implications on the Borough or its population</li> </ul>
8.	To obtain information in connection with alleged breaches of planning control;
9.	To determine all applications for Certificates of Lawful Development;
10.	To respond to neighbouring Local Planning Authority consultations and County Matters applications, subject to the exceptions outlined in (4) above;
11.	To determine all applications for Prior Approval.
12.	In consultation with the Chair of the Development Control Committee, will be responsible for determining the scale and scope of consultation in relation to any Nationally Significant Infrastructure Project located wholly or partly within the borough boundary, and in any adjoining local authority area, or otherwise having an impact on the borough.
13.	To serve a notice under Section 215 of the Town and Country Planning Act 1990 on residential properties where the condition of the property or part of it is adversely affecting the surrounding neighbourhood
14.	In consultation with the Chair of Development Control Committee (or Vice-Chair if the Chair is not available) to revoke planning permission where such revocation would be unlikely to rise to a substantial claim for compensation.
<b>Head of Streetscene</b>	
1.	To serve a notice under Section 215 of the Town and Country Planning Act 1990 relating to the condition of land due to cleansing issues where the condition of the land or part of it is adversely affecting the surrounding neighbourhood.
2.	To deal with all matters relating to excavations, erections, deposits, markings, plantings, in or on the highway.

## Strategic Head of Economy and Growth

1.	To serve a notice under Section 215 of the Town and Country Planning Act 1990 on non-residential properties where the condition of the property or part of it is adversely affecting the surrounding neighbourhood.
2.	In consultation with the Executive Member for Economy and Growth and the Executive Member for Resources and Performance Management, to serve Urgent Works Notices under S54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and also to serve notice under Section 55 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to authorise recovery of costs incurred by the Council.





## **b) Licensing Committee**

1.	<b>Taxi, gaming, entertainment, food and miscellaneous licensing</b> - Functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations, the Licensing Act 2003 and the Gambling Act 2005
2.	<b>Health and safety</b> - Functions relating to health and safety under any relevant statutory provision within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as an employer
3.	<p>Functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations</p> <ul style="list-style-type: none"> <li>• The setting of fees for Hackney Carriages or Private Hire Vehicles</li> <li>• Functions relating to entertainments and alcohol licensing under the Licensing Act 2003</li> <li>• The setting of fees in relation to the Gambling Act 2005</li> <li>• Functions relating to the Gambling Act 2005.</li> <li>• Functions relating to scrap metal dealers under the Scrap Metal Dealers Act 2011- this will involve the hearing of representations and the determination of applications for a licence of a scrap metal dealer, under the Scrap Metal Dealers Act 2013, where the Head of Streetscene proposes to refuse or to cancel a licence or to vary a licence under section 4 of the Act and the applicant has given notice to the authority, within the prescribed time, that they require the opportunity to make representations about that proposal.</li> </ul>
4.	Functions relating to Schedule 3 of the Local Government (Miscellaneous Provisions ) Act 1982 made by Section 27 of the Policing and Crime Act 2009, regarding Sex Entertainment Venues.

## **Licensing Sub Committees**

5.	That the provisions with respect to taxis, set out in Part 3 of the Constitution and vested in the Licensing Committee, be delegated to the Licensing Sub Committee, consisting of 7 Members, subject to the usual quoracy provisions i.e. one third of the Members of the Sub Committee.
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6.	That the provisions with respect to Licensing Act (LA) 2003, as set out in Part 3 of the constitution and vested in the Licensing Committee, be delegated to the LA 2003 Licensing Sub Committee with its functions as set out in Appx A Exercise and Delegation of Functions to the Council's LA 2003 Statement of Licensing Policy and including carrying out a s20 determination of a film classification.
<b>Head of Streetscene</b>	
1.	<p>To be the authorised Officer in respect of the following legislation and to appoint Officers to undertake, where appropriate, the licensing duties vested in the authority by the legislation. To institute proceedings, keep public registers, issue notices, make orders, and determine applications for licences (subject to the paragraphs below), approvals, registrations and consents in respect of the legislation.</p> <ul style="list-style-type: none"> <li>• The Food Safety Act 1990 (and associated regulations) - in so far as Burnley BC is the enforcing authority as detailed at Sections 5 and 6</li> <li>• The Local Government (Miscellaneous Provisions) Act 1982 - Part VIII, Part XI, Schedule 3 and Schedule 4</li> <li>• Animal Welfare Act 2006- The Animal Welfare (Licensing of Activities Involving Animals) (England) Regs 2018</li> </ul> <p>The Noise and Statutory Nuisance Act 1997 – The whole of the Act excluding those items specified as Local Choice functions under Schedule 2 of the Functions Regulations</p> <ul style="list-style-type: none"> <li>• Town and Police Clauses Act 1847</li> <li>• The Local Government (Miscellaneous Provisions) Act 1976</li> <li>• Vehicle Crime Act 2001</li> <li>• Food and Environmental Protection Act 1985</li> <li>• Criminal Justice and Police Act 2001;</li> <li>• Cooling Towers and Evaporative Condensers Regulations 2002</li> <li>• Licensing Act 2003</li> <li>• Public Health Control of Disease Act 1984</li> <li>• Gambling Act 2005</li> <li>• The Health and Safety at Work Act 1974</li> <li>• Health Act 2006</li> <li>• County of Lancashire Act 1984</li> <li>• Scrap Metal Dealers Act 2013</li> </ul>
2.	<p>To undertake the following functions in relation to entertainment and alcohol licensing in accordance with the Licensing Act 2003:</p> <ul style="list-style-type: none"> <li>• To determine applications for personal licences where no objections have been made</li> <li>• To determine Application for premises licences where no representations have been made</li> <li>• To determine Application for provisional statement where no representations have been made</li> </ul>

	<ul style="list-style-type: none"> <li>• To determine applications to vary premises licence / club premises certificate where no representations have been made</li> <li>• To determine applications to vary Designated Premises Supervisor (DPS) where no police objections have been made</li> <li>• To deal with requests to be removed as Designated Premises Supervisor</li> <li>• To determine applications for the transfer of a premises licence where no police objections have been made</li> <li>• To determine applications for interim authority where no police objections have been made</li> <li>• To refuse an application for premises licence review which is irrelevant repetitious, vexatious or frivolous</li> <li>• To determine applications for sexual encounter venues</li> <li>• To determine an application for a minor variation</li> <li>• To disapply the s19 requirement for a DPS at community premises</li> </ul>
3.	<p>To undertake the following functions in relation to the Gambling Act 2005</p> <ul style="list-style-type: none"> <li>• To determine applications for premises licences where no representations have been made</li> <li>• To determine applications for the transfer of licences where no representations have been received from the Commission</li> <li>• To determine applications for provisional statements where no representations have been made</li> <li>• To determine applications for club gaming/club machine permits where no representations have been made</li> <li>• To determine applications for other permits</li> <li>• To determine the cancellation of licensed premises gaming machine permits</li> <li>• To determine requests for temporary use notices</li> <li>• To determine applications for variation of premises licences where no representations have been made</li> </ul>
4.	<p>To undertake the following functions in relation to the Scrap Metal Dealers Act 2013</p> <ul style="list-style-type: none"> <li>• To determine applications for site and collectors' licences where no representations have been made</li> <li>• To determine applications for variation of site and collectors' licences where no representations have been made</li> </ul>
5.	<p>To undertake the following functions in relation to the Business and Planning Act 2020</p> <ul style="list-style-type: none"> <li>• To issue guidance for pavement licences</li> </ul>

	<ul style="list-style-type: none"> <li>• To set conditions (both standard and bespoke) to be attached to pavement licences</li> <li>• To grant in whole or in part any application for a pavement licence (with or without conditions) or to refuse any application for a licence</li> <li>• To revoke a licence.</li> <li>• Issue notices to remedy any breaches of a pavement licence.</li> </ul>
6.	<p>To undertake the following functions:</p> <p>(i) To make representations in relation to any matter for which the Council is a responsible authority in respect of that matter under the Licensing Act 2003;</p> <p>(ii) To apply for a review of a premises licence (including an off-sales review of a premises licence) or a club premises certificate;</p> <p>(iii) To apply for an extension of the time allowed for the carrying out of an entry and inspection under section 96 of the Licensing Act 2003.</p>
7.	To execute all documents necessary to give effect to Council decisions
<b>Head of Legal and Democratic Services</b>	
1.	<p>To undertake the following functions in relation to Hackney Carriage vehicle and driver licensing and Private Hire vehicle and driver licensing and Private Hire Operator licensing as follows.</p> <p>(a) To be responsible for determining applications for Hackney Carriage vehicle and driver licences, Private Hire vehicle and driver licences and Private Hire Operators' licences, and for applications for the renewal of existing licences.</p> <p>(b) Where, in the opinion of the Head of Legal and Democratic Services, and in consultation with the Chair of the Licensing Committee, an application is controversial the matter be referred to the Licensing Committee for their determination</p> <p>(c) In all cases the Council's Guidelines for determining applications be considered and only departed from when, in the opinion of the Head of Legal and Democratic Services or his duly authorised representative, it is appropriate to do so.</p> <p>(d) In relation to the suspension and revocation of licences, the Licensing Committee be responsible for suspending or revoking Hackney Carriage and Private Hire Drivers' licences and Private Hire Operators' licences. However the Council delegates to the Head of Legal and Democratic Services (or in their absence the Environmental</p>

	<p>Health and Licensing Manager, and in their absence the Council's Principal Legal Officer (Litigation and Regulation i.e.from 190321) in consultation with the Chair (or in their absence Vice Chair) of the Licensing Committee, the power to suspend or revoke a Hackney Carriage/Private Hire Driver's licence with immediate effect in the interests of public safety. Such action will be reserved only for the most serious situations. All other matters falling under section 61(1) of the Local Government (Miscellaneous Provisions) Act 1976 where public safety is not a factor will continue to be referred to the Committee for decision.</p> <p>(e) To be responsible for the suspension and revocation of Hackney Carriage vehicle licences and Private Hire vehicle licences.</p>
2.	<p>In the event that an applicant or licence-holder fails to successfully complete any training required by the Council the Head of Legal and Democratic Services is given delegated powers to suspend or refuse to renew, as appropriate, the Hackney Carriage and/or Private Hire Driver's licence and/ or Operators' Licence. The applicant/licence holder will be offered the opportunity to put forward any exceptional circumstances to show why the licence should not be suspended, refused or why it should not be renewed.</p> <p>The suspension of any licence would continue until such time as a driver/operator is able to complete the training.</p>
3.	<p>To execute all documents necessary to give effect to Council decisions</p>
4.	<p>To appoint officers to undertake, where appropriate, the licensing duties vested in the authority by the Town Police Clauses Act 1847 or Part II of the Local Government (Miscellaneous Provisions) Act 1976.</p>
5.	<p>That the Licensing Committee delegates to the Head of Legal &amp; Democratic Services, in consultation with the Chair of Licensing, the power to make necessary changes to the Taxi Licensing - Policy Guidelines in response to any national review of road traffic legislation which results in an offence being awarded more or fewer penalty points, by re-categorising such offence as major/ minor or hybrid within the Policy guidelines</p>
<p><b>Head of Housing and Development Control</b></p>	

1. The Head of Housing and Development Control to take any or all steps necessary to discharge the Council's powers, functions or obligations under the Caravan Sites and Control of Development Act 1960 Part 3 (3)

## **Strategic Head of Economy & Growth**

1. In the absence of the Head of Streetscene, to undertake the following functions in relation to the Business and Planning Act 2020

- To issue guidance for pavement licences
- To set conditions (both standard and bespoke) to be attached to Pavement Licences
- To grant in whole or in part any application for a pavement licence (with or without conditions) or to refuse any application for a licence
- To revoke a licence.
- Issue Notices to remedy any breaches of a pavement licence

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## **c ) Audit Committee and Standards Committee**

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| 1. | <b>The promotion and maintenance of high standards of conduct within the Council -</b> To advise the Council on the adoption or revision of its code of conduct. To monitor and advise the Council about the operation of its code of conduct in the light of best practice, changes in the law,                       |
| 2. | <b>Assistance to members and co-opted members of the authority -</b> To ensure that all members of the Council have access to training in all aspects of the member code of conduct, that this training is actively promoted, and that members are aware of the standards expected of local councillors under the code |
| 3. | <b>Other functions -</b> Functions relating to standards of conduct of members under any provision of, or regulations made under the Local Government Act 2000 or Localism Act 2011.   |
| 4. | <b>To consider audit activity, the regulatory framework, and accounts.</b>   |

### **Monitoring Officer**

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| 1. | To grant dispensations under the Localism Act 2011 in consultation with the Chair of the Audit and Standards Committee. |
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### **d) Appeals Committee**

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| 1. | To consider appeals against dismissal, other disciplinary action, grading and grievances by employees of the Council   |
| 2. | To determine all appeals falling within the remit of the Appeals Committee except where the Committee's decision would contravene an established Council policy. |

### **e) Chief Executive**

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| 1. | To deal with urgent items of business which cannot reasonably await the next meeting of the Council, and Regulatory Committees after consultation with the relevant Chair i.e. Mayor for Council business or Chair of relevant Regulatory Committee. |
| 2. | To deal with urgent items of business which cannot reasonably await the next meeting of the Council, and Regulatory Committees in the absence of the Chair i.e. Mayor for Council business or Chair of relevant Regulatory Committee                 |
| 3. | To make minor amendments to personnel policies which affect staff terms and conditions, and to make other amendments to those policies in consultation with Group Leaders and the Executive Member for Resources                                     |
| 4. | To approve new personnel policies which affect staff terms and conditions and which are not significant, in consultation with Group Leaders and the Executive Member for Resources and Performance Management  |
| 5. | To make, in exceptional circumstances between polling district reviews, temporary alterations to the designation of polling places in consultation with Group Leaders.   |
| 6. | To carry out a Community Governance Review on receipt of a valid application.  |



### **f) Section 151 Officer**

The exercise of all powers, relating to and incidental to the administration of the financial affairs of the Council by the Section 151 Officer.

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| 1. | <p>To determine prior to the start of each financial year in consultation with the Executive Member for Resources &amp; Performance Management:</p> <ul style="list-style-type: none"> <li>(a) The Council Tax base.</li> <li>(b). The estimated business rates to be collected as set out in the NNDR1 return.</li> </ul> |
| 2. | <p>To make all decisions (strategic, operational or otherwise) in relation to the agreements entered into with the Council's Strategic Services Delivery Partners limited to the delegated limits set out in the Financial Procedure Rules.</p>  |

### **g) Head of Legal and Democratic Services**

1.	To make minor amendments to the list of appointments to outside bodies, in consultation with Group Leaders.
2.	To deal with appeals at the first stage of the Pensions Disputes Resolution Procedure.
3.	To make all decisions (strategic, operational or otherwise) in relation to the agreements entered into with the Council's Strategic Services Delivery Partners limited to the delegated limits set out in the Financial Procedure Rules

### **h) Chief Operating Officer**

1.	To make all decisions (strategic, operational or otherwise) in relation to the agreements entered into with the Council's Strategic Services Delivery Partners limited to the delegated limits set out in the Financial Procedure Rules.
2.	As Monitoring Officer authority to make minor amendments to the Council's constitution, and also to make minor amendments to the Council's policies and procedures.
3.	To determine as part of the Council's Managing Attendance at Work Policy relating to Permanent Ill Health Retirement (Paragraph 9) which tier of ill health benefits is to be paid in consultation with the Executive Member for Resources and performance, and if an ill health certificate is issued to authorise it.
4.	To discharge delegations and functions afforded to a Head of Service in the Constitution and Standing Orders in the absence of the relevant Head of Service, excluding those finance functions afforded to the Section 151 Officer
5.	To agree the release of Frozen Pension Benefits on Compassionate Grounds in consultation with the Section 151 Officer

## **2.EXECUTIVE FUNCTIONS**

## 2.EXECUTIVE FUNCTIONS

### Executive

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| 1. | To have full powers to make decisions within the remit of the Council's Executive.   |
| 2. | Functions relating to scrap metal dealers under the Scrap Metal Dealers Act 2013 shall be delegated to a Sub Committee of the Executive consisting of any 3 Executive Members (a minimum of 2 Members must attend) for the hearing of representations and the determination of applications for a licence of a scrap metal dealer, under the Scrap Metal Dealers Act 2013, where the Head of Streetscene proposes to refuse or to cancel a licence or to vary a licence under section 4 of the Act and the applicant has given notice to the authority, within the prescribed time, that they require the opportunity to make representations about that proposal. |

### Leader

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| 1. | From the Appointments Council in May 2011 the Leader of the Council may determine to exercise any of the "executive" functions of the Council personally, or may arrange for the exercise of any of the Council's "executive" functions by: <ul style="list-style-type: none"> <li>(i) the Executive; or</li> <li>(ii) by another member of the Executive; or</li> <li>(iii) by a committee of the Executive; or</li> <li>(iv) by an officer of the Council</li> </ul> |
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### Executive Members

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| 1. | Individual Executive Members may make decisions provided they clearly relate to functions falling within their portfolio and; in case of doubt the Leader will determine which Member will deal with the issue. This would not exclude consultation with other Executive Members by the Executive Member making the decision.                         |
| 2. | They are not 'key decisions'  |
| 3. | They are not decisions, which the Constitution or the Leader has determined should be made by the Full Executive.   |
| 4. | They have not been delegated to an Officer to make. This does not preclude consultation between the relevant Executive Member and Officer about a proposed decision or the possibility of wider discussion with the Leader and other Executive Members for example if the proposed decision is thought to have particularly significant implications. |

5.	No decision can be taken unless and until the Executive Member has been provided with, and has considered, a written report from the relevant Officer of the Council considering all the relevant issues including legal and financial implications as would be the case with a report to the full Executive.
6.	<p>The decision may be taken in the presence of the report author or other appropriate representative of the Service Unit concerned and must be taken in the presence of a member of staff from the Democracy Team.</p> <p>However the decision could also be taken without the presence of Officers, including but not exclusively by electronic means, but under the supervision of a member of staff from the Democracy Team.</p> <p>None of these arrangements will constitute a “meeting” and will not involve attendance of press and public</p>
<b>EXECUTIVE MEMBER FOR RESOURCES AND PERFORMANCE MANAGEMENT</b>	
1.	<p>To determine Discretionary Relief Appeals for the following reliefs;</p> <ul style="list-style-type: none"> <li>• Charity/Not for profit discretionary</li> <li>• Hardship</li> <li>• Discretionary Localism</li> <li>• Part Occupied</li> </ul>

## Chief Executive

1.	<p>The Chief Executive, Chief Operating Officer, and Heads of Service shall have power to exercise all normal management functions, including but not limited to:</p> <ul style="list-style-type: none"> <li>➤ the appointment and management of contractors, consultants, etc;</li> <li>➤ the purchase of goods and services; and</li> <li>➤ the recruitment, discipline and dismissal of employees</li> <li>➤ all duties necessary to implement the agreed Service Plan of the Unit within the Council's Standing Orders, Financial Procedure rules and Policy framework.</li> </ul>
2.	Any Officer having delegated powers may, in turn, delegate those powers to other officers except for the powers delegated to the Chief Executive where the Leader and Executive Members are not in office.
3.	An Officer may, for good reason, decline to exercise a delegated power on any particular occasion, and the power will then revert to its source.
4.	Any power delegated to an Officer must be exercised in accordance with the law, the Council's Constitution and Financial rules, and any instruction or policies of the Council, its Executive or the Regulatory Committees.
5.	All Complaints Officers and Appeals Officers have authority to make payments to complainants up to £250 and local settlements in Ombudsman cases up to £1,000 subject to budgetary restrictions.
6.	To deal with urgent items of business which cannot reasonably await the next meeting of the Executive and Scrutiny Committee after consultation with the relevant Executive Member(s) or Chair i.e. Chair of Scrutiny Committee.
7.	To deal with urgent items of business which cannot reasonably await the next meeting of the Executive and Scrutiny Committee in the absence of the relevant Executive Member(s) or Chair i.e. Chair of Scrutiny Committee.
8.	Where the Leader and Executive Members are not in office, to deal with urgent items of business falling within the remit of the Executive.
9.	Where the Leader and Executive Members are not in office, to undertake the role of consultee for all items within the Constitution, which require consultation with the Leader or Executive Members.
10.	To carry out Emergency Planning functions as defined in the Council's Emergency Plan

11.	The Chief Executive, Chief Operating Officer, Head of Legal and Democratic Services, Head of Finance and Property, and Head of Streetscene to issue authorisations under the Regulation of Investigatory Powers Act 2000.
12.	To allow the Chief Executive and the Chief Operating Officer, in consultation with the Executive Portfolio Members and the Head of Finance and Property, to amend fees and charges periodically in their own area on the basis that overall income in their portfolio income remains the same or increases.
13.	To make minor amendments to personnel policies which do not affect staff terms and conditions, and to make other amendments to those policies in consultation with the Executive Member for Resources and Performance Management.
14.	To approve new personnel policies which do not affect staff terms and conditions and which are not key decisions, in consultation with Group Leaders and the Executive Member for Resources and Performance Management
15.	To deal, including with the approval of the Strategic Head of Economy and Growth, with grant applications for a value of above £20,000 and upto and including £50,000.
16.	<p>To deal with grant applications above the value of £50,000 in consultation with the Executive Member for Economy and Growth</p> <p>All grant offers of a value of £10,000 or more to be signed by the Section 151 Officer or other delegated financial responsible person together with the Executive Member for Economy and Growth</p>

## Strategic Head of Economy and Growth

1.	<p>The Chief Executive, Chief Operating Officer and Head of Services shall have power to exercise all normal management functions, including but not limited to:</p> <ul style="list-style-type: none"> <li>➤ the appointment and management of contractors, consultants, etc;</li> <li>➤ the purchase of goods and services; and</li> <li>➤ the recruitment, discipline and dismissal of employees</li> <li>➤ all duties necessary to implement the agreed Service Plan of the Unit within the Council's Standing Orders, Financial Procedure rules and Policy framework.</li> </ul>
2.	Any Officer having delegated powers may, in turn, delegate those powers to other officers except for the powers delegated to the Chief Executive where the Leader and Executive Members are not in office
3.	An Officer may, for good reason, decline to exercise a delegated power on any particular occasion, and the power will then revert to its source.
4.	Any power delegated to an Officer must be exercised in accordance with the law, the Council's Constitution and Financial rules, and any instruction or policies of the Council, its Executive or the Regulatory Committees.
5.	All Complaints Officers and Appeals Officers have authority to make payments to complainants up to £250 and local settlements in Ombudsman cases up to £1000 subject to budgetary restrictions.
6.	To manage their individual Service Unit Budgets in accordance with the Council's Financial rules.
7.	Authority to Heads of Services to respond on behalf of the Council to future Government Consultation Papers in consultation with the Chief Executive or Chief Operating Officer as relevant, the Executive and Chair of the Scrutiny Committee
8.	To deal with applications under the Council's Relocation Policy, including requests to extend the temporary accommodation / travelling allowance period up to 26 weeks from the appointment date.
9.	To approve the submission of bids for Economy and Growth resources following consultation with the appropriate Executive Member and where insufficient time is available for consultation with the Executive in accordance with the bid timetable. Any action taken to be subject to a report back to the next appropriate meeting of the Executive.



10.	After consultation with the Chief Executive, to deal with and determine applications for all other grant assistance of £40, 000 or less
11.	Delegation to the Head of Legal and Democratic Services/ Head of Housing & Development Control/Strategic Head of Economy and Growth / Head of Streetscene and Head of Green Spaces & Amenities to appoint any appropriate qualified Officer of their Service Units as an authorised Officer where any enactment requires a function of the Council or a matter ancillary to it be discharged by an authorised Officer, and to authorise where appropriate such an Officer to seek any warrant to enter or inspect premises in connection therewith
<u>Grant procedures</u>	
12.	To deal with grant applications of a value up to and including £20,000.
13.	To deal, including with the approval of the Chief Operating Officer, with grant applications for a value of above £20,000 and upto and including £50,000.
14.	<b>POLICY AND ENVIRONMENT</b>  To make any alterations required to the Local Development Scheme, Local Development Framework and Local Development Documents following negotiations during the Examination in public period.
15.	Responsibility for ensuring the Borough has an up to date Local Development Scheme and Local Development Framework
16.	To ensure that the Local Development Scheme Annual Monitoring Report is adopted every year
17.	The Wildlife and Countryside Act 1981 - In so far as Burnley Borough Council is the enforcing authority as detailed in Part I of the Act
18.	To determine neighbourhood area applications as follows; i) where public consultation is not required by regulation, and where the area to be designated is coterminous with the area of a civil parish; or ii) where no representations objecting to the proposal have been received to a public consultation. Any such decisions made are to be reported for information to the Executive Member for Economy and Growth.
19.	<b>TOWN CENTRE (From 170914)</b>  To approve applications for 'Car Boot/Table Top Sales where the sole purpose is to fundraise for non- commercial gain.

20.	To determine applications for 'Car boot' operating licences and to set fees relating to such activities, in consultation with the Executive Member and the Chief Operating Officer.
21.	To obtain premises licenses under the Licensing Act 2003 on an annual basis in order to enable street entertainment to be carried out in the premises detailed below and to authorise other parties wishing to carry out such regulated entertainment activities at any of the premises in Burnley as detailed below:- Standish Street, Barnes Street, Parker Street, Standish Street Public Car Park, The Mall, Fleet Walk, Howe Walk, Chancery Walk, Market Square, Charter Walk Car Park, Curzon Street, St James Street.
22.	To grant licences for use of designated pitches on St James Street and Curzon Street with a determined level of fees set that are reviewed annually and where multiple lettings are obtained, to allow a multiple use incentive to be applied in order to secure additional income to the Council.
23.	(From 150920) The management of the Council's Student Accommodation at Sandygate which shall include (without limitation) the letting of rooms to students provided that the rent reserved is not below market rate.

24.	<p><b>MARKETS</b></p> <p>To offer and approve new leases for varying periods of time ranging from three months up to three years with only leases granted above 12 months in term being granted with Landlord and Tenant Act protection.</p>
25.	To deal with additions to the user clause of the leases for the Market Hall Stalls.
26.	To deal with the introduction of co-terminus leases where felt commercially justifiable by the Strategic Head of Economy and Growth
27.	To deal with transfers between leaseholders of units within the Market Hall, and in doing so be concurrent with the period of the original lease, but only where the Council's financial position is not worsened through this transaction.
28.	To approve assignments, including those before three years of lease has been served, where felt commercially justifiable.
29.	To determine on each occasion whether advance rents or bonds or bank references are required in order to obtain a balance between risk of non- payment of rent against the need to generate future rents of vacant units.
30.	To be authorised to sign Section 25 notices (Tenancy renewal notices).
31.	To consider favourably, requests for multiple occupation of units by one leaseholder whether by Virtue of existing Tenants seeking to expand to a maximum of 6 units; or new Tenants/Assignees who wish to contract for up to 6 units. Both to be subject to satisfactory financial references.
32.	To deal with referrals to the Executive or Executive Member for responsibility for Markets for individual decision approval of any request that may exceed 6 units in total to one individual leaseholder.
33.	To agree incentives for new tenants with new products not represented in the Market Hall, and to agree incentives for existing tenants to expand their representation in the Market Hall, with such level of incentive approved in consultation with the Executive Member with responsibility for Markets and the Chief Operating Officer and s151 Officer to be in the commercial interests of the Council to do so.
34.	To invest in upgrading units in the Market Hall within an approved budget subject to such costs being covered by first year's rental income obtained.
35.	To initiate action for recovery of arrears and where such action is subject to court direction, to agree extended repayment arrangements and where not adhered to, to instruct further actions for recovery as deemed fit relative to the likelihood of recovery of arrears.

36.	In consultation with the Executive Member for Resources and Performance Management and Chief Operating Officer to adjust fees and charges in relation to the Markets service from time to time to reflect current trading conditions and the overall position of the market.
37.	<b>GENERAL</b>  In consultation with the Head of Finance and Property to agree terms and grant leases for 10 years or less for units at Vision Park provided that the rent agreed with the tenant is market rent and the terms reserved by the leases are comparable to those available on the open market

## Chief Operating Officer

1.	<p>The Chief Executive, Chief Operating Officer, and Head of Services shall have power to exercise all normal management functions, including but not limited to:</p> <ul style="list-style-type: none"> <li>➤ the appointment and management of contractors, consultants, etc;</li> <li>➤ the purchase of goods and services; and</li> <li>➤ the recruitment, discipline and dismissal of employees</li> <li>➤ all duties necessary to implement the agreed Service Plan of the Unit within the Council's Standing Orders, Financial Procedure rules and Policy framework.</li> </ul>
2.	Any Officer having delegated powers may, in turn, delegate those powers to other officers except for the powers delegated to the Chief Executive where the Leader and Executive Members are not in office
3.	An Officer may, for good reason, decline to exercise a delegated power on any particular occasion, and the power will then revert to its source.
4.	Any power delegated to an Officer must be exercised in accordance with the law, the Council's Constitution and Financial rules, and any instruction or policies of the Council, its Executive or the Regulatory Committees
5.	All Complaints Officers and Appeals Officers have authority to make payments to complainants up to £250 and local settlements in Ombudsman cases up to £1000 subject to budgetary restrictions.
6.	To deal with urgent items of business, in relation to matters which are within their current areas of responsibility, which cannot reasonably await the next meeting of the Council, the Executive, Scrutiny and Regulatory Committees after consultation with the relevant Executive member(s) or Chair
7.	The Chief Executive, Chief Operating Officer, Head of Legal and Democratic Services , Head of Finance and Property, and Head of Streetscene to issue authorisations under the Regulation of Investigatory Powers Act 2000.
8.	To allow the Chief Executive and the Chief Operating Officer, in consultation with the Executive Portfolio Members and the Head of Finance and Property to amend fees and charges periodically in their own area on the basis that overall income in their portfolio income remains the same or increases
9.	To make all decisions (strategic, operational or otherwise) in relation to the agreements entered into with the Council's Strategic Services Delivery Partners limited to the delegated limits set out in the Financial Procedure Rules.

10.	<p>To submit bids and accept funding for external funding where there is no requirement for funding from the Council up to a maximum of £100,000, and if there is a requirement for funding from the Council then up to a maximum of £50,000 in consultation with the Executive Member for Resources and Performance Management.</p> <p>Any submission of bids for external funding, where there is no requirement for funding from the Council, over £100,000 to be in consultation with the Executive Member for Resources and Performance Management.</p> <p>Any expressions of interest may be submitted, without consultation with the Executive Member for Resources and Performance Management.</p>
11.	<p>Appointed as the Council's Monitoring Officer with authority to make minor amendments to the Council's constitution.</p>
12.	<p><u>Transferred from Head of People and Development - Effective on 1st April 2019</u></p> <p>To manage their individual Service Unit Budgets in accordance with the Council's financial rules.</p>
13.	<p>Authority to Heads of Service to respond on behalf of the Council to future Government Consultation Papers in consultation with the Chief Executive or Chief Operating Officer as relevant, the Executive and Chair of the Scrutiny Committee</p>
14.	<p>To approve the extension of sick pay at the rate of half-pay for up to 3 months where budget provision exists.</p>
15.	<p>To agree new occupational health arrangements, including the provision of a suitably qualified Occupational Health Physician, in consultation with the Chief Operating Officer as long as it is within the existing budget provision.</p>
16.	<p>To discharge delegations afforded to a Head of Service in the absence of the relevant Head of Service apart from those relating to finance functions afforded to the Head of Finance and Property (s151 officer). (from 17.01.23)</p>

## Head of Legal and Democratic Services

1.	<p>The Chief Executive, Chief Operating Officer and Head of Services shall have power to exercise all normal management functions, including but not limited to:</p> <ul style="list-style-type: none"> <li>➤ the appointment and management of contractors, consultants, etc;</li> <li>➤ the purchase of goods and services; and</li> <li>➤ the recruitment, discipline and dismissal of employees</li> <li>➤ all duties necessary to implement the agreed Service Plan of the Unit within the Council's Standing Orders, Financial Procedure rules and Policy framework.</li> </ul>
2.	Any Officer having delegated powers may, in turn, delegate those powers to other officers except for the powers delegated to the Chief Executive where the Leader and Executive Members are not in office
3.	An Officer may, for good reason, decline to exercise a delegated power on any particular occasion, and the power will then revert to its source.
4.	Any power delegated to an Officer must be exercised in accordance with the law, the Council's Constitution and Financial rules, and any instruction or policies of the Council, its Executive or the Regulatory Committees.
5.	All Complaints Officers and Appeals Officers have authority to make payments to complainants up to £250 and local settlements in Ombudsman cases up to £1000 subject to budgetary restrictions.
6.	To manage their individual Service Unit Budgets in accordance with the Council's financial rules.
7.	Authority to Heads of Service to respond on behalf of the Council to future Government Consultation Papers in consultation with the Chief Executive or Chief Operating Officer as relevant, the Executive and Chair of the Scrutiny Committee.
8.	To deal with applications under the Council's Relocation Policy, including requests to extend the temporary accommodation / travelling allowance period up to 26 weeks from the appointment date.
9.	The Chief Executive, Chief Operating Officer, Head of Legal and Democratic Services, Head of Finance & Property, and Head of Streetscene to issue authorisations under the Regulation of Investigatory Powers Act 2000.
10.	To be the Senior Responsible Officer in relation to the Regulation of Investigatory Powers Act 2000 ("RIPA") and, in particular, to be responsible for:

	<p>(i) the integrity of the Council's procedures under RIPA relating to the authorisation of directed surveillance or the use of a covert human intelligence source;</p> <p>(ii) Ensuring compliance with RIPA and any relevant Codes of Practice;</p> <p>(iii) Engaging with Commissioners and Inspectors of the Office of Surveillance Commissioners; (iv) Overseeing the implementation of any post-inspection action plans recommended or approved by any such Commissioner; and</p> <p>(v) Setting the terms of the Council's Corporate RIPA Policy (and modifying, amending or otherwise updating the Policy), in consultation with the Leader.</p>
11.	To deal with all other insurance matters in accordance with Financial rules.
12.	To deal with urgent items of business which cannot reasonably await the next meeting of the Executive after consultation with the relevant Executive Member(s).
13.	To make applications to the Home Secretary for consent to make Orders under the Public Order Act 1986 upon such terms as the Head of Legal and Democratic Services considers appropriate having regard to any application of the Chief Constable and in consultation with the Leader and Emergency Planning Officer or his Deputy if unavailable and consideration of any provision of the Human Rights Act 1998 and any other legislative or legal provision the Head of Legal and Democratic Services deems appropriate. The authorisation includes the making of any appropriate Orders following the receipt of any consent of the Home Secretary.
14.	To be the Council's Proper Officer for the maintenance of a list of politically restricted posts.
15.	To confirm unopposed compulsory purchase orders which are referred to the Council for confirmation by the Secretary of State for Housing, Communities and Local Government.
16.	To agree the terms of an indemnity agreement required by any external partner for any grant funding in connection with their financial role including Accountable Body in consultation with the Chief Executive (provided that the subject matter of the indemnity has previously been given Council approval)
17.	To institute and defend and to be responsible for the conduct of any proceedings in any civil or criminal court of public inquiry or tribunal on behalf of and in the name of the Council
18.	To discontinue any proceedings brought by the Council and to compromise or settle any claim or appeal or proceedings made by or against the Council arising out of or in the course of or in contemplation of legal proceedings.
19.	To determine if and to what extent ex-gratia payments should in any particular case be made by the Council.



20.	To issue instructions to Head of Services in respect of the manner and the extent to which they may in any particular case exercise or generally continue to exercise the matters delegated to them elsewhere in this Scheme of Delegation including the service of notices or the institution of proceedings
21.	To make, issue or serve any statutory or other notice or order or to give any consent on behalf of the Council or to lodge any objection to another body where the Council is entitled to object to a matter to be determined by the other body, particularly in cases of urgency and notwithstanding any delegation (elsewhere in this Scheme of Delegation) to another Officer or Committee.
22.	Delegation to the Head of Legal and Democratic Services/ Head of Housing & Development Control/Strategic Head of Economy and Growth / Head of Streetscene and Head of Green Spaces & Amenities to appoint any appropriate qualified Officer of their Service Units as an authorised Officer where any enactment requires a function of the Council or a matter ancillary to it be discharged by an authorised Officer, and to authorise where appropriate such an Officer to seek any warrant to enter or inspect premises in connection therewith.
23.	To be designated as the Information Governance Manager.
24.	To take such actions in relation to the management, affairs and administration of any company in which the Council has a legal or equitable interest including, but not limited to, the taking of any action and/or proceedings relating to the liquidation/dissolution of any such company.
25.	To execute all documents necessary to give effect to Executive decisions.

26.	Allocation of Seating in the Council Chamber - To determine the seating arrangements in the Council Chamber for all Council meetings where agreement has not been reached.
27.	Use of Burnley Town Hall - To determine applications for use in accordance with Council policy
28.	Borough Coat of Arms - To determine applications for use in accordance with Council policy.
29.	Attendance of Members at Unscheduled Meetings, Conferences, Seminars, Training Courses etc. - After consultation with the Executive, or all Group Leaders in an emergency, to determine in any particular case:- <ul style="list-style-type: none"> <li>➤ Whether attendance is desirable;</li> <li>➤ Who the representative(s) shall be;</li> </ul>
30.	Replacement of Mayor's Car - In consultation with the Executive member to deal with the replacement of the Mayor's car
31.	Corporate Hospitality Budget - To control the Corporate Hospitality budget in consultation with the Executive member.
32.	Authority to deal with invitations for the appointment of the Deputy Mayor/Mayor elect each year in accordance with the Council's normal policy and report the outcome at a future meeting of the Council.
33.	To make minor amendments to the list of appointments to outside bodies, in consultation with Group Leaders
34.	To make any subsequent adjustment of Executive qualifications for Outside Bodies in line with Executive portfolios specified by the Leader.
35.	Power to authorise officers: <p>(a) under Section 223 of the Local Government Act 1972 and Section 60 of the County Courts Act 1984, to appear on behalf of the Council in proceedings before the Magistrates' Courts and the County Courts; and</p> <p>(b) to issue and serve Statutory Demands under the Insolvency Act 1986.</p> <p>This power to be used for the purposes of recovering Council Tax, National Non Domestic Rates, Housing Benefit overpayments and/or sundry debts and to levy distress</p>

36.	Power to authorise contractors to undertake functions pursuant to The Local Authorities (Contracting Out of Tax Billing, Collection and Enforcement Functions) Order 1996
37.	Licensing <ul style="list-style-type: none"> <li>• Town &amp; Police Clauses Act 1847</li> <li>• Local Government (Miscellaneous Provisions) Act 1976 Part II</li> </ul>
38.	To exercise termination rights contained in contracts, in consultation with the relevant Executive Member.
39.	To act as the appeals officer for the Assets of Community Value Panel in the event of a review of a decision being requested (from 190321).

	<b><u>Senior Solicitor -previous delegations as per paras 36 and 37 of HLDS removed from 190321</u></b>
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## Strategic HR Manager (SHRM)

1.	<p><u>Transferred from Head of People and Development - Effective on 1st April 2019</u></p> <p>To deal with applications under the Council's Relocation Policy, including requests to extend the temporary accommodation / travelling allowance period up to 26 weeks from the appointment date.</p>
2.	To approve temporary cover for increased workloads, and sickness for a period of up to 6 months and maternity leave for the duration of the leave, where budget provision exists.
3..	<p>To agree requests for secondments internally within the Council -or to or from external organisations in consultation with the relevant Head of Service unless this relates to a Chief Officer when consultation will be required to be undertaken with the relevant Executive Member(s) and the:</p> <ul style="list-style-type: none"> <li>• Chief Operating Officer for secondments relating to Heads of Service</li> <li>• Chief Executive for secondments relating to the Chief Operating Officer</li> </ul>
4.	To agree or otherwise the availability of suitable alternative employment, when dealing with medical retirements.
5.	To authorise all honoraria payments, in consultation with the relevant Head of Service or Chief Executive or Chief Operating Officer as relevant
6.	To make decisions on the acceleration of increments within grades in consultation with the s151 Officer and Chief Operating Officer
7.	Agree the regrading and redesignation of posts in consultation with the s151 Officer and Chief Operating Officer where this can be achieved within existing budget provision.

8.	The establishment and deletion of NJC graded posts within the Council's establishment wherever this can be achieved within the existing budget provision in consultation with the Chief Operating Officer and Section 151 Officer.
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## Head of Finance and Property

1.	<p>The Chief Executive, Chief Operating Officer, and Head of Services shall have power to exercise all normal management functions, including but not limited to:</p> <ul style="list-style-type: none"> <li>➤ the appointment and management of contractors, consultants, etc;</li> <li>➤ the purchase of goods and services; and</li> <li>➤ the recruitment, discipline and dismissal of employees</li> <li>➤ all duties necessary to implement the agreed Service Plan of the Unit within the Council's Standing Orders, Financial Procedure rules and Policy framework.</li> </ul>
2.	Any Officer having delegated powers may, in turn, delegate those powers to other officers except for the powers delegated to the Chief Executive where the Leader and Executive Members are not in office.
3.	An Officer may, for good reason, decline to exercise a delegated power on any particular occasion, and the power will then revert to its source.
4.	Any power delegated to an Officer must be exercised in accordance with the law, the Council's Constitution and Financial rules, and any instruction or policies of the Council, its Executive or the Regulatory Committees.
5.	All Complaints Officers and Appeals Officers have authority to make payments to complainants up to £250 and local settlements in Ombudsman cases up to £1000 subject to budgetary restrictions.
6.	To manage their individual Service Unit Budgets in accordance with the Council's Financial rules.
7.	Authority to Heads of Service to respond on behalf of the Council to future Government Consultation Papers in consultation with the Chief Executive or Chief Operating Officer as relevant, the Executive and Chair of the Scrutiny Committee
8.	To deal with applications under the Council's Relocation Policy, including requests to extend the temporary accommodation / travelling allowance period up to 26 weeks from the appointment date.
9.	The Chief Executive, Chief Operating Officer, Head of Legal and Democratic Services, Head of Finance and Property, and Head of Streetscene to issue authorisations under the Regulation of Investigatory Powers Act 2000.

10.	To deal with insurance matters relating to fidelity guarantee and cash in transit in accordance with Financial rules						
11.	To determine Discretionary Relief Appeals for the following reliefs; <ul style="list-style-type: none"> <li>• Retail</li> <li>• Re-occupation</li> <li>• New Build</li> <li>• Local Transitional</li> </ul>						
<b>AS SECTION 151 OFFICER</b>							
12.	To deal with the administration of the financial affairs of the Council in accordance with the Constitution and Financial rules approved by the Council from time to time.						
13.	To establish budgets for external funding where there is no effect on the Council's budget in consultation with the Executive Member for Resources and Performance Management.						
14.	To be authorized to pay rating consultant fees where the saving covers the cost, subject to reporting to the next available Executive to confirm the supplementary estimate and actions taken.						
15.	Delegated authority in relation to write off of irrecoverable debts as follows, in accordance with the Policy for Write-off of Irrecoverable Debts, : <table style="margin-left: 40px; border: none;"> <tr> <td style="padding-right: 20px;">Category One</td> <td>Liberata</td> </tr> <tr> <td>Category Two</td> <td>Section 151 Officer</td> </tr> <tr> <td>Category Three</td> <td>Section 151 Officer in consultation with the Executive Member for Resources and Performance Management and the Chair of the Scrutiny Committee</td> </tr> </table>	Category One	Liberata	Category Two	Section 151 Officer	Category Three	Section 151 Officer in consultation with the Executive Member for Resources and Performance Management and the Chair of the Scrutiny Committee
Category One	Liberata						
Category Two	Section 151 Officer						
Category Three	Section 151 Officer in consultation with the Executive Member for Resources and Performance Management and the Chair of the Scrutiny Committee						
16.	To take operational Treasury Management decisions consistent with the Council's Treasury Management Strategy and Policy Statement						
17.	To determine Discretionary Relief Applications for the following reliefs; <ul style="list-style-type: none"> <li>• Charity/Not for profit discretionary</li> <li>• Hardship</li> <li>• Discretionary Localism</li> <li>• Part Occupied</li> </ul>						
18.	To determine applications for:						

	<ol style="list-style-type: none"> <li>1. reductions in the level of Council Tax under s13a Local Government Finance Act 1992</li> <li>2. discretionary housing payments</li> <li>3. exceptional hardship payments for Council Tax Support</li> </ol>
19.	All powers relating to and incidental to the administration of the financial affairs of the Council.
20.	To make all decisions (strategic, operational or otherwise) in relation to the agreements entered into with the Council's Strategic Services Delivery Partners limited to the delegated limits set out in the Financial Procedure Rules.



	PROPERTY –ASSET MANAGEMENT
21.	To agree terms for the acquisition and disposal of properties using Housing Act 1985 and the General Housing Consents 2013 and General Consent 2015 Powers in consultation with the Executive Member for Resources and Performance Mangement and in accordance with the current Empty Homes Policy.
22.	To acquire properties by agreement ahead of the making of Compulsory Purchase Orders in consultation with the Leader of the Council and where a Compulsory Purchase order has been made to agree compensation for any claims received.
23.	<p>PROPERTY TRANSACTIONS-ASSET MANAGEMENT</p> <p>Where the Executive is being asked to consider the acquisition of an interest in property, the Head of Service shall submit an estimate of the likely costs involved and other relevant considerations and after the decision to proceed is taken, shall have authority to:</p> <ul style="list-style-type: none"> <li>• Negotiate and settle terms provided that the total cost does not exceed the approved estimate; or</li> <li>• Where the total cost exceeds the estimate by 10% or less, after consultation with the relevant Executive member(s) and the Head of Finance and Property</li> </ul>
24.	Where the Executive is considering a disposal of its interest in property, the Head of Service shall submit an estimate of the market value and any other relevant considerations and after the decision to proceed is taken, provided the price is within 10% of the estimate and other terms agreed are substantially in accordance with the details previously reported, shall have the authority to authorise the disposal without further reference to the Executive.
25.	To take or grant new leases, licenses or other arrangements of seven years or less (provided that the rent reserved is that available in the open market and the valuation of the property transaction has not been undertaken by the Head of Service) with an annual rental value of less than £25,000 subject to an annual report to the Chief Executive and Executive Member for Resources and Performance Management.
26.	Where the Executive has given authority for negotiations to be entered into for the taking or granting of a lease, license, wayleave, easement or other interest in land or where the land or premises have been previously let or licensed by the Council, to:

	<ul style="list-style-type: none"> <li>➤ Agree terms for the grant or renewal of a lease, license, wayleave or other interest, and deal with the operation of rent review clauses, subject to an annual report to the Chief Operating Officer and Executive Member for Resources and Performance Management on transactions completed;</li> <li>➤ Deal with all requests to assign, sub-let, transfer, change the use of, alter and improve, or vary the terms of a lease</li> </ul> <p>provided that the rent reserved is that available in the open market and the valuation of the property transaction has not been undertaken by the Head of Service.</p>
27.	To dispose of land and property up to a maximum value of £50,000 provided this is undertaken in accordance with the approved property disposals framework and that the valuation of the transaction has not being undertaken by the Head of Service.
28.	Accepting the transfer of land as part of Public Open Space proposals.
29.	To dispose of land and property up to a maximum value of £100,000 in consultation with the Executive Member for Resources and Performance Management provided the disposal is undertaken in accordance with the approved property disposals framework and the valuation of the transaction has not been undertaken by the Head of Service.
30.	In consultation with the Chief Executive, to bid at auction for and contract to buy properties included in approved Council acquisition programmes up to a price of £100,000 each.
31.	That in consultation with the Leader, Chief Executive, and Head of Finance and Property to bid at auction for and contract to buy properties not included in the approved Council acquisition programme up to a price of £100,000 each.
32.	To make all decisions (strategic, operational or otherwise) in relation to the agreements entered into with the Council's Strategic Services Delivery Partners limited to the delegated limits set out in the Financial Procedure Rules.
33.	Power to authorise contractors to undertake functions pursuant to The Local Authorities (Contracting Out of Tax Billing, Collection and Enforcement Functions) Order 1996
34.	To take or grant utility easements in consultation with the Executive Member for Resources and Performance Management.

35.	To execute all documents necessary to give effect to Executive decisions limited to Executive Decisions.
36.	<p>To oversee and deal with the day-to-day management of the Charter Walk Shopping Centre including (without limitation):</p> <p>36.1 The grant, renewal and variation of leases of individual units at the shopping centre provided that the rent reserved is at market rent and/or best consideration in the circumstances</p> <p>36.2 Dealing with routine tenancy matters including (without limitation) licences to assign, alterations, service charge related matters and dilapidations</p> <p>36.3 The grant of wayleaves and easements</p> <p>36.4 Issuing relevant landlord and tenant notices including (without limitation) s25 and s27 LTA 1954 Act Notices</p> <p>36.5 The maintenance and repair of the shopping centre including letting contracts for the maintenance and repair of the same</p>
37.	The grant, renewal and variation of contracts to facilitate the day-to-day management of the Charter Walk shopping centre (including (without limitation) the appointment of the Strategic Asset Manager and Asset Manager) in consultation with the Head of Economy and Growth
38.	The grant, renewal and variation of contracts for the provision of services to the Charter Walk shopping centre including (without limitation) utilities, waste management, security, cleaning, facilities and/or plant management in consultation with the Head of Economy and Growth
39.	To approve the annual business plan and/or annual service charge for the Charter Walk shopping centre in consultation with the Head of Economy and Growth and the Executive Member for Resources and Performance Management
40.	To take all other decisions and carry out all other actions in relation to the day to day management of the Council's property portfolio that are not expressly delegated to the Head of Finance and Property or any other officer.

**Principal Accountant**

To determine Discretionary Relief Applications for the following reliefs;

- Retail
- Re-occupation
- New Build
- Local Transitional

**Internal Audit Manager**

To be designated as the Council's Data Protection Officer

**Property Services Manager**

PROPERTY

To be the Responsible Person for the Council's Legionella Policy

To be the Responsible Officer for construction design management for the Council, compliance with fire regulations in Council buildings, maintenance of the asbestos register and asbestos management plan for Council buildings, and for the Council's emergency out of hours call out services.

**Principal Development Surveyor**

1. PROPERTY-FACILITIES MANAGEMENT

To be the Deputy Responsible Person for the Council's Legionella Policy



## Head of Green Spaces & Amenities

1.	<p>The Chief Executive, Chief Operating Officer, and Head of Services shall have power to exercise all normal management functions, including but not limited to:</p> <ul style="list-style-type: none"> <li>➤ the appointment and management of contractors, consultants, etc;</li> <li>➤ the purchase of goods and services; and</li> <li>➤ the recruitment, discipline and dismissal of employees</li> <li>➤ all duties necessary to implement the agreed Service Plan of the Unit within the Council's Standing Orders, Financial Procedure rules and Policy framework.</li> </ul>
2.	Any Officer having delegated powers may, in turn, delegate those powers to other officers except for the powers delegated to the Chief Executive where the Leader and Executive Members are not in office.
3.	An Officer may, for good reason, decline to exercise a delegated power on any particular occasion, and the power will then revert to its source.
4.	Any power delegated to an Officer must be exercised in accordance with the law, the Council's Constitution and Financial rules, and any instruction or policies of the Council, its Executive or the Regulatory Committees.
5.	All Complaints Officers and Appeals Officers have authority to make payments to complainants up to £250 and local settlements in Ombudsman cases up to £1000 subject to budgetary restrictions.
6.	To manage their individual Service Unit Budgets in accordance with the Council's Financial rules.
7.	Authority to Heads of Service to respond on behalf of the Council to future Government Consultation Papers in consultation with the Chief Executive and Chief Operating Officer as relevant, the Executive and Chair of the Scrutiny Committee
8.	To deal with applications under the Council's Relocation Policy, including requests to extend the temporary accommodation / travelling allowance period up to 26 weeks from the appointment date.
9.	Thompson Park Boating Lake -To determine applications for the use of Thompson Park Boating Lake by organisations and individuals.
10.	Soccer Sponsorship Advertising - To negotiate with Football Clubs, arrangements for the display of advertisement hoardings at Higher Towneley Playing Fields

11.	Exhumations -To determine, in consultation with the Head of Legal and Democratic Services, applications for exhumations and re-interments.
12.	Use of Facilities - To determine applications for the use of various facilities, subject to consultation with the Executive member, where appropriate.
13.	Holiday Closures - To agree holiday closure periods (e.g. Christmas and Easter) for facilities and services in consultation with the Executive Member
14.	Delegation to the Head of Legal and Democratic Services/ Head of Housing & Development Control/Strategic Head of Economy and Growth /Head of Chief Executive's Office/ Head of Streetscene and Head of Green Spaces & Amenities to appoint any appropriate qualified Officer of their Service Units as an authorised Officer where any enactment requires a function of the Council or a matter ancillary to it be discharged by an authorised Officer, and to authorise where appropriate such an Officer to seek any warrant to enter or inspect premises in connection therewith
<b>Towneley Hall Art Gallery and Museum</b>	
15.	To approve and arrange exhibitions at the Art Gallery and to accept gifts to the Council (in respect of the arts) unless of a major character.
16.	To deal with loans from the collection at Towneley Hall Museum and Art Gallery where standard conditions of loan apply (i.e. security transport, environmental conditions and insurance arrangements) as set out in the Towneley Hall Museum & Art Gallery Loan Agreement, and to deal with loans from the collection at Towneley Hall Museum and Art Gallery where standard conditions of loan do not apply after consultation with the relevant Executive member.
17.	Use of Towneley Hall for photographic purposes by organisations and commercial companies.
18.	To approve applications for the use of Towneley Hall for events.
19.	To purchase exhibits up to a value of £3,000.
20.	To purchase exhibits up to a value of £5,000, in consultation with the Executive Member for Community Services

## Head of Streetscene

1.	<p>The Chief Executive, Chief Operating Officer and Head of Services shall have power to exercise all normal management functions, including but not limited to:</p> <ul style="list-style-type: none"> <li>➤ the appointment and management of contractors, consultants, etc;</li> <li>➤ the purchase of goods and services; and</li> <li>➤ the recruitment, discipline and dismissal of employees</li> <li>➤ all duties necessary to implement the agreed Service Plan of the Unit within the Council's Standing Orders, Financial Procedure rules and Policy framework.</li> </ul>
2.	Any Officer having delegated powers may, in turn, delegate those powers to other officers except for the powers delegated to the Chief Executive where the Leader and Executive Members are not in office
3.	An Officer may, for good reason, decline to exercise a delegated power on any particular occasion, and the power will then revert to its source.
4.	Any power delegated to an Officer must be exercised in accordance with the law, the Council's Constitution and Financial rules, and any instruction or policies of the Council, its Executive or the Regulatory Committees
5.	All Complaints Officers and Appeals Officers have authority to make payments to complainants up to £250 and local settlements in Ombudsman cases up to £1000 subject to budgetary restrictions.
6.	To manage their individual Service Unit Budgets in accordance with the Council's Financial rules.
7.	Authority to Heads of Service to respond on behalf of the Council to future Government Consultation Papers in consultation with the Chief Executive and Chief Operating Officer as relevant, the Executive and Chair of the Scrutiny Committee
8.	To deal with applications under the Council's Relocation Policy, including requests to extend the temporary accommodation / travelling allowance period up to 26 weeks from the appointment date.
9.	Chief Executive, Chief Operating Officer, Head of Legal and Democratic Services, Head of Finance and Property, and Head of Streetscene to issue authorisations under the Regulation of Investigatory Powers Act 2000.
10.	To name streets and number properties within the Borough.
11.	To determine the siting and provision of bus shelters.



12.	To deal with all matters relating to the management, operation of the CCTV system.
13.	To deal with all matters relating to the management and running of the Council's car parks with the exception of setting charges.
14.	To publish and serve notices with respect to the provisions of Section 115G of the Highways Act 1980
15	To be authorised to implement the Council's duties in relation to Part IIA of the Environmental Protection Act 1990
15.	All environmental and cleansing issues under any relevant statutory provision contained within The Environmental Protection Act 1990 and all relevant regulations made under that act, including where appropriate to serve notices under Section 80 of the EPA 1990.
16.	All relevant issues under statutory provisions contained in the Environment Act 1995, in so far as Burnley is the enforcing authority as detailed in Parts 1 and 2 of the Act.
17.	All environmental and cleansing issues under any relevant statutory provision contained within The Clean Neighbourhoods and Environment Act 2005 and all relevant regulations made under that act.
18.	All structural and drainage issues, and issues relating to accumulations under any relevant statutory provision contained in the Building Act 1984, the Public Health Act 1961 and the Local Government (Miscellaneous Provisions) Act 1976.
19.	All Public Health Issues under any relevant statutory provision contained in the Public Health Act 1936
20.	All Pest Control issues under any relevant statutory provision contained in the Prevention of Damage by Pests Act 1949.
21.	All issues relevant to dogs contained in the Control of Dogs Order 1992, The Dangerous Dogs Act 1991 and Anti-Social Behaviour, Crime and Policing Act 2014.
22.	All issues relating to abandoned vehicles under any relevant statutory provision contained in the Refuse Disposal (Amenity) Act 1978 and ancillary regulations.
23.	All issues relating to emergency powers under any relevant statutory provision contained in the Local Government (Miscellaneous Provisions) Act 1982 and 2003
24.	To be authorised to take legal action on Anti- Social Behaviour, relating to the Crime and Disorder Act 1989, the Anti- Social Behaviour Act 2003, and the Anti- Social Behaviour, Crime and Policing Act 2014.

25.	To request Lancashire County Council, as Highway Authority, to make applications to a magistrates' court to make an order to stop up or, as the case may be, divert such highways within or adjacent to areas where clearance activity has taken place as necessary to meet the requirements for the planned and/or proposed after use of the site in accordance with sections 116 and 117 of the Highways Act 1980 and all other enabling legislation, and to approach all statutory undertakers to remove or decommission all equipment in advance of the said highways being closed or diverted or to arrange easements where appropriate.
26.	Delegation to the Head of Legal and Democratic Services / Head of Housing & Development Control/Strategic Head of Economy and Growth / Head of Streetscene and Head of Green Spaces & Amenities to appoint any appropriate qualified Officer of their Service Units as an authorised Officer where any enactment requires a function of the Council or a matter ancillary to it be discharged by an authorised Officer, and to authorise where appropriate such an Officer to seek any warrant to enter or inspect premises in connection therewith
27.	<p>ENVIRONMENT</p> <p>All relevant issues under statutory provisions contained within The Refuse Disposal (Amenity) Act 1978 – The whole Act</p>
28.	All relevant issues under statutory provisions contained within The Local Government (Miscellaneous Provisions) Act 1976 – in so far as Burnley Borough Council is the enforcing authority as detailed in Section 35 of Part 1 of the Act (Private Sewer)

29.	<p><b>ENVIRONMENTAL HEALTH &amp; LICENSING</b></p> <p>To be the authorised officer in respect of the following legislation or any regulations made thereunder and to appoint officers to undertake, where appropriate, the duties vested in the Authority by the legislation or any regulations made thereunder. To institute proceedings, keep public registers, issue notices and determine applications for licences, approvals, registrations and consents in respect of the following legislation or any regulations made thereunder.</p> <p><u>Local acts</u></p> <ul style="list-style-type: none"> <li>• The County of Lancashire Act 1984 – In so far as Burnley BC is the enforcing authority as detailed in Part IV of the Act</li> </ul>
30.	<p>Environmental Protection:</p> <ul style="list-style-type: none"> <li>• The Clean Air Act 1993 – The delegation extends to the whole of the Act</li> <li>• The Noise and Statutory Nuisance Act 1993 –following the passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority’s area the delegation extends to the whole of the act</li> <li>• The Noise Act 1996 – The whole Act</li> <li>• The Environmental Protection Act 1990 - In so far as Burnley Borough Council is the enforcing authority as detailed in Part I, II, IIa, III, IV, VIII and IX of the Act</li> <li>• The Clean Neighbourhoods &amp; Environment Act 2005 Parts 7 &amp; 9</li> <li>• The Contaminated Land (England) Regs 2006</li> <li>• The Control of Pollution Act 1974 - In so far as Burnley Borough Council is the enforcing authority as detailed in Part III of the Act</li> <li>• The Water Act 1989 - In so far as Burnley Borough Council is the enforcing authority as detailed in Part II Chapter 2 of the Act</li> <li>• The Water Industry Act 1991 - In so far as Burnley Borough Council is the enforcing authority as detailed in Part III and Part IV of the Act</li> <li>• The Antisocial Behaviour Act 2003</li> <li>• Parts IV and V of the Environment Act 1995</li> <li>• Environmental Protection Act 1990</li> <li>• Pollution Prevention &amp; Control Act 1999</li> </ul>
31.	<p>Food Safety / infectious disease</p> <ul style="list-style-type: none"> <li>• The Food and Environmental Protection Act 1985 – As authorised by the Minister under Section 3</li> <li>• The Food Safety Act 1990</li> <li>• The European Communities Act 1972 in so far as it relates to Food Safety, and any associated Orders or Regulations</li> </ul>

	<ul style="list-style-type: none"> <li>• The Public Health (Control of Disease) Act 1984 – The whole Act</li> <li>• To issue notices on behalf of Burnley Borough Council under regulation 9 and schedules 3 and 4 of the Public Health (Infectious Disease) Regulations 1988</li> <li>• Health and Social Care Act 2008</li> </ul>
32.	<p>Animal Welfare:</p> <ul style="list-style-type: none"> <li>• The Zoo Licensing Act 1981</li> <li>• The Zoo Licensing Act 1981 (Amendment) (England &amp; Wales) Regs 2002</li> </ul>
33.	<p>Health &amp; Safety at Work</p> <ul style="list-style-type: none"> <li>• The Health &amp; Safety at Work etc Act 1974 &amp; associated Regulations</li> <li>• The Environment Act 1995 - In so far as Burnley Borough Council is the enforcing authority as detailed in Parts I and II of the Act</li> <li>• Cooling Towers &amp; Evaporative Condensers (Regulations) 1992</li> <li>• Sunbeds (Regulation) Act 2010</li> </ul>
34.	<p>Licensing</p> <ul style="list-style-type: none"> <li>• Gambling Act 2005</li> <li>• Local Government (Miscellaneous Provisions) Act 1982 s 2,8,7 and 12</li> <li>• Vehicle (crime) Act 2001</li> <li>• Criminal Justice and Police Act 2001</li> <li>• House to House collections Act 1939. Sect. 2</li> <li>• Scrap Metal Dealers Act 2013</li> </ul>
35.	<p>Miscellaneous</p> <ul style="list-style-type: none"> <li>• The Sunday Trading Act 1994 – Duty to enforce the Act contained at Schedule 2</li> <li>• The Public Health Act 1936 – The whole Act</li> <li>• The Building Act 1984 – In so far as Burnley Borough Council is the enforcing authority as detailed in Parts 1.11, III and IV</li> <li>• The Prevention of Damage by Pests Act 1949 – The whole Act</li> <li>• The Public Health Act 1961 - In so far as Burnley Borough Council is the enforcing authority as detailed in Part I of the Act</li> <li>•</li> <li>• The Local Government (Miscellaneous Provisions) Act 1982 – Part VIII, Section 3 and Schedule 4 part XI</li> <li>• The Regulatory Reform (Fire Safety Order 2000) Article 45 duty to consult enforcing Authority</li> </ul>

	<ul style="list-style-type: none"> <li>• Sustainable and Secure Buildings Act 2004 Section 7</li> <li>• Health Act 2006</li> </ul>
36.	To appoint UK Health Security Agency consultants as Proper Officers for the purposes of The Public Health (Control of Disease) Act 1984 and regulations made thereunder, and the Health Protection (Notification) Regulations 2010, for the purposes of regulations 2, 3 and 6.
37.	<p>To undertake the following functions in relation to the Scrap Metal Dealers Act 2013</p> <ul style="list-style-type: none"> <li>• To determine applications for site and collectors' licences where no representations have been made</li> <li>• To determine applications for variation of site and collectors' licences where no representations have been made</li> </ul>
38.	To execute all documents necessary to give effect to Executive decisions.
39.	To be the Council's Child Protection Officer in relation in relation to the Children's Act 2004 (from 0402210, in place of the Community Safety Manager).

## Head of Housing & Development Control

1.	<p>The Chief Executive, Chief Operating Officer, and Head of Services shall have power to exercise all normal management functions, including but not limited to:</p> <ul style="list-style-type: none"> <li>➤ the appointment and management of contractors, consultants, etc;</li> <li>➤ the purchase of goods and services; and</li> <li>➤ the recruitment, discipline and dismissal of employees</li> <li>➤ all duties necessary to implement the agreed Service Plan of the Unit within the Council's Standing Orders, Financial Procedure rules and Policy framework.</li> </ul>
2.	Any Officer having delegated powers may, in turn, delegate those powers to other officers except for the powers delegated to the Chief Executive where the Leader and Executive Members are not in office
3.	An Officer may, for good reason, decline to exercise a delegated power on any particular occasion, and the power will then revert to its source.
4.	Any power delegated to an Officer must be exercised in accordance with the law, the Council's Constitution and Financial rules, and any instruction or policies of the Council, its Executive or the Regulatory Committees.
5.	All Complaints Officers and Appeals Officers have authority to make payments to complainants up to £250 and local settlements in Ombudsman cases up to £1000 subject to budgetary restrictions.
6.	To manage their individual Service Unit Budgets in accordance with the Council's Financial rules.
7.	Authority to Heads of Service to respond on behalf of the Council to future Government Consultation Papers in consultation with the Chief Executive or Chief Operating Officer as relevant, the Executive and Chair of the Scrutiny Committee
8.	To deal with applications under the Council's Relocation Policy, including requests to extend the temporary accommodation / travelling allowance period up to 26 weeks from the appointment date.
9.	To take any or all steps necessary to discharge the Council's powers, functions or obligations under the Caravan Sites and Control of Development Act 1960 and the Mobile Homes Act 2013.
10.	To serve notices under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 (section 16) to obtain the details to occupied and unoccupied premises.

11.	Delegation to the Head of Legal and Democratic Services / Head of Housing & Development Control/Strategic Head of Economy and Growth / Head of Streetscene and Head of Green Spaces & Amenities to appoint any appropriate qualified Officer of their Service Units as an authorised Officer where any enactment requires a function of the Council or a matter ancillary to it be discharged by an authorised Officer, and to authorise where appropriate such an Officer to seek any warrant to enter or inspect premises in connection therewith
12.	<p><u>Property Condition</u></p> <p>To meet the requirements of Part 1 of the Housing Act 2004 to keep the housing conditions of the Borough under review with a view to determining whether any action should be taken under any of the following provisions: Parts 1,2,3,4 and 7 of the Housing Act 2004 and to take such action (including the service of notices) where appropriate-</p>
13.	To authorize Officers for the purposes of Sections 131, 235 239 and paragraph 25 of Schedule 7 to the Housing Act 2004
14.	To authorize Officers for the purposes of Section 319 of the Housing Act 1985
15.	Where there is the existence of category 1 or 2 hazards on any residential premises take enforcement action as detailed in Part 1 of the Housing Act 2004.
16.	To make such charge under section 49 of the Housing Act 2004 as he or she considers reasonable to recover costs associated with taking the appropriate enforcement action under Part 1 of the Housing Act 2004 or section 289 of the Housing Act 2005.
17.	To recover any charge made under section 49 of the Housing Act 2004
18.	<p>To authorize Officers to serve notice under Schedule 3 Part 2 of the Housing Act 2004 and enter premises to:</p> <ul style="list-style-type: none"> <li>(i) take any action under Part 2 of the said Schedule in order to carry out work detailed in an Improvement Notice that has not been complied with or where reasonable progress is not being made towards compliance with any such Notice; or</li> <li>(ii) take emergency remedial action under section 40 of the Housing Act 2004</li> </ul>
19.	To recover expenses incurred in taking action under Part 2 of Schedule 3 to the Housing Act 2004 or section 40 of that Act

20.	To make demolition orders under Section 289 of the Housing Act 1985
21.	To address overcrowding in accordance with Part 10 of the Housing Act 1985
22.	To order the reconnection of services disconnected by default of a landlord under section 33 of the Local Government (Miscellaneous Provisions) Act 1976
23.	To take any and all steps necessary to exercise and/or discharge the Council's functions, powers and duties under The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014.
24.	To take all steps necessary to exercise and/or discharge the Council's functions, powers and duties under The Smoke and Carbon Monoxide Alarm (England) Regulations 2015
25.	To authorise Officers for the purpose of section 172 of the Housing and Planning Act 2016 and to serve notice of intention to enter land in exercise of the power conferred by that section.'
26.	To apply for a warrant under section 173 of the Housing and Planning Act 2016 (authorising a person to use force in the exercise of the power conferred by section 172)1) of the Housing and Planning Act 2016).
27.	To take all steps necessary to exercise and/or discharge the Council's functions, powers and duties under The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, as amended.
28.	To take all steps necessary to exercise and/or discharge the Council's functions, powers and duties under The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.
29.	<u>Licensing and Management Orders</u>  To grant (with conditions) or refuse Licences or Temporary Exemption Notices for Houses in Multiple Occupation (HMO) that are required to be licensed under Part 2 of the Housing Act 2004 and the Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018.
30.	To vary or revoke a licence for a HMO in accordance with Part 2 of the Housing Act 2004
31.	To grant (with conditions) or refuse Licences or Temporary Exemption Notices in accordance with Part 3 of the Housing Act 2004.



32.	To make, serve and operate interim and final management orders in relation to a HMO and House to which Part 3 of the Housing Act 2004 applies.
33.	To vary or revoke interim and final management orders in accordance with Part 4 of the Housing Act 2004.
34.	To make, serve and operate interim and final empty dwelling management orders in relation to empty dwellings in accordance with Part 4 of the Housing Act 2004.
35.	To exercise all the powers relating to the application and enforcement of Rent Repayment Orders under the Housing Act 2004 including the service of any statutory notices in connection therewith
36.	To vary or revoke interim and final empty dwelling management orders in accordance with Part 4 of the Housing Act 2004.
37.	To serve an Overcrowding Notice in relation to an HMO in accordance with Part 4 of the Housing Act 2004
38.	To set a fee payable for the supply to a person of a certified copy of the whole or part of the register maintained under section 232 of the Housing Act 2004
39.	To exercise all powers to issue, use and enforce civil penalties as detailed in the Housing and Planning Act 2016 (and any regulations made there under
40.	To exercise all powers to issue, use and enforce rent repayment orders as detailed in the Housing and Planning Act 2016 (and any regulations made there under).
41.	To exercise all powers to in relation to the Rogue Landlord Database and issue, use and enforce Banning Orders as detailed in the Housing and Planning Act 2016 (and any regulations made there under).
42.	<p><u>Financial Assistance</u></p> <p>To administer the whole range of financial assistance, including grants, loans, assistance to landlords, measures to support purchase and relocation under Part VIII of the Local Government and Housing Act 1989, the Housing Grants, Construction and Regeneration Act 1996 and the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 as included in the Housing Strategy and adopted by the Authority in the Private Sector Housing Renewal Policy.</p> <ul style="list-style-type: none"> <li>• To determine applications (and related matters) for any financial assistance towards repair, adaptation of properties in the Borough, the relocation of residents in suitable circumstances or the purchase of properties.</li> <li>• To waive repayment of grant monies in appropriate circumstances.</li> </ul>

	<ul style="list-style-type: none"> <li>• To require information from people who have applied for or who have received financial assistance from the Council.</li> <li>• To waive or vary the criteria and conditions attached to financial assistance within permitted legal criteria or as determined in the Private Sector Housing Renewal Policy.</li> </ul>
43.	To manage the Council's Partnership Agency Service in connection with the provision of financial assistance as defined under the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002
44.	<p><u>Vacant Properties</u></p> <p>To acquire vacant properties under Part II Housing Act 1985, Section 17 for the purpose of providing housing accommodation.</p>
45.	To acquire residential property by agreement or by compulsory purchase for the purpose of disposal for renovation and reoccupation by the most appropriate means, or for improvement for sale or lease. All properties to be agreed in consultation with the Executive Member for Housing and Leisure.
46.	To authorize Officers for the purposes of section 219 of the Town and Country Planning Act 1990
47.	To exercise the power of sale conferred by section 101 of the Law of Property Act 1925 and to serve any statutory notice in connection with the exercise of that power
48.	Notwithstanding a delegation to any other Head of Service, to exercise the Council's statutory powers and functions in Part III of the Building Act 1984 including, but not limited to, serving notices, obtaining warrants and authorising officers for the purpose of those powers and functions
49.	To exercise all discretionary powers in relation to the Tenant Fees Act 2019
50.	<p><u>Home Loss Payments</u></p> <p>To issue discretionary payments to residents displaced through the Council's Clearance Programme to the value of Home Loss Payments, after consultation with the appropriate Executive Member.</p>
51.	<p><u>Housing Advice</u></p> <p>To carry out the Council's powers and duties (including the granting and termination of licences to occupy residential accommodation) in relation to homelessness and the Housing Register.</p>

52.	<p><u>DEVELOPMENT CONTROL</u></p> <p>To determine applications under the building regulations and to deal with matters relating to the control of building works (other than planning control), the safety of sports grounds and matters of public amenity and safety arising from the condition of buildings.</p>
53.	To provide/supply copies of planning applications and plans
54.	To issue formal screening assessment as to whether any Schedule 2 planning proposal involves EIA development; where an Environment Impact Assessment is required the issue of a scoping opinion be determined after carrying out the appropriate statutory consultation.
55.	To carry out consultation required by the Conservation of Habitats and Species Regulations 2010, determine whether an assessment is required, and make an appropriate assessment
56.	To consult on any amendments proposed to the Guidance for the Validation of Planning Applications, and to adopt the guidance with any necessary changes following the consultation period.
57.	The Wildlife and Countryside Act 1981 - In so far as Burnley Borough Council is the enforcing authority as detailed in Part I of the Act
58.	The Local Government (Miscellaneous Provisions) Act 1976 – in so far as Burnley Borough Council is the enforcing authority as detailed in Section 16 of Part 1 of the Act (Interest in Land)

## **B) TERMS OF REFERENCE OF COMMITTEES, PANELS AND WORKING GROUPS AND**

### **1. Council Functions**

#### **(a) DEVELOPMENT CONTROL COMMITTEE**

##### Planning and conservation

Functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (functions and responsibilities) (England) Regulations 2000 (the functions regulations)

##### Commons registration

The registration of common land or town and village greens and to register the variation of rights of common as set out in Schedule 1 to the Functions Regulations

#### **(b) LICENSING COMMITTEE**

##### Taxi, gaming, entertainment, food and miscellaneous licensing

Functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations and through its Sub Committees functions relating to the Licensing Act 2003 and Gambling Act 2005.

##### Health and safety

Functions relating to health and safety under any relevant statutory provision within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as an employer

#### **(c) APPEALS COMMITTEE (JNC) - 2 EXECUTIVE AND 1 SCRUTINY CHAIR / VICE CHAIR )**

To consider appeals against dismissal, other disciplinary action, grading and grievances by employees of the Council who are not on the conditions of service of the NJC for Local Government Services

#### **(d) APPEALS PANEL**

To comprise one member of the Management Team and two members of the Executive.

AMENDED FEB 11-To deal with the final stages of appeals against dismissal and other disciplinary action regarding employees of the Council who are on the conditions of service of the NJC for Local Government Services.

**(e) REDUNDANCY APPEAL PANEL**

To comprise three members of the Executive for those employees covered by the Council's redundancy policy

**(f) AUDIT AND STANDARDS COMMITTEE**

Membership to include 9 elected members including an Executive Member and the Scrutiny Committee Chair and 2 independent co-optees and 2 parish co-optees. The Chair and Vice-Chair of the Committee shall not be either an Executive Member nor the Chair of Scrutiny Committee.

The Committee combines responsibility for overseeing the effective auditing of all the Council's processes with a separate role in ensuring the ethical propriety and good conduct of individual Councillors.

The Audit function covers both external and internal processes, the external scrutiny brought by the external auditors and the internal control of processes administered by an internal audit team. The Committee approves an annual work programme and receives regular reports on the progress of audit work and assessments.

Terms of Reference

The Audit and Standards Committee will have the following roles and functions:

Audit Activity

- a) To consider the Head of Internal Audit's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the council's corporate governance arrangements.
- b) To consider summaries of internal audit reports
- c) To consider reports dealing with the management and performance of the providers of internal audit services
- d) To consider reports from internal audit on agreed recommendations not implemented within a reasonable timescale.
- e) To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance

- f) To consider specific reports as agreed with the external auditor.
- g) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- h) To appoint the council's external auditor
- i) To commission work from internal and external audit.

#### Regulatory Framework

- a) To maintain an overview of the council's constitution in respect of Standing Orders for Contracts, Financial Procedure Rules and codes of conduct and behaviour.
- b) To review any issue referred to it by the chief executive or the Chief Operating Officer, or any council body.
- c) To monitor the effective development and operation of risk management and corporate governance in the council
- d) To monitor council policies on whistleblowing and the anti-fraud and corruption policy and the council's complaints process
- e) To oversee the production of the authority's Annual Governance Statement and to recommend its adoption.
- f) To consider reports on internal audits effectiveness.
- g) To consider the council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.
- h) To consider the council's compliance with its own and other published standards and controls.

i) The Chief Audit Executive or his representatives will have free and confidential access to the Chair of the Audit and Standards Committee. Members of the Audit and Standards Committee have free and confidential access to the Chief Audit Executive or his representatives. (from 28.09.22)

j) To consider the arrangements for Strategic Risk Management. (from 28.09.22)

### Accounts

a) To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.

b) To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

### Value for Money

a) To review and monitor Council activities relating to value for money.

### Standards Activity

a) To promote and maintain high standards of conduct by Members, Co-opted Members and employees of the Council

b) To support Members, Co-opted members and employees to observe the Council's Code of Conduct

c) To advise, train or arrange to train Members, Co-opted Members, Parish and Town Council Members and employees of the Council on the Council's Codes

d) To monitor and advise the Council about the operation of its Code of Conduct for Members and Employees in light of best practice, changes in the law, and government guidance

e) To advise the Council on the adoption or revision of the Codes of Conduct, including the adoption of Protocols which support high standards of conduct by Members and employees of the Council

- f) To actively engage with the Borough, Parish and Town Councils on the role and purpose of the Committee, governance and standards
- g) To actively engage with the public, the media and key partners on the role and purpose of the Committee, governance and standards to promote public confidence in the Council
- h) To grant dispensations to Members with disclosable interests
- i) To grant exemptions for politically restricted posts
- j) To determine complaints about Members in accordance with the Localism Act 2011 and associated Regulations and local procedures
- k) To adopt and keep under review policies and procedures for the determination of complaints about Members

**(g) MEMBER STRUCTURES AND SUPPORT WORKING GROUP**

To draw up proposals for modernising the Council's Member Structures in the light of new legislation and best practice, and to make appropriate recommendations to full Council.

To keep under review the range of existing support and services provided for Council Members and to make recommendations, if necessary, to the appropriate Committees for improvements.

To consider the annual Member Training and Development Programme (including induction training for new Council Members).

To act as a Forum for the discussion of matters relating to how Members and officers work together.

To deal with all matters relating to the provision and use of IT equipment by Members

**(h) JOINT CONSULTATIVE PANEL**

To act as a forum for consultation and negotiation between the Council and Trade Union Representatives of employees subject to the national agreement of the NJC for Local Government Services and other employees ([constitution attached as an Appendix](#)).

Members are appointed by qualification.



## **2. Executive Functions.**

### **(a) SCRUTINY COMMITTEE**

To Scrutinise all actions which fall within the remit of any Service Unit or the Chief Executive and Chief Operating Officer, including Budget Scrutiny.

### **(b) TRAFFIC REGULATION ORDER SUB-COMMITTEE**

Three Members of the Executive.

#### Terms of Reference

Powers to amend or confirm Traffic Regulation Orders or refer them to the Executive for a decision.

### **(c) PARKING AND TRAFFIC REGULATIONS OUTSIDE LONDON**

#### **(PATROL) ADJUDICATION JOINT COMMITTEE**

The Committee is constitutionally and legally a joint committee between Burnley and other Local Authorities and has been established to adjudicate on parking and traffic regulations.

Political balance requirements are not necessary for the appointments due to the low number of Members being appointed. Representation on the PATROL Adjudication Joint Committee consists of the relevant Executive Member (the Executive Member for Communities), with the substitute being from the largest opposition party.

#### **(d) PENNINE LANCASHIRE BUILDING CONTROL JOINT EXECUTIVE COMMITTEE**

The Committee is constitutionally and legally an Executive joint committee between Burnley and Blackburn with Darwen Local Authorities and has been established to in relation to the Building Control Service, including the enforcement of Building Regulations, in the Joint Area.

Political balance requirements are not necessary for the appointments due to the low number of Members being appointed. Representation on the PLBC Joint Committee consists of the Executive Member for Housing and Environment, with the substitute being the Executive Member for Resources-Appointed by the Executive in 2009/10.

[Appx 1 \(Constitution\)](#)

**(e) PENNINE LANCASHIRE LEADERS AND CHIEF EXECUTIVES  
JOINT COMMITTEE**

The Committee is constitutionally and legally a statutory joint committee between Burnley and other Pennine Lancashire Local Authorities and has been established to oversee the Pennine Lancashire Multi Area Agreement (MAA) and the role of the Pennine Lancashire Development Company.

Political balance requirements are not necessary for the appointments due to the low number of Members being appointed. Representation on PLLACE consists of the Leader, with the substitute being the Deputy Leader.

[Appx1 \(Constitution of PLLACE\)](#)

**(f) THREE TIER FORUM**

This forum involves the County, Borough and Parish representatives in discussing relevant issues.

Political balance requirements are not necessary for the appointments and of the 6 Borough Members, 4 are Labour, with 1 Lib Dem and 1 Conservative. Appointment is annual by Full Council.

**(g) ASSETS OF COMMUNITY VALUE**

This Panel will determine whether, in response to a community nomination, land or property should be included in the Council's list of community value.

Corporate Policy Officer,  
Property Services Manager  
Head of Housing and Development Control

Also, the Head of Legal and Democratic Services be given delegated authority to act as the appeals officer in the event of a review of a decision being requested (from 190321, in place of the Senior Solicitor).

**Executive Member Portfolios 2022-23**

Portfolio	Services	Officer		Responsibilities	Lead Roles
<p>Leader Councillor Afrasiab Anwar</p>	<p>Policy &amp; Engagement</p>	<p>Chief Executive  Head of Policy and Engagement</p>		<p>Ensure effective leadership of Council as a whole, that work is co-ordinated, resources are linked to agreed strategic priorities and the culture is responsive, open and helpful</p> <p>Determining the Council's strategic framework - Strategic Plan and ensuring this is translated into action</p> <p>Community Strategy Strategic direction of local, sub- regional and regional partnerships</p>	<p>Promotion of Burnley Community Strategy Strategic regional/sub-regional agenda Education and skills lead UCLan lead Local Government Association Barnfield and Burnley Development Company PLLACE  Covid 19 Economic Recovery Board</p>

				<p>Overseas links and corporate hospitality</p> <p>Promoting inclusive growth and social inclusion within the borough</p> <p>Climate Change</p>	
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<b>Portfolio</b>	<b>Services</b>	<b>Officer</b>	<b>Responsibilities</b>	<b>Lead Roles</b>
Deputy Leader	People & Development	Chief Operating Officer	Budget Preparation & monitoring	Financial Planning and budget preparation
Executive Member for Resources & Performance	Legal & Democracy	Head of Finance & Property	Asset Management HR & Workforce Planning	Budget Consultation
Councillor Sue Graham	Finance & Property	Strategic HR Manager	Performance & Improvement	Risk Management
	Revenues & Benefits		Procurement	Organisational Development
	Policy and Engagement	Head of Legal & Democratic Services	Corporate Health & Safety	Performance
		Head of Policy and Engagement	Corporate Governance	Freedom of Information
			Customer Services & IT	Climate Change
			Civics - Civic matters/mayoral matters, Parish liaison	Sustainability Member Champion
			Climate Change	NWLA Employers Organisation

<b>Portfolio</b>	<b>Services</b>	<b>Officer</b>	<b>Responsibilities</b>	<b>Lead Roles</b>
Portfolio Holder for Health & Wellbeing  Councillor Margaret Lishman	Green Spaces & Amenities  Leisure & Culture	Chief Operating Officer  Head of Green Spaces & Amenities  Head of Policy and Engagement	Cemeteries & Crematoria  Parks, Open Spaces and Allotments  Towneley Hall  Leisure & Culture  Health  Engagement and Communication  Climate Change	Leisure Trust  Armed Services/Military Covenant Champion  Older People  East Lancashire Health & Wellbeing Partnership  Burnley and Pendle Children's Partnership  Burnley Together

<b>Portfolio</b>	<b>Services</b>	<b>Officer</b>	<b>Responsibilities</b>	<b>Lead Roles</b>
<p>Executive Member for Housing and Development Control</p> <p>Councillor John Harbour</p>	Housing & Development Control	<p>Chief Operating Officer</p> <p>Head of Housing &amp; Development Control</p>	<p>Development Management</p> <p>Building Control</p> <p>All aspects of Housing, including Homelessness and Rough Sleeping</p> <p>Climate Change</p>	<p>Heritage Member Champion</p> <p>Pennine Lancashire Building Control Joint Committee</p> <p>Housing Associations in the Borough</p> <p>Private Rented Sector Forum</p> <p>Housing Joint Venture Contract</p> <p>Selective Licensing</p>

<b>Portfolio</b>	<b>Services</b>	<b>Officer</b>	<b>Responsibilities</b>	<b>Lead Roles</b>
Executive Member for Economy & Growth  Councillor Mark Townsend	Economy & Growth	Chief Executive  Strategic Head of Economy & Growth	All aspects of Economic Development  Strategic Transport  Town Centre Strategy  Markets  Planning Policy  Climate Change	Economic Development  Transport Policy  Local Plan  Business Engagement Town Centre and Canalside Masterplan  Burnley Town Centre Partnership  Growth Lancashire  LEP Scrutiny



<b>Portfolio</b>	<b>Services</b>	<b>Officer</b>	<b>Responsibilities</b>	<b>Lead Roles</b>
<p>Executive Member for Community &amp; Environmental Services</p> <p>Councillor Shah Hussain</p>	<p>Streetscene</p> <p>Policy and Engagement</p>	<p>Chief Operating Officer</p> <p>Head of Streetscene</p> <p>Head of Policy &amp; Engagement</p>	<p>All Streetscene issues</p> <p>Waste Collection/Recycling</p> <p>Community Safety</p> <p>Emergency Planning</p> <p>Equalities</p> <p>Young People</p> <p>Environmental Health &amp; Licensing</p> <p>Climate Change</p>	<p>Equality &amp; Inclusion</p> <p>Lancashire Police &amp; Crime Panel (Liaison)</p> <p>County Waste Management Group</p> <p>Lancashire Waste Partnership</p> <p>Urbaser</p> <p>Public Transport Issues</p> <p>Environmental Enforcement Partnership</p> <p>Burnley and Pendle Citizens Advice Bureau</p>

Signed by Leader - Cllr Afrasiab Anwar;

A handwritten signature in black ink, reading "Afrasiab Anwar," written in a cursive style.

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## **JOINT CONSULTATIVE PANEL**

### **Constitution and Functions**

#### **Title**

- 1. The Panel shall be called the Joint Consultative Panel.**

#### **Representation**

- 2. The Joint Consultative Panel shall comprise 3 Members of Burnley Borough Council to be appointed annually by the local authority as qualified appointments being the Leader, Deputy Leader and Executive Member for Resources and Performance Management..**  
The Members shall retire annually and shall be eligible for re-appointment.

If a Member of the Joint Consultative Panel ceases to be a Member of the Local Authority he/she shall thereupon cease to be a member of the Joint Consultative Panel, the appropriate side of the Joint Panel shall fill any vacancy.

**The Trade Union side shall be allocated 3 places. 1**

If a full-time officer wishes to attend he/she shall take one of the places allocated to his/her Trade Union.

#### **Chair**

- 3. A Chair and Vice-Chair shall be appointed by the Joint Consultative Panel at their first meeting in each Municipal year. If the Chair appointed is a Member of the local authority, the Vice-Chair shall be appointed from the employee side, and vice-versa. The Chair of the meeting shall not have a casting vote.**
- 4. The Joint Consultative Panel shall appoint Joint Secretaries one from each side.**

#### **Functions**

- 5. The functions of the Joint Consultative Panel shall be:-**
  - (a) To act as a forum for consultation and negotiation between the Council and Trade Union Representatives of employees subject to the national agreement of the NJC for Local Government Services and other employees.**

- (b) To make recommendations to the Council's Executive\* as to the application of the terms and conditions of service and the training of employees of the Council.
- (c) To discharge such other functions specifically assigned to the Joint Consultative Panel by the Council.

(\* This does not preclude decisions being made under delegated powers)

## **Rules and Regulations**

6. **The Joint Consultative Panel shall meet as and when required.** The Chair or Vice-Chair may direct the Joint Secretaries to call a meeting at any time. A meeting shall be called within seven days of the receipt of a requisition signed by not less than one-third of the members of either side. In emergency situations every endeavour shall be made to convene a meeting within three working days of receipt of a request for it. The matters to be discussed at any meeting of the Joint Consultative Panel shall be stated upon the notice summoning the meeting, provided that any other business may be considered if admitted by a majority vote of those present at such meeting.
7. A Quorum for the Joint Consultative Panel shall be one representative from each side.
8. **Regarding voting**, no resolution shall be regarded as carried unless it has been approved by a majority of each side **i.e. both a majority of Members present and Trade Unions present.**
9. A failure to agree on a collective issue (i.e. affecting a number of employees) may be referred to the North Western Joint Council for Local Government Services by one side or jointly. In the first instance, the good offices of the Joint Secretaries of the Regional Council will be used to assist the local parties. Before an issue is referred to the Regional Council, the Executive or the Council may refer the matter back to the Joint Consultative Committee for further consideration.
10. **The proceedings of any meeting of the Joint Consultative Panel shall be reported to the Executive Member for Resources and Performance Management and the Council's Management Team.**
11. The Joint Consultative Panel shall not arrive at any agreement which conflicts with the policy or recommendation of the North Western Joint Council for Local Government Services.

# CONSTITUTION

## PENNINE LANCASHIRE BUILDING CONTROL JOINT COMMITTEE

### 1. PREAMBLE

- 1.1 The Joint Committee shall be known as the Pennine Lancashire Building Control Joint Committee (the "Joint Committee").
- 1.2 The Partner Authorities have a duty under Section 91 of the Building Act 1984 in relation to the Building Control Service, including the enforcement of Building Regulations in the Joint Area.
- 1.3 The Partner Authorities have agreed to form a Joint Committee for the purposes of Sections 101 and 102 of the Local Government Act 1972, the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000, the Local Authorities (Arrangements for the Discharge of Functions) (England) (Amendment) Regulations 2001 made under Section 20 of the 2000 Act and all other enabling powers.
- 1.4 The Executives of the Partner Authorities pursuant to all enabling powers have agreed to enter into the Constitution.
- 1.5 The Councils of the Partner Authorities have adopted the Constitution and have agreed that the Joint Committee undertake the Building Control Functions in relation to the Building Control Service.
  - 1.5.1 The Partner Authorities will work together to:
    - (1) establish a clear and accountable framework to promote the economic, environmental and social well-being of their respective areas;
    - (2) provide a single shared service for the delivery of the Building Control Service in the Joint Area;

- (3) oversee, monitor, manage and develop the joint arrangements to ensure the successful provision of the Building Control Service in the Joint Area;
- (4) enhance and improve the Building Control Service;
- (5) improve and sustain performance standards and competitiveness, cost effectiveness of the Building Control Service provided by the Partner Authorities to the people and businesses across the Joint Area;
- (6) explore all procurement opportunities and options for the delivery of the Building Control Service and associated activities;
- (7) endeavour to secure value for money for the Partner Authorities, the council tax payers and business rate payers of the Joint Area;
- (8) give full consideration to the impact (financial and non-financial) on employees and other services of the Partner Authorities;
- (9) maximise the opportunities under the statutory power to promote environmental, social and economic well-being in all matters related to the Building Control Service;
- (10) consider any other activities in accordance with the general scope of responsibility provided they continue to promote, develop or secure the role of the Joint Committee in the provision of the Building Control Service, including the procurement, implementation and management of the Building Control Service to the benefit of people and businesses for the Joint Area;
- (11) co-operate in a spirit of mutual trust, support and respect, and to ensure that when difficulties or differences of opinion arise they are addressed quickly, honestly and openly, if necessary by holding a Joint Meeting between the Chief Executives of the Partner Authorities;
- (12) share in a fair and equitable manner the costs and work in achieving the Aims and Objectives and for that purpose the Partner Authorities have agreed Financial Arrangements

specified in Schedule 2 to the Service Level Agreement which amongst other things outline the administrative and cost implications for the provision of a single shared service for the delivery of the Building Control Service in the Joint Area;

(13) respond in a more effective and co-ordinated way in relation to the development and implementation of an integrated strategy for the Building Control Service including the procurement of an integrated Building Control Service ICT solution in the Joint Area.

1.5.2 The Partner Authorities have agreed with effect from the Commencement Date to form the Joint Committee and for the functions set out in the Constitution and the Agreement to be delegated to and discharged by the Joint Committee on their behalf.

1.5.3 The Joint Committee shall be established and maintained with the membership, functions, powers, duties and responsibilities set out in the Constitution.

1.5.4 Any amendments to the Constitution shall be first approved by the Partner Authorities and then by the Joint Committee.

## 2.1 DEFINITIONS

In the Constitution, unless the context otherwise requires, the following terms shall have the meanings given to them below:

**“Agreement”** means the Agreement between Blackburn with Darwen and Burnley for the provision of a single shared service for the delivery of the Building Control Service;

**“Aims and Objectives”** means the agreed aims and objectives of the Joint Committee as set out in paragraph 3 of the Constitution and which may be amended from time to time in accordance with the Constitution;

**“Annual General Meeting”** means the meeting of the Joint Committee convened each year in accordance with paragraph 7 of the Constitution;

**“Blackburn with Darwen”** means Blackburn with Darwen Borough Council of Town Hall, King William Street, Blackburn BB1 7DY, which expression shall include its successors in title;

**“Building Control Authority”** means Blackburn with Darwen and/or Burnley;

**“Building Control Functions”** means all those building control functions that are the responsibility of each Partner Authority’s Executive;

**“Building Control Partnership”** means the joint arrangements for the provision of a single shared service for the delivery of the Building Control Service in the Joint Area;

**“Building Control Service”** means all the building control services provided by the Joint Committee pursuant to the provisions of the Constitution, the Agreement and the Service Level Agreement;

**“Building Regulations”** has the meaning in Section 122 of the Building Act 1984;

**“Burnley”** means Burnley Borough Council of Town Hall, Manchester Road, Burnley BB11 1JA, which expression shall include its successors in title;

**“Business Plan”** means a business plan prepared from time to time by the Joint Committee in accordance with paragraph 9 of the Constitution and the Agreement outlining the priorities of the Partner Authorities in order to achieve the Aims and Objectives and which has been approved and adopted by the Joint Committee in accordance with the Constitution and the Agreement;

**“Chair”** means the Chair of the Joint Committee appointed by the Joint Committee at each Annual General Meeting in accordance with paragraph 7.1 of the Constitution;



**“Clear Day”** means for the purposes of the Constitution a complete day and it shall not include the date upon which any notification is made or received under the Constitution or any intervening Sunday, Bank or Public Holiday;

**“Code of Conduct”** means for the purpose of each Partner Authority the relevant Code of Conduct for Members adopted by that Partner Authority in accordance with the 2000 Act;

**“Commencement Date”** means 3<sup>rd</sup> September 2009;

**“Constitution”** means this Constitution for the provision of a single shared service for the delivery of the Building Control Service in the Joint Area;

**“Delegated Functions”** means the functions delegated by each Partner Authority to the Joint Committee as set out in paragraph 4 of the Constitution;

**“Draft Business Plan”** means a draft business plan prepared from time to time by the Joint Committee in accordance with paragraph 9 of the Constitution;

**“Executive”** means the executive of a Partner Authority as prescribed by Section 11 of the 2000 Act;

**“Executive Arrangements”** has the meaning in Section 10 of the 2000 Act;

**“Executive Decision”** means a decision which the Joint Committee has the authority to make on behalf of each Partner Authority in accordance with the Constitution and the Agreement;

**“Financial Arrangements”** means the operational and financial details including any amendment from time to time between the Partner Authorities concerning the provision of the Building Control Service by the Joint Committee specified in Schedule 2 to the Agreement;

**“Functions”** mean the functions specified in paragraph 4 of the Constitution;

**“Joint Area”** means all of the administrative areas of the Partner Authorities as one whole;

**“Joint Arrangements”** means the Pennine Lancashire Building Control Joint Committee;

**“Joint Committee”** means the Pennine Lancashire Building Control Joint Committee;

**“Joint Committee Member”** means a person appointed to the Joint Committee by a Partner Authority in accordance with paragraph 5.1 of the Constitution;

**“Monitoring Officer”** means the Officer of each Partner Authority appointed in accordance with Section 5 of the Local Government and Housing Act 1989;

**“Partner Authority”** means either Blackburn with Darwen or Burnley or such other Local Authority that may become a Partner Authority in accordance with the Constitution;

**“Partner Authorities”** means Blackburn with Darwen and Burnley and such other Local Authority that may become a Partner Authority in accordance with the Constitution;

**“Partner Authority Member”** means a Joint Committee Member and/or Substitute Member appointed by a Partner Authority in accordance with paragraph 5.1 of the Constitution;

**“Procurement Exercise”** means the procurement process undertaken by the Joint Committee in accordance with the Business Plan and the terms of the Constitution;

**“Scrutiny Arrangements”** means the arrangements made by each Partner Authority for the scrutiny of its decisions in accordance with Section 21 of the 2000 Act;

**“Scrutiny Committee”** means the Committee of each Partner Authority responsible for the Scrutiny Arrangements in accordance with Section 21 of the 2000 Act;

**“Secretary”** means the person appointed by the Joint Committee pursuant to paragraph 8 of the Constitution;

**“Sub-Committee”** means a sub-committee of the Joint Committee established in accordance with paragraphs 7.1 and/or 7.3 of the Constitution;

**“Substitute Member”** means subject to the provisions of the Constitution a substitute for a Joint Committee Member appointed by a Partner Authority to act in the absence through illness of the Joint Committee Member in accordance with paragraph 5.1 of the Constitution;

**“Vice-Chair”** means the Vice-Chair of the Joint Committee appointed by the Joint Committee at each Annual General Meeting in accordance with paragraph 7.1 of the Constitution;

**“Voting Member”** means a Partnership Authority Member who is able to vote on behalf of a Partner Authority;

**“1972 Act”** means the Local Government Act 1972 (as amended);

**“2000 Act”** means the Local Government Act 2000 (as amended).

## 2.2 INTERPRETATION

2.2.1 In this Constitution except where the context otherwise requires:

- 2.2.1.1 the masculine includes the feminine and vice-versa;
- 2.2.1.2 the singular includes the plural and vice-versa;
- 2.2.1.3 a reference in the Constitution to any paragraph or sub-paragraph is, except where it is expressly stated to the contrary, a reference to such paragraph or sub-paragraph of the Constitution;
- 2.2.1.4 any reference to the Constitution shall include any approved amendment;
- 2.2.1.5 any reference to any enactment, order, regulation or other similar instrument shall be construed as a reference to the enactment, order, regulation or instrument (including any European Union instrument) as amended, replaced, consolidated or re-enacted;
- 2.2.1.6 headings are for convenience of reference only;
- 2.2.1.7 the words in the Constitution shall bear their natural meaning.

### 3. **AIMS AND OBJECTIVES OF THE JOINT COMMITTEE**

- 3.1 The Joint Committee wishes to operate a shared Building Control Service to achieve a sustainable and competitive Building Control Service offering opportunities for an enhanced Building Control Service and economies of scale.
- 3.2 The Joint Committee wishes to establish a clear and accountable framework to work together to promote the economic, environmental and social well-being of their respective areas and in order to be able to respond in a more effective and coordinated way in relation to the development and implementation of the Business Plan.
- 3.3 Each Partner Authority in recognition of the need for delivering value for money, promoting financial efficiency and effectiveness and securing continuous improvement in the provision of the Building Control Service wishes to establish the Joint Committee to:

- 3.3.1 procure services, facilities, assets and ICT solutions in accordance with the Business Plan;
  - 3.3.2 work together in a spirit of mutual trust, support and respect, and to ensure that when difficulties or differences of opinion arise they are addressed quickly, honestly and openly, if necessary by holding a meeting between the Chief Executives of the Partner Authorities;
  - 3.3.3 share in a fair and equitable manner the costs and work included in achieving the Aims and Objectives;
  - 3.3.4 endeavour to maximise the financial contributions which each Partner Authority shall be able to make;
  - 3.3.5 provide a forum and mechanism for ensuring that there is a coherent programme and organisational structure for the Building Control Service; and
  - 3.3.6 consider any other activity in accordance with the general scope of responsibility of the Joint Committee provided it promotes, develops or secures the role of the Joint Committee in Building Control Service procurement, implementation and management to the benefit of people and businesses of the Joint Area.
- 3.4 Each Partner Authority has agreed to establish and maintain the Joint Committee with the membership, functions, powers, duties and responsibilities set out in the Constitution and the Agreement.

#### 4. **FUNCTIONS TO BE EXERCISED BY THE JOINT COMMITTEE ON BEHALF OF THE PARTNER AUTHORITIES**

- 4.1 The functions of the Joint Committee are to:
  - 4.1.1 exercise the Building Control Functions including the functions, powers, duties and responsibilities of the Partner Authorities in relation to Building Control Service under the Building Act 1984 and all other related legislation and including the enforcement of Building Regulations in the Joint Area;
  - 4.1.2 develop a Business Plan for approval, adoption and implementation by the Joint Committee;

- 4.1.3 make recommendations to the Partner Authorities to provide resources as required to secure the delivery of the Business Plan and to support the Aims and Objectives of the Joint Committee;
- 4.1.4 prepare and submit as required all reports, business cases and supplementary information as may be required by central government and or any agency or organisation on behalf of central government in relation to the delivery of the Business Plan and/or to obtain additional funding to support the Aims and Objectives;
- 4.1.5 enter into dialogue with central government and or any agency or organisation on behalf of central government to secure the delivery of the Business Plan and/or to obtain additional funding to support the Aims and Objectives;
- 4.1.6 consult with appropriate persons and commission research and public opinion surveys into matters relevant to the Aims and Objectives and the Business Plan;
- 4.1.7 influence, advise and lobby central government and other agencies or organisations (whether locally, nationally and internationally) where this is consistent with the Aims and Objectives and the Business Plan;
- 4.1.8 keep under review the building control services offered by the private sector and to re-visit marketing strategies accordingly.

## 5. **MEMBERSHIP OF THE JOINT COMMITTEE**

- 5.1 Each Partner Authority shall appoint one elected Member as its Joint Committee Member and one Substitute Member (to act in its Joint Committee Member's absence through illness) as its Substitute Member to the Joint Committee.
- 5.2 The Partner Authority Members shall be Voting Members.
- 5.3 The term of office of each Partner Authority Member shall be determined by the Partner Authority appointing him, provided that for the duration of his appointment he remains an elected Member of the appointing Partner Authority and has been appointed by that Partner Authority to be or remain a Partner Authority Member.

- 5.4 Each Partner Authority shall give written notice to the Secretary of the name and contact details of its Partner Authority Member; such written notice may be given by electronic mail.
- 5.5 A Partner Authority may change its Partner Authority Member at any time provided that written notice of any such change is given to the Secretary, taking effect upon receipt; such written notice may be given by electronic mail.
- 5.6 Each Partner Authority operating under Executive Arrangements shall ensure that its Joint Committee Member and its Substitute Member are members of its Executive.
- 5.7 Each Partner Authority shall as far as possible ensure that Partner Authority Members have the skills and qualities required to fulfil the role of a Partner Authority Member.
- 5.8 Each Partner Authority shall send an appropriate officer to meetings of the Joint Committee, any Sub-Committee or working group.
- 5.9 Each Partner Authority, through its Partner Authority Member, shall have one vote at meetings of the Joint Committee and/or any Sub-Committee, and there shall be no second or casting vote.
- 5.10 Decisions made by the Joint Committee or Sub-Committee shall be by means of consensus. In the event of a vote being necessary, voting shall be by a show of hands and decisions reached will be based on the majority of votes cast for or against a particular proposal.
- 5.11 Recorded votes shall be taken if requested by a Partner Authority Member, and a Partner Authority Member shall have the right to have the way he voted (or abstained) recorded in the minutes.

## 6. **ROLE OF A PARTNER AUTHORITY MEMBER**

- 6.1 The responsibilities of a Partner Authority Member are to:
- 6.1.1 be a Voting Member;
  - 6.1.2 be committed to and act as a champion for the achievement of the Aims and Objectives and the delivery of the Business Plan;
  - 6.1.3 be a good ambassador for the Joint Committee;
  - 6.1.4 attend Joint Committee meetings regularly, vote on items of business if entitled to vote and make a positive contribution to the achievement of the Aims and Objectives and the implementation of the Business Plan;
  - 6.1.5 be aware of emerging technologies and processes in the area of the Building Control Service;
  - 6.1.6 act as an advocate for the Joint Committee in seeking any necessary approval of the Business Plan.

## 7. **MEETINGS OF THE JOINT COMMITTEE**

- 7.1 The first meeting of the Joint Committee in the year before 1<sup>st</sup> April 2010 shall be its Annual General Meeting and at this Meeting the Chair and Vice-Chair of the Joint Committee shall be appointed and any Sub-Committees of the Joint Committee shall be appointed. The Chair and Vice-Chair shall rotate automatically on an annual basis between the Partner Authorities. The Members appointed to the offices of Chair and Vice Chair shall be Voting Members of the Joint Committee.
- 7.2 Subject to paragraph 7.1, the Joint Committee shall normally meet at least four times a year. At each Annual General Meeting the Joint Committee shall, amongst other things, determine and approve the schedule of times and dates for all meetings to take place over the following year.
- 7.3 The first meeting of the Joint Committee in any year after 1<sup>st</sup> April 2010 shall be the Annual General Meeting at which the Chair and Vice-Chair of the Joint Committee shall be appointed and any Sub-Committees of the Joint



Committee shall be appointed, but nothing in this paragraph prevents the Joint Committee establishing a Sub-Committee at any other time.

- 7.4 The Joint Committee shall from time to time approve and adopt the Business Plan.
- 7.5 The quorum for a valid meeting of the Joint Committee shall be two Voting Members.
- 7.6 A printed copy of the summons, the agenda for each meeting, any relevant reports and the minutes of the previous meeting shall be despatched by the Secretary at least five Clear Days before such meeting to the Partner Authority Members.
- 7.7 At the same time, such papers shall also be despatched to the Chairs of the Partner Authorities' Scrutiny Committees with responsibility for scrutiny in respect of building control matters, to the spokespersons for Political Groups (if any) within the Partner Authorities and to the Chief Executives of the Partner Authorities or such other senior officer of a Partner Authority as may be nominated in writing by a Partner Authority to the Secretary.
- 7.8 The summons shall contain notice of all business, except urgent business, which is required to be brought before the Joint Committee either in the ordinary course of business or which is brought by the Chair, the Vice-Chair or the Secretary.
- 7.9 In the case of a matter requiring urgent attention the Chair and Vice-Chair at their absolute discretion may agree to an emergency meeting of the Joint Committee being convened with less than ten Clear Days before such meeting.
- 7.10 The Chair or Vice-Chair may summon a Special Meeting of the Joint Committee at any time, specifying the business to be considered at the Special Meeting. The Secretary shall within five Clear Days of receipt of

receiving such a request arrange for the Special Meeting to be convened within the next twenty-one Clear Days.

- 7.11 Meetings of the Joint Committee shall be open to the public and press except during consideration of items containing confidential or exempt information within the meaning of the 1972 Act.
- 7.12 Minutes of the Joint Committee will (subject to the provisions of paragraph 7.11) be available to the public and press as though they were minutes of a meeting of each Partner Authority.
- 7.13 The Chair, Vice-Chair or each Partner Authority may invite any person to attend a meeting of the Joint Committee or Sub-Committee for the purpose of making a presentation or participating in discussion on any item relevant to the Joint Committee's or Sub Committee's functions when that person is able to provide a professional or commercial opinion which the Chair, Vice-Chair or the Partner Authority considers will be of assistance to the Joint Committee or Sub-Committee.

## 8. **SUPPORT TO THE JOINT COMMITTEE**

- 8.1 The Secretary shall be an officer of a Partner Authority appointed by the Joint Committee who shall be designated amongst other things to provide administrative support.
- 8.2 The responsibilities of the Secretary are to:
  - 8.2.1 make all necessary arrangements for the convening of meetings of the Joint Committee and any Sub-Committees;
  - 8.2.2 provide or where necessary procure (at the expense of the Joint Committee) the provision of all advice on the technical, legal and financial implications of matters under consideration by the Joint Committee and any Sub-Committee relevant to the Joint Committee's or Sub-Committee's functions to be included in the reports to the Joint Committee and any Sub-Committee;

- 8.2.3 ensure that no contracts of any type are entered into on behalf of the Joint Committee without legal advice having been obtained and the Joint Committee informed of any implications for the Partner Authorities in terms of ongoing liabilities;
  - 8.2.4 ensure that no such contracts are entered into the financial consequences (whether one-off or ongoing) of which exceed the funding delegated by the Partner Authorities to the Joint Committee to administer unless each Partner Authority which shall be affected by that expenditure has passed a formal resolution to accept those financial consequences;
  - 8.2.5 bring to the attention of the Joint Committee or Sub-Committee matters which are relevant to the Joint Committee's or Sub-Committee's functions and which merit consideration by the Joint Committee or Sub-Committee;
  - 8.2.6 arrange for the taking and maintenance of minutes of meetings of the Joint Committee, any Sub-Committees or working group, and ensure that the business at meetings of the Joint Committee, any Sub-Committee or working group is conducted in accordance with legal requirements;
  - 8.2.7 be responsible for communications relating to the arrangements for meetings of the Joint Committee, any Sub-Committee or working group;
  - 8.2.8 manage and co-ordinate the day-to-day affairs of the Joint Committee, any Sub-Committees and working groups;
  - 8.2.9 be responsible for communications with other agencies, including the media.
- 8.3 The business address for all communications relating to the administration of the Joint Committee's affairs shall be the chief business address of the Officer appointed by the Joint Committee to provide this support, marked for the attention of the Secretary to the Joint Committee.

9. **BUSINESS PLAN**

- 9.1 The Joint Committee shall implement the approved and adopted Business Plan and shall make decisions having due regard to the approved and adopted Business Plan.
- 9.2 The Joint Committee may from time to time approve and adopt amendments to the Business Plan where necessary to accommodate unforeseen circumstances which have arisen which would assist the Joint Committee in achieving the Aims and Objectives.
- 9.3 Each year the Joint Committee shall be responsible for the preparation of a Draft Business Plan for approval and adoption by the Joint Committee as its approved and adopted Business Plan in accordance with paragraph 7.4 of the Constitution.
- 9.4 The Draft Business Plan shall set out the strategy for the achievement of the Aims and Objectives over the next full twelve-month period commencing on 1<sup>st</sup> April in the relevant year. It shall specify the activities to be undertaken and arrangements to be entered into in support of that strategy, together with a full assessment of the financial, resource, service, legal and contractual implications.
- 9.5 The Joint Committee shall from time to time approve and adopt the Draft Business Plan. Once approved and adopted the Draft Business Plan shall become the approved and adopted Business Plan for the Joint Committee in accordance with paragraph 7.4 of the Constitution.

10. **CONTRIBUTIONS TO THE COSTS INCURRED BY THE JOINT COMMITTEE**

- 10.1 The Partner Authorities shall fund all costs incurred by the Joint Committee in accordance with the Business Plan.
- 10.2 The costs referred to in paragraph 10.1 shall be incurred by Blackburn with Darwen on behalf of the Joint Committee and each Partner Authority shall

reimburse Blackburn with Darwen its share of these costs on the provision of reasonable evidence that such costs have been reasonably incurred.

10.3 The Financial Arrangements shall be as set out in Schedule 2 to the Agreement.

11. **DELEGATION TO SUB-COMMITTEES OR OFFICERS**

11.1 The Joint Committee may arrange for any of its functions to be discharged by a Sub-Committee or by officers of the Partner Authorities.

11.2 The Joint Committee may appoint working groups of Partner Authority Members and/or officers to consider specific matters and report back to the Joint Committee or any Sub-Committee with recommendations.

11.3 Contracts on behalf of the Joint Committee shall be let by Blackburn with Darwen, and any Procurement Exercise on behalf of the Joint Committee shall be subject to Blackburn with Darwen's Contract Procedure Rules. Each Partner Authority shall reimburse Blackburn with Darwen for its equitable share of the costs on the provision of reasonable evidence that such costs have been reasonably incurred.

12. **AMENDMENTS TO THE CONSTITUTION BY THE JOINT COMMITTEE**

12.1 The terms of the Constitution shall be kept under periodic review by the Joint Committee and by each Partner Authority.

12.2 Subject to paragraphs 17.1 and 17.2, any amendment to the Constitution to be proposed to the Joint Committee by the Partner Authorities (including but not limited to the addition of a new Partner Authority to the Joint Committee) shall be subject to all votes cast at a meeting of the Joint Committee being cast in favour of the proposed amendment.

13. **SCRUTINY ARRANGEMENTS**

- 13.1 Executive Decisions made by the Joint Committee insofar as they relate to the exercise of Building Control Functions by the Joint Committee shall be subject to the Scrutiny Arrangements of each Partner Authority.
- 13.2 All such Executive Decisions of the Joint Committee shall be notified to all those to whom papers are to be despatched in accordance with paragraph 7.7 within two Clear Days of the decision being made.
- 13.3 The Partner Authority Members and officers shall co-operate fully with the relevant Scrutiny Committee of each Partner Authority.
- 13.4 Any Executive Decision of the Joint Committee called in for scrutiny before it is implemented shall not be implemented until the outcome of Scrutiny Arrangements of the Partner Authority whose membership has called in the decision.
- 13.5 A call in of an Executive Decision can only be made if the Executive Decision concerned directly affects the Partner Authority whose membership wishes to call in the Executive Decision.
- 13.6 A Partner Authority Member must if he is involved in the consideration of a call-in of a matter at a meeting of a Scrutiny Committee or a Sub-Committee of such a Committee regard himself as having a personal and a prejudicial interest if that consideration relates to an Executive Decision made by the Joint Committee or any Sub Committee of the Joint Committee.
- 13.7 Paragraph 13.6 shall not apply if that Partner Authority Member attends the meeting for the purpose of answering questions or otherwise giving evidence relating to that Executive Decision.

- 13.8 A Scrutiny Committee shall notify the Joint Committee if it includes in its work programme any aspect of policy development or review relating to the work or functions of the Joint Committee.
- 13.9 Once it has formed recommendations on proposals for development, a Scrutiny Committee shall have the right to prepare a formal report and submit it for consideration by the Joint Committee.
- 13.10 The Joint Committee shall normally consider the report of a Scrutiny Committee at its next meeting unless such a meeting is not held within the next period of 28 days from receipt of the report by the Secretary in which case a Special Meeting shall be convened in accordance with paragraph 7.10. and the Joint Committee shall issue a formal response to such a report.
- 13.11 Where a Partner Authority Member or officer is required to attend a Scrutiny Committee, the Chair of that Committee will inform the Monitoring Officer or Proper Officer of the Partner Authority.
- 13.12 The Monitoring Officer or Proper Officer shall inform the Partner Authority Member or officer in writing giving at least ten Clear Days notice of the meeting at which he is required to attend, such notice to state the nature of the item on which he is required to attend to give account and whether any papers are required to be produced for the Scrutiny Committee.
- 13.13 Where attendance at a Scrutiny Committee shall require the production of a report, then the Partner Authority Member or officer concerned shall be given sufficient notice to allow for preparation of appropriate documentation.
- 13.14 Where, in exceptional circumstances, the Partner Authority Member or officer is unable to attend on the required date, then the Scrutiny Committee may in consultation with the Partner Authority Member or officer arrange an alternative date for attendance which shall be as soon as practicable.
- 13.15 If having considered an Executive Decision taken by the Joint Committee a Scrutiny Committee is concerned about the Executive Decision, then it may

refer the Executive Decision back to the Joint Committee for reconsideration, setting out in writing the nature of its concerns. If referred back to the Joint Committee for reconsideration the Joint Committee shall have a further ten Clear Days from the date of referral back to consider whether to amend the original Executive Decision before reaching a final decision. The provisions of paragraph 7.10 shall apply for the purposes of any meetings called for the Joint Committee to consider matters referred to it by the Scrutiny Committee.

- 13.16 If following an objection to an Executive Decision, a Scrutiny Committee does not meet in the period prescribed by the Partner Authority's Scrutiny Arrangements or does meet but does not refer the matter back to the Joint Committee, the Executive Decision shall take effect on the date of the Scrutiny Meeting or the expiry of the period in which it should have met whichever is the earlier.
- 13.17 Subject to paragraph 13.20, the call-in procedure set out above shall not apply where the Executive Decision being taken by the Joint Committee is urgent.
- 13.18 An Executive Decision shall be deemed to be urgent if any delay likely to be caused by the call-in process would prejudice the interests of the Joint Committee, the public or a third party.
- 13.19 The record of the Executive Decision and notice by which it is made shall state whether, in the opinion of the Joint Committee, the Executive Decision is an urgent one and, therefore, not subject to call-in in accordance with the procedures set out in this paragraph 13.
- 13.20 The relevant Members or officers of the Scrutiny Committee as set out in the Scrutiny Arrangements must agree both that the Executive Decision proposed is reasonable in all circumstances and also to its being treated as a matter of urgency.



- 13.21 The operation of the provisions relating to call-in and urgency shall be monitored annually by the Secretary, and a report submitted to the Joint Committee with proposals for review if necessary.
- 13.22 The Joint Committee shall from time to time if requested provide a report to each Partner Authority Scrutiny Committee containing:
- a review of the progress of the Building Control Partnership and any key matters arising during the preceding period of six months;
  - the principal proposals in the Business Plan for the next following year;
  - an update on the financial position of the Building Control Partnership, or such other information as may be reasonably required.
- 13.23 Partner Authority Members and officers shall co-operate fully with any request of a Partner Authority in respect of:
- 13.23.1 the consideration of any report required under paragraph 13.22;  
and
- 13.23.2 any reasonable request for information to enable a review of any aspect of the provision of the Building Control Service.
- 13.24 The Joint Committee shall have due regard to the reasonable recommendations of a Partner Authority arising out of paragraphs 13.22 and 13.23.

14. **CONDUCT AND EXPENSES OF PARTNER AUTHORITY MEMBERS**

- 14.1 Partner Authority Members shall observe at all times the provisions of the Code of Conduct adopted by their respective Partner Authority.
- 14.2 Each Partner Authority shall be responsible for meeting any expenses to which any Partner Authority Member or officer is entitled as a result of their attendance at duly authorised meetings.

15. **LIABILITY OF PARTNER AUTHORITY MEMBERS**

- 15.1 Partner Authority Members shall have the same responsibilities and liabilities as those which apply when sitting on other committees and bodies as an appointed representative on behalf of their Partner Authority.
- 15.2 Where any contractual arrangements are authorised by the Joint Committee, any liabilities arising under those arrangements shall rest with the Partner Authorities.
- 15.3 Indemnification for any liabilities which arise is a matter between Partner Authority Members and their Partner Authorities.

16. **DISPUTE RESOLUTION**

- 16.1 Any dispute under the Constitution shall in the first instance be referred to the Chief Executives of the Partner Authorities who shall meet to consider the dispute and use all reasonable endeavours to resolve matters as soon as reasonably practicable.
- 16.2 The Partner Authorities shall use all reasonable endeavours to reach a negotiated resolution through the above dispute resolution procedure. The specific format for such resolution shall be left to the reasonable discretion of the Partner Authorities but may include preparation and submission of statements of fact or of position.
- 16.3 If the dispute is not resolved at this meeting and only if each Partner Authority agrees at such a meeting or within fifteen Clear Days of its conclusion the Partner Authorities may request that the dispute be referred to a mediator to be agreed between them.

17. **ADDITIONAL MEMBERS**

- 17.1 Subject to paragraph 17.2, the Joint Committee may agree to one or more local authorities joining the Building Control Partnership for the purpose of

providing a single shared service for the delivery of the Building Control Service in the Joint Area of the Partner Authorities, as provided for in the Constitution and the Agreement.

17.2 Any proposal for one or more local authorities to join the Building Control Partnership shall be subject to each Partner Authority first approving the proposal.

18. **CESSATION OF MEMBERSHIP**

18.1 A Partner Authority may withdraw from membership of the Joint Committee by giving twenty-four months notice (or such shorter period of time agreed by the Partner Authorities) in writing to the Secretary.

18.2 In the event of a Partner Authority withdrawing from membership of the Joint Committee as provided for in paragraph 18.1, then the provisions for withdrawal in the Agreement shall apply and in respect of any contractual obligations or other financial commitments entered into or costs reasonably incurred on behalf of the Joint Committee whilst that Partner Authority was a Member of the Joint Committee and to which it was a party, the Partner Authority shall:

18.2.1 continue to meet its share of the financial commitment and costs in accordance with paragraph 10 or otherwise meet its part of the contractual obligations as required until the conclusion of the commitment or obligation as provided for in the contract or other documentation setting out the commitment or obligation; and

18.2.2 continue to be responsible for its part of any other liabilities relating to those contractual obligations or financial commitments until the conclusion of the obligations or commitments, as the case may be.

18.3 If a Partner Authority decides to withdraw from membership of the Joint Committee then the Joint Committee shall automatically cease to exist on the expiration of the Notice Period required by paragraph 18.1 and the Joint Committee shall make appropriate recommendations to the Partner Authorities to end the operation of the Joint Committee.

19. **ACCESS TO INFORMATION**

19.1 The Access to Information Rules of Blackburn with Darwen shall apply to the Joint Committee's business.

20. **PRESS AND PUBLIC RELATIONS**

20.1 Subject to paragraph 8.2.9, the Joint Committee shall have power to issue such press releases and carry out such publicity as it deems necessary to further the Aims and Objectives.

21. **APPOINTMENT OF AUDITORS**

21.1 The auditors of Blackburn with Darwen shall be appointed on behalf of the Joint Committee to regulate and inspect financial arrangements in respect of the Joint Arrangements.

21.2 Blackburn with Darwen shall operate open book accounting policies and procedures and shall comply with document retention policies on behalf of the Joint Committee and shall on request and within a reasonable time afford the other Partner Authority Member or their respective auditors and/or professional advisers such access to those records as may be required by them in connection with the Joint Arrangements.

21.3 Partner Authority Members and officers shall co-operate fully with any request made by the auditors and/or their professional advisers.

## **PLLACE (Pennine Lancashire Leaders) Constitution - Introduction**

On the 12<sup>th</sup> January 2009 Pennine Lancashire partner authorities and Government signed a Multi Area Agreement (MAA) which for ease of reference is annexed to this Constitution. This signalled a new commitment by all Pennine Lancashire councils to work together to transform the area. In signing to the agreement Government were also approving new governance structures to help us deliver our ambitious actions. This Constitution sets out a framework, which will allow us to drive home this opportunity and begin an exciting new era of cross boundary collaboration.

Our MAA identifies a number of key themes relating to the sustainable economic development of the area, and seeks to put in place the building blocks for a modern economy. Higher education, transport, housing, employment and skills all feature prominently, and through working together greater benefits can be felt across the area. To achieve this Government has committed to work with us to devolve more funding. A PLLACE Joint Committee will be formed pursuant to sections 101 and 102 of the Local Government Act 1972 to fill the gap and provide the area with a conduit to receive greater levels of investment and a vehicle to deliver the MAA.

Our vision for Pennine Lancashire is, “to provide a confident, dynamic and growing economy, characterised by a thriving higher value business base, supported by a responsive education and training system; an area with fast and reliable transport links to employment opportunities underpinned by a revitalised housing market and cohesive communities.”

The MAA and Sub National Review of Regeneration and Economic Development has provided a policy context which requires us to look at how we work together, and in doing so to formalise years of effective partnership work. This Constitution sets out the role of PLLACE and how it will turn our vision into reality in these challenging times.

### Statement of Intent

In forming the Joint Committee (PLLACE), it is the intention of the partner authorities to work together for the benefit of Pennine Lancashire. The primary role of PLLACE will be to take forward the MAA and to take decisions on matters that are delegated to Pennine Lancashire from Government and Regional Agencies. PLLACE will also oversee the development of strategies that operate on a Pennine Lancashire footprint, as opposed to strategies that each individual authority prepares and implements within its area.

It is the express intention of all the partner authorities, that PLLACE should operate in accordance with clearly defined terms of reference. All partners are committed to ensuring that PLLACE does not diminish the role of the

constituent councils and that it does not seek to expand its remit into areas which are currently subject to the self-determination of the partner authorities.

## **CONSTITUTION OF PLLACE**

1. The Pennine Lancashire authorities ("the authorities") are the following local authorities within the meaning of the Local Government Acts 1972 and 2000 for their respective administrative areas:
  - a. Blackburn with Darwen Borough Council;
  - b. Burnley Borough Council;
  - c. Hyndburn Borough Council;
  - d. Lancashire County Council;
  - e. The Borough Council of Pendle;
  - f. Ribble Valley Borough Council; and
  - g. Rossendale Borough Council.
2. The authorities are signatories to a Multi-Area Agreement (MAA) with the United Kingdom government to promote the economic prosperity of the area for which they are jointly responsible (this area being "Pennine Lancashire").
3. In order to further the purposes of the MAA the authorities have each determined to form a Joint Committee which is to be known as PLLACE.

### **Membership of PLLACE**

4. Each of the authorities will appoint for each municipal year one elected member to the joint committee who should normally be the Leader. Each of the authorities will inform the PLLACE Strategy Unit in writing of these annual appointments.
5. Each of the authorities will also appoint for each municipal year one or more named substitutes, who may attend in place of the person appointed at paragraph four above and who will also be executive members where applicable. Each of the authorities will inform the PLLACE Strategy Unit in writing of these annual appointments.

6. When a substitute proposes to attend a meeting of PLLACE prior notification will be provided to the PLLACE Strategy Unit.
7. Each authority will have one vote only on PLLACE.

**Functions of PLLACE**

8. The authorities have each agreed that PLLACE will fulfil the following functions:
  - a. monitoring the implementation of the MAA;
  - b. providing strategic oversight of the Pennine Lancashire Development Company and other MAA delivery partners;
  - c. determining the allocation of resources made available to the authorities jointly;
  - d. developing, agreeing and managing the following strategies for Pennine Lancashire:
    - i. Economic;
    - ii. Housing;
    - iii. Transport;
    - iv. Spatial;
    - v. Integrated delivery plans; and
    - vi. Investment frameworks;
  - e. Commissioning and publishing research to support its functions;
  - f. Responding to government consultations which affect the whole area of Pennine Lancashire;
9. PLLACE may also exercise any other functions which the authorities unanimously determine it should assume responsibility for. e.g. addressing health inequalities; and
10. PLLACE may discuss and make recommendations to the authorities in relation to any other matter which concerns the economic prosperity of Pennine Lancashire.

**Meetings**

11. PLLACE will hold at least four meetings each year.

12. Meetings will be held in public other than in the circumstances set out in paragraph 21.
13. At its first meeting and annually thereafter, the following will be determined for the ensuing year:
  - a. The appointment of a Chair and Vice-Chair; and
  - b. A timetable of meetings.
14. The Chair and Vice-Chair shall, unless s/he resigns the office or ceases to be a member of PLLACE continue in office until a successor is appointed in accordance with paragraph 13 above.
15. In the absence of the Chair, the Vice-Chair shall preside at the meeting. In the absence of both, the members present shall, as the first item of business, appoint one of their number to be Chair of the meeting.
16. The Chair or in his/her absence the Vice-Chair may call a special meeting to consider a matter that falls within the remit of PLLACE but cannot await the next scheduled meeting provided at least 10 clear working days notice in writing is given to the PLLACE Strategy Unit.
17. In this Constitution the phrase ‘clear working days’ means that the relevant number of days is calculated excluding the day that notice is given (or other instigating event) and the day of the meeting. Week-ends and bank holidays are excluded from the calculation.
18. No business shall be transacted at a meeting unless at least five of the authorities are represented by a member or substitute member of PLLACE.
19. Decisions of PLLACE will be by a qualified majority save that:
  - a. any decision to recommend the authorities to agree an alteration to the terms of this Constitution must be unanimous; and
  - b. any decision which requires action to be taken or resources to be provided by any one or more of the authorities will require the agreement of such authority or authorities.
  - c. for the purposes of this Constitution the term “Qualified Majority” shall mean the affirmative vote of no less than 5 members of PLLACE with no more than two members voting against the resolution in question.
20. Voting shall be by way of show of hands.



21. PLLACE may by resolution exclude the press and public from a meeting during an item of business wherever it is likely in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during that item there would be disclosure of exempt or confidential information as defined by the Local Government Act 1972 and, where applicable the Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2000.
22. Non-voting advisers/observers will be invited to attend meetings of PLLACE for example representatives of the Chamber of Commerce, the PCT, Lancashire Economic Partnership Limited and Elevate, and may participate in the debate, but where they have an interest on the item in discussion they should declare this interest..

### **Delegation**

23. Subject to the unanimous agreement of its members, PLLACE will have available to it full power to delegate its powers to a sub-committee of PLLACE or officer of one of the authorities.
24. It is anticipated that PLLACE will put in place a working group comprising the chief executives of the authorities or their representatives who will make recommendations to PLLACE in relation to the functions of PLLACE and which will provide a report to PLLACE at each of its meetings.

### **Ethical Standards**

25. Members of PLLACE will continue to be bound by the code of conduct which applies to them as members of the authority to which they have been elected, when they are conducting the business of PLLACE.
26. It is agreed by the authorities that the rules about confidential information in the relevant code of conduct will apply to the confidential information of PLLACE.

### **Committee administration**

27. As a statutory Joint Committee, PLLACE is subject to the provisions of the Local Government Act 1972 in relation to access to information and committee administration for PLLACE will be provided by Blackburn with Darwen Borough Council's Democratic Services, whose address is Blackburn Town Hall, King William Street, Blackburn, BB1 7DY, and who will be responsible for preparing and circulating agendas for meetings, and for producing the minutes. All agendas will be agreed by the Chair before they are sent out.

28. Items of business may not be considered at a meeting of PLLACE unless a copy of the item has been open to inspection by members of the public and the authorities for at least 5 clear working days before the meeting (or where the meeting is convened at shorter notice, from the time the meeting is convened.) However an item that has not been open to inspection may be considered where, by reason of special circumstances which shall be specified in the minutes, the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.

### **Cessation of Membership**

29. Any authority may withdraw from membership of PLLACE by giving a minimum of twelve months notice (or such shorter period of time agreed by the members) in writing to the PLLACE Strategy Unit.
30. In the event of an authority withdrawing from membership of PLLACE as provided for in paragraph 29 above, then the following provisions for withdrawal in this Constitution shall apply and in respect of any contractual obligations or other financial commitments entered into or costs reasonably incurred on behalf of PLLACE whilst that authority was a member, that authority shall:
- a. continue to meet its share of the financial commitment and costs or meet its contractual obligations as required until the conclusion of the commitment or obligation as provided for in the documentation setting out the commitment or obligation; and
  - b. continue to be responsible for its part of any other liabilities relating to those contractual obligations or financial commitments until the conclusion of the obligations or commitments, as the case may be.

### **Scrutiny Arrangements**

31. Provisions 32 to 36 below shall, in relation to Ribble Valley Borough Council, be read with the substitution of the word “policy” for the word “executive”. Ribble Valley Borough Council’s “call-in procedure for decisions made by policy committees” will apply to all such policy decisions made by PLLACE.
32. Executive decisions made by PLLACE insofar as they relate to the exercise of the functions of PLLACE shall be subject to the scrutiny arrangements of each authority.
33. All such executive decisions of PLLACE shall be notified to all those to whom papers are to be despatched to the authorities in

accordance with paragraph 27 above within two (2) clear working days of the decision being made.

34. Each authority and their officers shall co-operate fully with the relevant scrutiny committee of each of the other authorities.
35. Any executive decision of PLLACE called in for scrutiny before it is implemented shall not be implemented until the outcome of scrutiny arrangements of the member whose membership has called in the decision.
36. A call in of an executive decision can only be made if the executive decision concerned directly affects the authority whose membership wishes to call in the executive decision.

### **Dispute Resolution**

37. Any dispute under this Constitution shall in the first instance be referred to the Chief Executives of the authorities who shall meet to consider the dispute and use all reasonable endeavours to resolve matters as soon as reasonably practicable.
38. The authorities shall use all reasonable endeavours to reach a negotiated resolution through the above dispute resolution procedure. The specific format for such resolution shall be left to the reasonable discretion of the authorities but may include preparation and submission of statements of fact or of position.
39. If the dispute is not resolved at this meeting and only if each authority agrees at such a meeting or within fifteen (15) clear working days of its conclusion the authorities may request that the dispute be referred to a mediator to be agreed between them.

### **Confidential Information**

40. Except as authorised by PLLACE and except for information that is in the public domain, already in the lawful possession of the authorities, or is required by law to be disclosed, the authorities shall keep secret and shall not use or disclose, but shall use their best endeavours to prevent the use or disclosure of, any information provided in documentary form or electronically, which includes but is not limited to information relating to PLLACE, its transactions, processes, specifications, methods, or other of its activities or affairs or those concerning its staff and/or suppliers and any other information of a confidential, secret or proprietary nature.
41. The authorities must note their obligations under the Data Protection Act 1998, Freedom of Information Act 2000, Human Rights Act 1998 and any codes of practice and best guidance

notes issued by the government and appropriate enforcement agencies. Each authority must comply with this legislation in so far as it places obligations on it and to facilitate compliance by any member. In particular each member must note that PLLACE or any relevant accountable body may be required to provide information relating to this Constitution or the business of PLLACE to a person in order to comply with its obligations under such legislation.

### **Amendments to the Constitution**

42. The terms of this Constitution shall be kept under periodic review.
43. Any amendments to this Constitution to be proposed to PLLACE must first be approved by each of the authorities (including but not limited to the addition of a new member authority).
44. The amendment once approved by the authorities shall be subject to the unanimous approval of PLLACE.

## **Council Procedure Rules**

### **CONTENTS**

#### **Rule**

1. Annual meeting of the Council
2. Ordinary meetings
3. Extraordinary meetings/Special meetings
4. Time and place of meetings
5. Notice of and summons to meetings
6. Chair of meeting
7. Quorum
8. Duration of meeting
9. Questions by the public
10. Questions and Observations by Members
11. Motions on notice
12. Motions on Expenditure
13. Motions without notice
14. Rules of debate
15. Previous decisions and motions
16. Voting
17. Minutes
18. Motions Affecting Council Employees
19. Exclusion of public
20. Members' conduct
21. Disturbance by public
22. Suspension and amendment of Council Procedure Rules
23. Application to committees and sub-committees
24. Attending development control training prior to determining development control application.

## **1. ANNUAL MEETING OF THE COUNCIL**

### **1.1 Timing and business**

In a year when there is an ordinary election of Members, the annual meeting (Mayor making) will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in May.

The annual meeting will:

- (i) elect a person to preside if the chair of Council is not present;
- (ii) elect the chair of Council (Mayor); in doing so will have regard to the protocol in Part 5.5 of the Constitution.
- (iii) elect the vice chair of Council (Deputy Mayor); in doing so will have regard to the Protocol in Part 5.5 of the Constitution.
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the chair;

### **1.2 Selection of Councillors on Committees and Outside Bodies**

The council will at a meeting, i.e. Appointments Council, currently held on the same day and following on from the Annual Meeting:

- (i) elect the Leader, and at any subsequent Appointments Council Meeting held on the date on which the Leader's term of office as Leader ends i.e. up to 4 years, in accordance with Article 7.  

Election of the Leader will take place at the Appointments Council or at any subsequent Appointments Council held on a day when the Leader's term of office is to end by virtue of Section 44 of the Local Government Act 2000 (as amended i.e. The first Appointments Council after the Leader's normal day of retirement as a Member.)
- (ii) if before the expiry of the Leader's term of office, the Leader resigns the office of Leader, or ceases to be a Member, or is removed from the Office of Leader by a resolution of the Council under Article 7.03 (d ) in Part 2 of the Constitution, then the Council will elect a new Leader as soon as is reasonably practicable.  

The Leader will appoint between 2 and 9 Members to the Executive (one of whom will be appointed by the Leader to act as Deputy Leader).
- (iii) approve a programme of ordinary meetings of the Council for the year if not previously agreed; and
- (iv) decide which committees and sub-committees to establish for the

municipal year

- (v) decide any changes to the size and the terms of reference for those committees set out in the Constitution
- (vi) decide the allocation of seats to political groups in accordance with the political balance rules;
- (vii) receive nominations of Members to serve on each committee and outside body; and
- (viii) appoint at least one scrutiny committee, a Standards Committee and any other committees/sub-committees the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive functions (as set out in Part 3 of this Constitution);
- (ix) appoint the Chairs and Vice Chairs of those Committees
- (x) appoint to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the executive.
- (xi) consider any other business set out in the notice convening the meeting.

## **2. ORDINARY MEETINGS**

Ordinary meetings of the Council will take place in accordance with a programme decided by the Council (currently every 10 weeks). Ordinary meetings will:

- (i) elect a person to preside if the Mayor or 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 or members of the Executive;
- (v) receive questions or petitions in accordance with the Council's right to speak provisions or the petition scheme
- (vi) receive reports from the executive and the Council's committees and receive questions and answers on any of those reports;
- (vii) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (viii) consider motions; and
- (ix) consider any other business specified in the summons to the meeting, including consideration of proposals from the executive in relation to the Council's budget and policy framework and reports of the scrutiny committees for debate or questions under Rule 10.2

## **3. EXTRAORDINARY MEETINGS/SPECIAL MEETINGS**

### **3.1 Calling extraordinary meetings/special meetings.**

Those listed below may request the Head of Legal and Democratic Services to call Council meetings in addition to ordinary meetings and must specify the business to be conducted at that meeting.

- i) the Council by resolution-a special meeting;
- ii) the Mayor
- iii) the Monitoring Officer or the Head of Finance and Property (section 151 officer); and
- iv) any five members of the Council if they have signed a requisition presented to the Mayor and he/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 will be that specified by those calling the meeting. The Head of Legal and Democratic Services may, after consulting the Mayor, include additional items of business on the agenda.

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

The time and place of meetings will be determined by the Head of Legal and Democratic Services and notified in the summons. Ordinary meetings of the Council will normally be held on Wednesday at 6.30 pm.

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

The Head of Legal and Democratic Services 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 Head of Legal and Democratic Services will send a summons signed by him or her by post or other appropriate means to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

### **6. CHAIR OF THE MEETING**

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

### **7. QUORUM**

The quorum of a Council meeting will be one quarter.

For all other meetings the quorum will be one third of the membership of the meeting (rounded up or down to the nearest whole figure where this would result in a fraction). During any meeting if the chair 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 chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

### **8. DURATION OF MEETING**



- 8.1 Unless the majority of Members present vote for the meeting to continue, any meeting that has lasted for three hours will adjourn immediately. Remaining business will be considered at a time and date fixed by the chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

9. **PUBLIC QUESTION TIME**

9.1 **At Council meetings**

'Public Question Time' will be held during the first 30 minutes of the meeting.

Members of the public may ask a question, make a statement or present a petition, in accordance with the petition Scheme, at a Council meeting provided notice in the prescribed form (including receipt by fax or e-mail) has been received by the Head of Legal and Democratic Services by 5.00 pm on the day before the meeting.

A person asking a question, making a statement or presenting a petition will be allowed a maximum of 5 minutes to speak.

The relevant Executive Member or the Chair (or if absent the Vice Chair) of the appropriate Committee or Sub-Committee will reply initially.

The Executive Member, Chair (or Vice Chair) will have a final right of reply.

Where there is more than one speaker on the same issue the Mayor may, in the interests of the efficient conduct of the meeting, restrict those speaking to one speaker for and one speaker against a proposal or a reduced period of time so that not more than 10 minutes is taken up by speakers on that issue.

If it has not been possible to deal with all the questions or statements received during the time allowed, arrangements will be made to send a written reply as soon as possible.

A record of all people making representations will be included in the Minutes of the meeting

The Mayor will have discretion to disallow any representations especially those which seem defamatory or discriminatory, vexatious, frivolous or otherwise not within the spirit of the Council's right to speak policy in the opinion of the Mayor/chair of the meeting.

Where the person (or nominee of that person) asking a question, making a statement or presenting a petition is a party to a complaint or proceedings against the Council which are currently before a Court, Tribunal, Inquiry or the Ombudsman, or any matter which is awaiting determination by the

Council acting under its regulatory powers, then that person or nominee is excluded from these provisions, whether the subject of their request to speak is related to the complaint, proceedings or determination.

Public question time shall not be used to raise any matter which has been raised within the previous 6 months, unless it can be shown that the Council has not delivered on an undertaking given in response to the previous question, or that the circumstances have changed significantly since the original question was asked.

Questions relating to individual decisions made by the Council, Executive or any of its Committees may only be raised within 12 months of the decision being made

Not more than 10 minutes will be allowed for debate.

## 9.2 **At Executive/Committee/Sub-Committee meetings**

'Public Question Time' will be held during the first 30 minutes of the Executive meeting and during the first 15 minutes of Scrutiny Committees/Sub Committees, except in the case of Appeals Committees

for arrangements see procedure rule 9.1 above, requests to speak shall relate to items within the remit of the Executive.

## 9.3 **Different arrangements apply to meetings of the Licensing Committee and the Development Control Committee.**

### (1) Licensing Committee

Members of the public may ask a question, make a statement or present a petition relating to any matter within the remit of the Committee except those matters relating to Private Hire and Hackney Carriage licence applications and any convictions relating to individuals.

A person who has given the required notice will normally be heard at the beginning of the meeting (after the signing of the Minutes of the previous meeting) or at the discretion of the Chair, immediately prior to the discussion of the item on which the representation is being made.

If the agenda item is listed for consideration after the exclusion of the public the person will be heard at an appropriate point in the public part of the meeting at the discretion of the Chair.

Where there is more than one speaker on the same issue the chair may, in the interests of the efficient conduct of the meeting, restrict those speaking to one speaker for and one speaker against a

proposal or a reduced period of time so that not more than 10 minutes is taken up by speakers on that issue.

If the number of requests to make representations on a number of issues is so large that the business of the meeting is not likely to be completed in the time available, the Chair may restrict the total time available for representations to not more than 30 minutes.

Notice in the prescribed (green) form must be given by no later than 5.00 pm three days before the day of the meeting.

(2) Development Control Committee

Notice in the prescribed (yellow) form must be given by no later than 5.00 pm three days before the day of the meeting.

The notice must include a summary of the points to be raised.

A person who has given the required notice on any matter within the remit of the Committee will normally be heard at the beginning of the meeting (after the signing of the Minutes of the previous meeting) or at the discretion of the Chair, immediately prior to the discussion of the item on which the representation is being made.

If the agenda item is listed for consideration after the exclusion of the public the person will be heard at an appropriate point in the public part of the meeting at the discretion of the Chair.

Where there is more than one speaker on the same issue the chair may, in the interests of the efficient conduct of the meeting, restrict those speaking to one speaker for and one speaker against a proposal or a reduced period of time so that not more than 10 minutes is taken up by speakers on that issue.

If the number of requests to make representations on a number of issues is so large that the business of the meeting is not likely to be completed in the time available, the Chair may restrict the total time available for representations to not more than 30 minutes.

A person making representations will be allowed to speak for no more than 5 minutes.

10. **QUESTIONS AND OBSERVATIONS BY MEMBERS**

- 10.1 On reports of the Executive Members a Member of the Council may ask the Leader or the relevant Member of the Executive a question and make an observation. On reports of the Chairs of Committees a Member of the Council may ask the relevant Chair a question and make an observation..

In normal circumstances the relevant Executive Members will respond directly to any questions or observations on Executive Member reports, with the Leader responding if the issue covered more than one portfolio area. In normal circumstances the relevant Chair (or Vice chair if absent) will respond directly to any questions or observations on a Committee Chair's report. Wherever practicable the Member shall give prior notice to the Leader, Executive Member or Chair of their intention to refer to the matter.

## 10.2 Questions on notice at full Council

Subject to Rule 10.3, a member of the Council may ask:

- a member of the Executive
- the chair of any committee or sub-committee
- the Council's representative on any outside body

a question on any matter in relation to which the Council has powers or duties or which affects the Borough.

## 10.3 Notice of questions

A member may only ask a question under Rule 10.2 if either:

- (a) they have given at least two working days notice in writing before the day of the Council meeting of the question to the Head of Legal and Democratic Services; or
- (b) the question relates to urgent matters, they have the consent of the chair to whom the question is to be put and the content of the question is given to the Head of Legal and Democratic Services by 10.00 am on the day of the meeting

## 10.4 Response

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

## 10.5 Members Right to speak at Executive, Committee or Sub-Committee Meetings.

### Meetings or Parts of Meetings Open to The Public

A Member of the Council may attend meetings of the Executive, Committee and Sub-Committee (other than the Appeals Committee) of which they are not a Member and speak. They will be subject to the same procedure as applies to Members of the Public under Rule 9.

### Meetings or Parts of Meetings Not Open to the Public

Members of the Council do not have an automatic right to attend meetings or parts of meetings of the Executive, Committees or Sub-Committees of which they are not a Member where those meetings or parts of meetings are not open to the public. Members can however, following the procedure set out in Rule 9, request to attend and speak in the private part of a meeting. The Chair of the meeting may consent to attendance and the Members of the meeting may consent to the Member speaking by a simple majority.

**11. MOTIONS ON NOTICE**

Except for motions which can be moved without notice under Rule 13, written notice of every motion, signed by at least one member, must be delivered to the Head of Legal and Democratic Services not later than seven working days before the date of the meeting. These will be entered in a book open to public inspection.

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

Motions must be about matters for which the Council has a responsibility or which affect the Borough. The Mayor, after consulting the Head of Legal and Democratic Services, may exclude from the Notice, any Motion which does not meet this requirement.

**12. MOTIONS ON EXPENDITURE**

Any motion which is moved at a Council meeting (otherwise than in pursuance of a recommendation or report of the Executive, or of a Committee after the recommendation or report has been considered by the Executive) and which if carried would materially increase the expenditure or reduce the revenue of any service which is managed by the Council, or would involve capital expenditure, shall when moved and seconded stand referred to the Executive without discussion and considered at a future meeting of the Council.

**13. 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 withdraw a motion;
- (g) to amend a motion;
- (h) to proceed to the next business;
- (i) that the question be now put;
- (j) to adjourn a debate;

- (k) to adjourn a meeting;
- (l) that the meeting continue beyond 3 hours in duration
- (m) to suspend a particular council procedure rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4; and
- (p) to give the consent of the Council where its consent is required by this Constitution.
- (q) to allow Officers to actively participate in the meeting when dealing with Development control or licensing determinations which are non policy decisions”.

## **14. RULES OF DEBATE**

### **14.1 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.

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

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

### **14.3 Seconders' speech**

When seconding a motion or amendment, a member may reserve their speech until later in the debate.

### **14.4 Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the chair.

### **14.5 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/she last spoke;
- (c) if his/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/she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

### **14.6 Amendments to motions**

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate 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 chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### 14.7 **Alteration of motion**

- (a) A Member may alter a motion of which he/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/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.

#### 14.8 **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.

#### 14.9 **Right of reply**

- a) The mover of a motion has a right to reply at the end of the debate on that motion before it is put to the vote.
- b) If an amendment is moved, the debate then occurs on the merits of the amendment, during which the mover of the original motion may speak.

- c) The mover of the amendment shall exercise their right to reply to the debate on the amendment immediately before the mover of the motion exercises their right of reply to the debate on the amendment. Immediately after the reply by the mover of the original motion, the amendment shall be put to the vote.
- d) Once the vote on the amendment has been taken, a further amendment may be moved, or the debate on the original motion resumes.
- e) If the amendment is carried the debate can resume on what is then the substantive motion.
- f) A Member exercising a right of reply shall not introduce new matter.
- g) After every reply to which this procedure rule refers a decision shall be taken without further discussion.

#### 14.10 **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) to adjourn a meeting;
- (g) that the meeting continue beyond 3 hours in duration
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4.

#### 14.11 **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 chair 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. If it is passed the meeting will proceed to the next item on business without further debate.

- (c) If a motion that the question be now put is seconded and the chair 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 chair 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
- (e) Apart from any other provision of this Council Procedure Rule relating to the termination of debates a ruling by the Chair that a matter has been sufficiently debated shall be final and, subject to the exercise of any right of reply, the matter shall be put to the vote immediately.

#### **14.12 Point of order**

A Member may raise a point of order at any time. The chair will hear them immediately. A point of order may only relate to an alleged breach of these Council Procedure Rules 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 chair on the matter will be final.

#### **14.13 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 chair on the admissibility of a personal explanation will be final.

### **15. PREVIOUS DECISIONS AND MOTIONS**

#### **15.1 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 one third of the Members on the Council.

#### **15.2 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 one third of the Members on the Council. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

### **16. VOTING**

#### **16.1 Majority**

Unless this Constitution provides otherwise, any matter will be decided by

a simple majority of those Members voting and present in the room at the time the question was put.

**16.2 Chair's casting vote**

If there are equal numbers of votes for and against, the chair will have a second or casting vote. There will be no restriction on how the chair chooses to exercise a second or casting vote.

**16.3 Show of hands**

Unless a recorded vote is demanded under Rules 16.4 and 16.5, or the Mayor requests a roll-call under 16.6, the Chair will take the vote either by affirmation of the meeting if there is no dissent; by show of hands or by the use of an electronic voting system..

**16.4 Recorded vote**

If one quarter of the Members (rounded up or down to the nearest whole figure) able to be present at the meeting demand by standing the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

**16.5 Right to require individual vote to be recorded**

Where any Member requests it immediately after the vote is taken by show of hands, their vote will be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

**16.6 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. In the case of a multi-member vacancy the Mayor may ask for a roll-call of those members present. Where the Mayor asks for a roll-call each member shall respond by calling out the names of those candidates they wish to cast their votes for (up to the maximum number of votes allowed). These votes will be tallied by the Democracy Officer and the results announced. Any candidate with a clear majority will be appointed to available positions. In the case that any positions should not have a clear majority of votes for any candidate, the candidate with the least number of votes will be eliminated and the process repeated with the appropriate reduction in the number of eligible candidates and votes per member.

**16.7 Recorded votes at budget meetings**

Immediately after any vote is taken on a budget decision at the budget decision meeting of the Council, there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting. This will include a recorded vote on any amendment proposed at the meeting.

For the purposes of this Rule:

(a) "budget decision meeting" means a meeting of the Council at which it -

(i) makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992(a); or  
(ii) issues a precept under Chapter 4 of Part 1 of that Act, and includes a meeting where making the calculation or issuing the precept as the case may be was included as an item of business on the agenda for that meeting; and  
(b) references to a vote are references to a vote on any decision related to the making of the calculation or the issuing of the precept as the case may be.”

## **17. MINUTES**

### **17.1 Signing the minutes**

The chair will sign the minutes of the proceedings at the next suitable meeting. The chair will move that the Minutes of the previous meeting be signed as a correct record.

### **17.2 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 relating to signing of minutes.

## **18. MOTIONS AFFECTING COUNCIL EMPLOYEES**

Any question arising at a meeting of the Council, the Executive or of a Committee or Sub-Committee to which the public are admitted, about the appointment, promotion, dismissal, salary, superannuation, conditions of service or the conduct of any Council employee, shall not be discussed until the Council, Executive Committee or Sub-Committee has considered whether to exclude the public under Section 100 A (4) of the Local Government Act 1972.

The Officers present at the meeting shall be entitled to respond to personal criticism of them or any other employee named by Members.

## **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 of this Constitution or Rule 21 (Disturbance by Public).

## **20. MEMBERS' CONDUCT**

### **20.A Declaration of Interests**

All members present at a meeting of the Council, the Executive, or any committee, sub-committee, joint committee or joint sub-committee of the authority shall comply with the requirements of the Code of Conduct in relation to the declaration of Disclosable Pecuniary Interests and Other Interests. The provisions relating to non-participation at meetings shall also apply to all members present at those meetings.

As stated in the Code of Conduct you should also leave the room where the meeting is held while any discussion or voting takes place, except when it applies to Strategic Progress Reports at Full Council due to the various subject matters involved in those reports

This Rule will also apply to Executive Members when discharging a function alone. They must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

#### **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 chair by behaving irregularly, improperly or offensively or deliberately obstructs business, the chair or any other member may move that the member be not heard further during the remainder of the item. If seconded, the motion will be voted on without discussion.

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

If the Member continues that misconduct after a motion under 20.3 is carried, the chair or any other member may move that the member leaves the meeting. If seconded, the motion will be voted on without discussion.

#### **20.5 Meeting to be adjourned**

If the Member concerned refuses to leave the meeting after a motion under 20.4 has been carried the chair shall adjourn the meeting for a specified period that he or she considers appropriate.

#### **20.6 General disturbance**

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

**21. DISTURBANCE BY PUBLIC**

**21.1 Removal of member of the public**

If a member of the public interrupts proceedings, the chair will warn the person concerned. If they continue to interrupt, the chair will order their removal from the meeting room. The Mayor may adjourn the meeting to allow the member of the public to be removed, either by officers or the police.

**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 chair may call for that part to be cleared.

**22. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

**22.1 Suspension**

All of these Council Rules of Procedure except Rules 1-8, 12, 16-23 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.

Any Notice of Motion under Rule 11 regarding Removal of Leader as set out in Part 2 Article 7.03 (d) cannot have relevant Standing Orders suspended e.g. Rule 15.

**22.2 Amendment**

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

**23. APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

All of the Council Rules of Procedure apply to meetings of full Council. Only Rule 9 applies to meetings of the executive. Only Rules 4-9, 10.5, 14.1, 14.2, 14.4, 14.6, 14.7, 14.8, 14.10, 14.11, 14.12 and 14.13, 16-21 (but not Rule 20.1 and 20.2) apply to meetings of committees and sub-committees.

**24. ATTENDING DEVELOPMENT CONTROL TRAINING PRIOR TO DETERMINING DEVELOPMENT CONTROL APPLICATION**

All Members on Full Council determining a development control application and all Members appointed to the Development Control Committee must attend annual training on planning law and procedure. This training must take place within 1 month of the Annual Appointments Council or being appointed to the Development Control Committee before they can determine any development control application, and failure to do so may be a breach of the Code of Conduct. However a Councillor could not be prevented from taking part in a development control decision at Full Council if they hadn't attended training, but could be prevented at Development Control Committee.

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## **Access to Information Procedure Rules**

### **1. SCOPE**

#### **EXECUTIVE ARRANGEMENTS**

Separate 2012 Regulations only apply to the Executive. These rules apply to all meetings of the Council, Scrutiny Committees, Area Committees, the Audit and Standards Committee and Regulatory Committees, and public meetings of the Executive and Joint Committees (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.

A record of Executive decisions taken by Officers.

### **3. RIGHTS TO ATTEND MEETINGS**

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

### **4. NOTICES OF MEETING**

The council will give at least five clear days notice of any meeting by posting details of the meeting at the Town Hall, Burnley. Agendas and reports will also be published on the Council's website.

#### **NOTICE OF PRIVATE PART OF EXECUTIVE MEETING**

For the Executive, the Council will give at least 28 days notice of the private part of an Executive meeting, and also provide a more detailed 5 day notice of a private meeting.

### **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 Town Hall at least five clear days before the meeting and on the Council's website.

If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the Head of Legal and Democratic Services shall make each report available to the public as soon as the report is completed and sent to councillors) will be open to inspection and be published on the website for the time the item was added to the agenda.

### **6. SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda and reports (and background papers for the Executive) which are open to public inspection

### **Access to Information Procedure Rules**

- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Head of Legal and Democratic Services 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 reasonable costs.

## **7. ACCESS TO MINUTES ETC AFTER THE MEETING**

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

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

## **8. BACKGROUND PAPERS**

### **8.1 List of background papers**

The Officer responsible for the report 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:

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

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) .Background papers will be published on the website and be made available for four years regarding the Executive.

### **8.2 Public inspection of background papers**

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



background papers.

The Council will make available for public inspection at the time of publication of the agenda and on its website one copy of the background papers for Executive Meetings for four years..

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

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Town Hall.

## Access to Information Procedure Rules

### 10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

#### 10.1 Confidential information – requirement to exclude public

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

#### 10.2 Exempt information – discretion to exclude public

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

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

#### 10.3 Meaning of confidential information

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

#### 10.4 Meaning of exempt information

Exempt information means information falling within the following 7 categories (subject to any condition):

Descriptions of Exempt Information	Condition
1. Information relating to any individual.	
2. Information which is likely to reveal the identity of an individual.	
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	'financial or business affairs' includes contemplated, as well as past or current, activities
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	'employee' means a person employed under a contract of service  'labour relations matter' means- (a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992

	<p>(b)(matters which may be the subject of a trade dispute, within the meaning of that Act); or (b) any dispute about a matter falling within paragraph (a) above; and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;</p> <p>'office-holder', in relation to the authority, means the holder of any paid office appointments to 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 that authority</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	
<p>6. Information which reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>	
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of a crime.</p>	
<p><b>Qualifications</b></p>	
<p>8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under-</p> <p>(a) the Companies Act 1985 (a);</p>	<p>'registered' in relation to information required to be registered under the Building Societies Act 1986 (c ), means recorded in the public file of any building society (within the</p>

<p>(b) the Friendly Societies Act 1974 (b);</p> <p>(c) the Friendly Societies Act 1992 ( c);</p> <p>(d) the Industrial and Provident Societies Acts 1965 to 1978 (d);</p> <p>(e) the Building Societies Act 1986 (e);</p> <p>(f) the Charities AVT 1993 (f).</p>	<p>meaning of that Act)</p>
<p>9. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992 (a).</p>	
<p>10. Information which –</p> <p>(a) falls within any of paragraphs 1 to 7 above; and</p> <p>(b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,</p> <p>is exempt information 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.</p>	

#### 10.5 **Communication of Proceedings of Committees and Sub-Committees to the Public and Press**

Subject to any administrative arrangements which may be introduced from time to time with the agreement of the Council, no Member or Officer of the Council shall disclose to or discuss with the public or press:-

- (a) the proceedings of any Council, Executive, Committee or Sub-Committee meeting which took place following and during the exclusion of the public and the press from that meeting;
- (b) any matters which disclose confidential information within the meaning of the Local Government Act 1972;
- (c) any matters which are contained in reports marked "not for publication" which for these purposes shall mean "exempt" within the meaning of the Local Government Act 1972.

10.6 Any Member failing to comply with Rule 10.5 may be liable to proceedings for breach of the Code of Conduct for Members.

## **Access to Information Procedure Rules**

- 10.7 Any Officer failing to comply with Rule 10.5 may be liable to proceedings under the Council's Disciplinary Procedure for Employees.

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

If the Proper Officer responsible for the report 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 10, 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. . However the 'public interest' test regarding Freedom of Information also needs to be considered when deciding whether to exclude access by the public.

### **12. APPLICATION OF RULES TO THE EXECUTIVE**

Rules 13 – 24 apply to the Executive and any of its Committees. If the Executive meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 13.03 of this Constitution.

If the Executive meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the Notice of Key Decisions by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 13.03 of this Constitution. This requirement does not include meetings, whose sole purpose is for officers to brief members.

### **13. PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

- (a) a notice (called here the Notice of Key Decisions) has been published in connection with the matter in question;
- (b) at least 5 clear days have elapsed since the publication of the Notice of Key Decisions; and
- (c) where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings) in particular Private Part of the Executive meeting.

### **14. THE NOTICE OF KEY DECISIONS AND PRIVATE PART OF MEETING**

#### **14.1 Period of Notice of Key Decisions and Private part of Meeting**

A Notice of Key Decisions and Private Part of Meeting will be prepared by the Leader to cover a period of 28 days prior to the next meeting of the Executive. They will be prepared on a 28 day basis and subsequent plans will cover a 28 day period following the end of the period for the preceding plan.

## 14.2 Contents of Notice of Key Decisions and Private Part of Meeting

The Notice of Key Decisions and Private Part of Meeting will contain matters which the Leader has reason to believe will be subject of a key decision and/or a Private Part of the meeting to be taken by the executive, individual members of the Executive, Officers, or under joint arrangements in the course of the discharge of an Executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made and whether or not it is a key decision and/ or a private decision ;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) a list of the documents submitted to the decision taker for consideration in relation to the matter in relation to th mater in respect of which the key decision is to be made.
- (e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any documents listed is available
- (f) that other documents relevant to those matters may be submitted to the decision maker
- (g) the procedure for requesting details of those documents (if any) as they become available

The Notice of Key Decisions and Private Part of Meeting must be published at least 28 days before the date of the Executive meeting when the matter will be decided on.

Exempt and confidential information cannot be included in a Notice of Key Decisions and Private Part of Meeting.

## 15. GENERAL EXCEPTION

If a matter which is likely to be a public key decision has not been included in the Notice of Key Decisions and Private Part of Meeting, then subject to Rule 16 (special urgency), the public decision may still be taken if:

- (a) the public decision must be taken by such a date that it is impracticable to defer the public decision until it has been included in the next Notice of Key Decisions and Private Part of Meeting and until the start of the next 28 day period to which the next Notice of Key Decisions and Private Part of Meeting relates;
- (b) the Head of Legal and Democratic Services has informed in writing or by e mail the chair of a relevant scrutiny committees, or if there is no such person, each member of that committee in writing or e mail , by

notice, of the matter to which the public key decision is to be made and the reason why it was impracticable to meet the 28 day Notice of Key Decision period;

- (c) the Head of Legal and Democratic Services has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 5 clear days have elapsed since the Head of Legal and Democratic Services complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public subject to the usual exceptions for confidential or otherwise exempt business.

## 16. **SPECIAL URGENCY**

If by virtue of the date by which a public key decision must be taken Rule 15 (general exception) cannot be followed, or if Rule 4 cannot be followed for a Private Part of Meeting, then those decisions can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the written or e mail agreement of the chair of a relevant scrutiny committees that the taking of those decisions cannot be reasonably deferred. If there is no chair of a relevant scrutiny committee, or if the chair of each relevant scrutiny committee is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor will suffice. In addition a public notice is required giving the reason for urgency and why the matter cannot be deferred.

## 17. **REPORT TO COUNCIL**

### 17.1 **When a scrutiny committee can require a report**

If a scrutiny committee thinks that a key decision or private part of meeting has been taken or taken place which was not:

- (a) included in the Notice of Key Decisions and Private Part of Meeting; or
- (b) the subject of the general exception procedure in Rule 15; or
- (c) the subject of an agreement with the scrutiny committee chair, or the chair/vice chair of the Council under Rule 16;

the committee may require the Executive to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the committee when so requested by the chair and vice chair or any 4 Members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant scrutiny committees.

### 17.2 **Executive's report to Council**

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 working days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.



**18. RECORD OF DECISIONS**

After any meeting of the executive or any of its committees or by an Individual Executive Member, whether held in public or private, or after the exercise by an Officer of delegated Urgent Executive powers as set out in Part 3 of the constitution, the Head of Legal and Democratic Services will produce and publish a record of every decision taken at that meeting as soon as practicable.

No decisions will be taken unless the Head of Legal and Democratic Services or his/her representative is present to record that decision. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting. The decisions will be published by providing a copy to each Member of the Council and making them available at the Town Hall.

In the case of an Officer's delegated Urgent Executive decision, the record of the decision will be reported to the next Executive meeting.

**19. EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

The Executive will decide whether meetings relating to matters which are not key decisions will be held in public or private. Normally all decisions will be made in public subject to the provisions of Rule 10 (Exclusion of Access by the Public to Meetings). Meetings of the Executive held to develop working arrangements or discuss policy etc. will normally be held in private.

**20. NOTICE OF PRIVATE MEETING OF THE EXECUTIVE**

Members of the Executive or its committees will receive five clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

The Council will also give at least 28 days notice of the private part of an Executive meeting and also provide a 5 day notice of a private part of meeting.

**21. SCRUTINY COMMITTEES ACCESS TO DOCUMENTS**

**21.1 Rights to copies**

Subject to Rule 21.2 below, a scrutiny committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the executive and which contains material relating to

(a) any business transacted at a public or private meeting of the executive; or

(b) any decision taken by an individual member of the Executive and which relates to the Scrutiny committee's terms of reference.

**21.2 Limit on rights**

A scrutiny committee will not be entitled to:

(a) any document which has not been distributed to the executive

- (b) any document that is in draft form;
- (c) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (d) the advice of a political adviser
- (e) any exempt documents under Rule 10 which the executive decide to withhold.

## **22. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **22.1 Material relating to previous business**

All Members will be entitled to inspect any document which is in the possession or under the control of the executive and contains material relating to any business previously transacted at a private meeting unless either (a),(b) or (c) below applies.

- (a) it contains exempt information falling within paragraphs 1,2,4,5 or 7 of the categories of exempt information; or
- (b) it contains exempt information falling within paragraph 3 and the information relates to any terms proposed or to be proposed by the authority in the course of negotiations for a contract
- (c) it contains the advice of a political adviser

### **22.2 Material relating to key decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the executive which relates to any key decision unless paragraph (a) or (b) above applies.

### **22.3 Nature of rights**

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

## **23. RIGHTS OF ACCESS TO OFFICER DELEGATED DECISIONS**

### **23.1 Type of Officer delegation to be recorded.**

Minutes of a decision taken by an Officer, arising either from an express delegation from a Committee or arising from a general Part 3 delegation, of over £50k will be published as soon as is reasonably practicable.

The decision will not be purely operational or administrative and must involve a separate decision to be taken, with the purpose and reasons for the decision and the decision itself to be recorded in the Minute.

## Budget and Policy Framework Procedure Rules

### 1. The framework for executive decisions

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

### 2. Process for developing the framework

The process by which the budget and policy framework shall be developed is:

- (a) The executive will publicise *by including in the Notice of key decisions and private meetings, and by other methods – e.g. on its web site and at the Council's offices*, a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The chair of the scrutiny committee will also be notified. The consultation period shall in each instance be not less than four weeks.
- (b) At the end of that period, the executive will then draw up firm proposals having regard to the responses to that consultation. If the scrutiny committee wishes to respond to the executive in that consultation process then it may do so. As the scrutiny committee has responsibility for fixing its own work programme, it is open to the scrutiny committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The executive will take any response from the scrutiny committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the executive's response.
- (c) Once the executive has approved the firm proposals, the Head of Legal and Democratic Services will refer them at the earliest opportunity to the Council for decision.
- (d) In reaching a decision, the Council may adopt the executive's proposals, amend them, refer them back to the executive for further consideration, or in principle, substitute its own proposals in their place.
- (e) If it accepts the recommendation of the executive without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- (f) The decision will be publicised in accordance with Article 4 and a copy

## Budget and Policy Framework Procedure Rules

shall be given to the leader

- (g) An in-principle decision will automatically become effective 5 working days from the date the Council's decision is published, unless the leader informs the Head of Legal and Democratic Services in writing within that period that he/she objects to the decision becoming effective and provides reasons why.
- (h) In that case, the Head of Legal and Democratic Services will call a Council meeting within a further 10 working days. The Council will be required to re-consider its decision and the leader's written submission within 10 working days. The Council may
  - i) approve the executive's recommendation by a simple majority of votes cast at the meeting; or
  - ii) approve a different decision which does not accord with the recommendation of the executive by a simple majority
- (i) The decision shall then be made public in accordance with Article 4, and shall be implemented immediately;
- (j) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the executive, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the Council.
- (k) The Mayor will act to resolve any conflict at any point in this process as set out in Article 5.01 (7)

### 3. Decisions outside the budget or policy framework

- (a) Subject to the provisions of paragraph 5 and 6 (virement) the executive, and any officers or joint arrangements discharging executive 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 4 below.
- (b) If the executive and any officers or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the monitoring officer and/or the chief financial 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 4 (urgent decisions outside the budget and policy framework) shall apply.

## **Budget and Policy Framework Procedure Rules**

### **4. Urgent decisions outside the budget or policy framework**

- (a) The executive or officers or joint arrangements discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
- i) if it is not practical to convene a quorate meeting of the full Council in the time available before the decision must be made; and
  - ii) if the chair of the scrutiny committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the chair of the scrutiny committee'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 chair of the scrutiny committee the consent of the Mayor and in the absence of both the Deputy Mayor will be sufficient.

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

### **5. Virement**

- (a) The Council shall have the following budget heads:

Management Team

Service Units

Customer & IT Services  
 Finance and Property  
 Legal and Democratic Services  
 Green Spaces & Amenities  
 Housing & Development Control  
 People & Development  
 Economy and Growth  
 Revenues & Benefits  
 Streetscene

## Budget and Policy Framework Procedure Rules

- (b) Steps taken by the executive or officers or joint arrangements discharging executive functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, Service Managers shall be entitled, in accordance with financial procedure rules, to vire across budget heads where each individual virement does not exceed £20,000.

### 6. In-year changes to policy framework

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the executive or officers or joint arrangements discharging executive 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 or discontinuance 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;
- (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 or unclear on the matter under consideration.

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

- (a) Where the scrutiny committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the monitoring officer and/or chief financial officer.
- (b) In respect of functions which are the responsibility of the executive, the monitoring officer's report and/or chief financial officer's report shall be to the executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the executive must meet to decide what action to take in respect of the monitoring officer's report and must prepare a report either to Council, if the monitoring officer or the chief finance officer conclude either that the decision was a departure or would be a departure if made; or to the scrutiny committees if the monitoring officer or the chief finance officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the monitoring officer and/or the chief financial officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget either:

the scrutiny committee may refer the matter to Council

or the Executive may refer the matter to the Council for determination

or withdraw the proposal or rescind its decision

or the Monitoring Officer or the Chief Finance Officer may refer the matter to the Council.

In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 working days of the request by the scrutiny committees. At the meeting it will receive a report of the decision or proposals and the advice of the monitoring officer and/or the chief financial officer. The Council may either:

- i) endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way;

Or

- ii) amend the council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way;

Or

- iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the executive to reconsider the matter in accordance with the advice of either the monitoring officer/chief financial officer.

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## **Executive Procedure Rules**

### **1. HOW DOES THE EXECUTIVE OPERATE?**

#### **1.1 Who may make executive decisions?**

The arrangements for the discharge of executive functions are set out in the executive arrangements adopted by the Council. The leader may decide how they are to be exercised and the leader may provide for executive functions to be discharged by:

- i) the executive as a whole;
- ii) a committee of the executive;
- iii) an individual member of the Executive;
- iv) joint arrangements;
- v) another local authority; or
- vi) an Officer of the authority.

#### **1.2 Appointments and delegation by Leader**

(a) At the Appointments Meeting of the Council, the Leader will present to the Council the names of the Members appointed to the Executive by the Leader (including the Executive Member who is appointed as the Deputy Leader) and their Portfolios.

(b) Either at the Appointments Council Meeting or as soon as practicable afterwards, the Leader will present to the Head of Legal and Democratic Services a written record of;

(i) the detailed remits of the Portfolios of the Executive Members

(ii) any delegations made by the Leader in respect of the discharge of the Council's executive functions. The document presented by the Leader to the Head of Legal and Democratic Services will contain the following information about the discharge of the Council's Executive functions in relation to the coming year;

- The extent of authority of the Executive as a whole
- The extent of any authority delegated to individual Executive Members including details of any limitation on their authority
- The terms of reference and constitution of such Committees as the Leader appoints and the names of Executive Members appointed to them
- The nature and extent of any delegation of executive functions to Area Committees, or any other authority or any joint arrangements and the names of those Executive Members appointed to any joint committee for the coming year; and
- The nature and extent of any delegation of executive functions to Council Officers with details of any limitation on that delegation, and the title of the Officer to whom the delegation is made
- **Executive Procedure Rules**

#### **1.3 Sub-delegation of executive functions**

(a) Where the Leader delegates an executive function to the Executive

then unless the Leader directs otherwise, the Executive may delegate further to a joint arrangement, a Committee of the Executive or to a Council officer.

- (b) If the leader delegates functions to a Committee of the executive or an Individual Executive Member, then unless the Leader directs otherwise, a Committee of the executive or an Individual Executive Member may delegate further to a Council officer.
- (c) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

#### **1.4 The scheme of delegation and executive functions**

The Leader may amend the scheme of delegation relating to executive functions at any time during the year.

To do so, the leader must give written notice to the Head of Legal and Democratic Services and to the person, body or committee concerned.

The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the delegation of the discharge of an executive function not previously delegated, or the transfer of an executive function that has been previously delegated, or the withdrawal of delegation from any Officer, Member, committee or the executive as a whole in order to discharge the delegation personally.

The changes will take effect on receipt of the Leader's written notice by each of the parties affected by a new delegation, transfer or withdrawal.

The Head of Legal and Democratic Services will ensure that a record of the new delegation of an Executive function, of a transfer, or of a withdrawal is entered into the Register of the Delegation of Executive Functions, and will present a report to the next ordinary meeting of the Council setting out a new delegation, transfer or withdrawal made by the leader at the earliest opportunity.

Where the Leader seeks to withdraw delegation from a Committee notice will be deemed to be served on that Committee when he/she has served it on its Chair.

#### **1.5 Conflicts of Interest**

- (a) Where the leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every member of the executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of an executive function has been delegated to an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

#### **1.6 Executive meetings – when and where?**

The executive will meet at least seven times per year at times to be agreed by the leader. The executive shall meet at the Town Hall or another location to be agreed by the leader.

**1.7 Public or private meetings of the executive?**

The Executive will normally meet in public when making decisions subject to the usual exceptions relating to exempt or confidential information. When meeting but not making decisions the Executive will normally meet in private.

**1.8 Quorum**

The quorum for a meeting of the executive, or a committee of it, shall be one third.

**1.9 How are decisions to be taken by the Executive?**

- (a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where executive decisions are delegated to a Committee of the Executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.

**2. HOW ARE THE EXECUTIVE MEETINGS CONDUCTED?**

**2.1 Who presides?**

If the leader is present he/she will preside. In his/her absence the Deputy Leader and if both are absent, then a person appointed to do so by those present shall preside.

**2.2 Who may attend?**

The entitlements in the Access to Information Rules are set out in Part 4 of this Constitution. Non Executive Members may attend meetings, but may only stay during the private part of the meeting unless excluded by the chair at the meeting. In addition to any entitlements under the Access to Information Rules in Part 4 of this Constitution the executive may agree to one or more members of the public or of the Council attending meetings that would otherwise be private and to speak with the consent of the Executive.

**2.3 What business?**

- a) At each meeting of the executive which is called to make decisions the following business will be conducted:

**Executive Procedure Rules**

- i) consideration of the minutes of the last meeting;
  - ii) declarations of interest, if any;
  - iii) questions from the public
  - iv) matters referred to the executive (whether by an scrutiny committees or by the Council) for reconsideration by the executive in accordance with the provisions contained in the Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
  - v) consideration of reports from scrutiny committees; and
  - vi) matters set out in the agenda for the meeting,
  - vii) a list of all delegated decisions made since the last meeting
- b) For all other meetings the agenda will be set by the Leader.

## **2.4 Consultation**

All reports to the executive from any member of the executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant scrutiny committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## **2.5 Who can put items on the executive agenda?**

The leader will decide upon the schedule for the meetings of the executive. He/she may put on the agenda of any executive meeting any matter which he/she wishes, whether or not authority has been delegated to the executive, a committee of it or any member or officer in respect of that matter. The Head of Legal and Democratic Services will comply with the leader's requests in this respect.

Any member of the Council may ask the leader to put an item on the agenda of an executive meeting for consideration, and if the leader agrees the item will be considered at the next available meeting of the executive. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual may, at the discretion of the Leader, be invited to attend the meeting, whether or not it is a public meeting and, with the consent of the executive, to speak. However, there may only be up to two items discussed at each executive meeting unless the Leader decides otherwise.

The monitoring officer and/or the chief financial officer may include an item for consideration on the agenda of an executive meeting and may require the Head of Legal and Democratic Services to call a meeting in pursuance of their statutory duties. In other circumstances, where any two of the head of paid service, chief financial officer and monitoring officer are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an executive meeting. If there is no meeting of the executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

## **Scrutiny Procedure Rules**

### **1. What will be the number and arrangements for scrutiny committees?**

- 1.1 The Council will have 1 scrutiny committee and will appoint to it as it considers appropriate from time to time. The committee may appoint sub-committees/working groups. .
- 1.2 The Scrutiny Committee will comprise 17 Members unless otherwise agreed by the Council.

### **1.3 Co-ordination of the work of the Scrutiny Committee**

A Panel comprising the Chairs and Vice Chairs of each Scrutiny Committee no longer exists, which was established with the following terms of reference:

- (a) Where matters fall within the remit of more than one scrutiny committee, to discuss and advise which of them will assume responsibility for any particular issue, and to advise on any issues of dispute between scrutiny committees unless they can be resolved by the relevant Chairs.
- (b) To consider requests from the Executive and/or the full Council for reports from scrutiny committees and to advise on their allocation, if appropriate, to one or more scrutiny committees if those requests do not clearly fall within the terms of reference of a Scrutiny Committee.
- (c) Where it is not possible to agree the allocation of tasks between Scrutiny Committees despite the intervention of the Co-ordinating Panel, the Chief Executive will determine the issue.
- (d) The panel may with the agreement of the members of the panel from time to time be joined by up to 3 Members of the Executive to facilitate joint working or joint planning. Relevant Executive Members attend Scrutiny Committees to present the Forward Plan (now Notice of Key Decisions and Private Part of Meeting) and to facilitate joint working between the Executive and Scrutiny.

## **Scrutiny Procedure Rules**

### **2. Who may sit on the scrutiny committee?**

Any Member of the Council who is not a Member of the Executive may be a member of the scrutiny committee. However, no Member may be involved in scrutinising a decision which he/she has been directly involved with.

### **3. Co-optees**

The scrutiny committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

The Scrutiny Committee, in its capacity as the designated Crime and Disorder Overview and Scrutiny Committee only, may co-opt additional members from a responsible authority or co-operating body to serve on the Committee and this may be limited to a particular matter.

It shall not allow a person co-opted to vote on any particular matter, unless the Committee so determines.

### **4. Meetings of the scrutiny committees**

There shall be at least 5 ordinary meetings of the scrutiny committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An extraordinary meeting of a scrutiny committee may be called by the chair of the scrutiny committee.

### **5. Quorum**

The quorum for the scrutiny committee shall be one third as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

### **6. Who chairs the scrutiny committee meetings?**

The Chair of the scrutiny committee will be appointed by the Council and be drawn from among the Members sitting on the committee. The Chair and Vice Chair will remain in office for the Municipal Year in which they are appointed unless the Council revokes that appointment, they resign from that office or are disqualified from the office of Councillor.

### **7. Work programme**

The scrutiny committee will be responsible for setting its own work programme and in doing so they shall take into account wishes of all Members on that committee (The Co-ordinating Panel (see 1.3) no longer exists).

### **8. Agenda items**

Any member of a scrutiny committees shall be entitled to give notice to the Head of Legal and Democratic Services that he/she wishes an item relevant to the functions of the committee to be included on the agenda for the next available meeting of the committee. On receipt of such a request the Head of Legal and Democratic Services will ensure that it is included on the next available agenda. The scrutiny committee shall also respond, as soon as its work programme permits, to requests from the Council, and, if it considers it appropriate the executive, to review particular areas of Council activity.

## **Scrutiny Procedure Rules**

Where they do so, the scrutiny committee shall report its findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the scrutiny committee in the case of the Council, within two months, and for the Executive, within one month of receiving it.

### **9. Policy review and development**

- (a) The role of the scrutiny committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the scrutiny committee may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- (c) The Scrutiny committee may within the limits of any budget provided hold inquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. It may undertake this role and engage with 3<sup>rd</sup> parties and the public in any way they feel necessary

### **10. Reports from the scrutiny committee**

- (a) Once it has formed recommendations on proposals for development, the scrutiny committee will prepare a formal report and submit it to the Head of Legal and Democratic Services for consideration by the Executive (if the proposals are consistent with the existing budgetary and policy framework), and to the Council as appropriate.
- (b) The Executive shall consider the report of the scrutiny committee within 1 month of it being submitted to the Head of Legal and Democratic Services

## **Scrutiny Procedure Rules**

### **11. Making sure that scrutiny reports are considered by the executive**

- (a) Scrutiny Committee reports will be included on the Executive agendas within one month of submission to the Head of Legal and Democratic Services
- (b) The Scrutiny committee will in any event have access to the Executive's Notice of Key Decisions and Private Part of Meeting. Even where an item is not the subject of detailed proposals from a scrutiny committee following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the Executive's consultation process in relation to any key decision.

### **12. Rights of scrutiny committees members to documents**

- (a) In addition to their rights as Members, Members of the scrutiny committees have the additional right to documents to enable them to carry out their statutory functions.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and the scrutiny committee as appropriate depending on the particular matter under consideration.

### **13. Members and officers giving account**

- (a) The scrutiny committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Executive, the head of paid service and anyone on Chief Officer conditions of service (i.e. Head of Service and above) to attend before it to explain in relation to matters within their remit:
  - i) any particular decision or series of decisions;
  - ii) actions taken by them to implement Council policy; and/or
  - iii) their performance.

and it is the duty of those persons to attend if so required.



## Scrutiny Procedure Rules

- (b) Where any member or officer is required to attend the scrutiny committee under this provision, the chair of the committee will inform the Head of Legal and Democratic Services. The Head of Legal and Democratic Services shall inform the member or officer in writing giving at least 10 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the scrutiny committee shall in consultation with the member or officer arrange an alternative date for attendance to take place within a maximum of 20 working days from the date of the original request.

### 14. Attendance by others

The scrutiny committee may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and may invite those people to attend.

### 15. Call-in

Call-in should only be used in exceptional circumstances. These are where non Executive members have evidence which suggests that the Executive did not take the decision in accordance with the principles set out in Article 13 (Decision Making), e.g. inadequate consultation with stakeholders; insufficient supporting evidence, outside the terms of reference of the executive.

- (a) When a decision is made by the Executive, an individual member of the Executive or a committee of the Executive, or a key decision is made by an officer with delegated authority from the Executive, the decision shall be published, including distribution to all Members and where possible by electronic means, and shall be available at the Town Hall normally within 3 working days of being made.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless it is called in.
- (c) During that period, the Head of Legal and Democratic Services shall call-in a decision for scrutiny by the committee if so requested by any 5 Non Executive Members of the Council,

## **Scrutiny Procedure Rules**

and shall then notify the decision-taker of the call-in. He/she shall call a meeting of the scrutiny committee on such date as he/she may determine, where possible after consultation with the Chair of the committee, and in any case within 7 working days of the decision to call-in.

- (d) If, having considered the decision, the scrutiny committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns. If referred to the decision maker they shall then reconsider within a further 15 working days, amending the decision or not, before adopting a final decision.
- (e) If following an objection to the decision, the scrutiny committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Scrutiny meeting, or the expiry of that further 5 working day period referred to in 16(b), whichever is the earlier.
- (f) Decisions may only be called in once.

### **CALL-IN AND URGENCY**

- (g) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would for example seriously prejudice the Council's or the public interest. The record

## Scrutiny Procedure Rules

of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chair of the Scrutiny committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair, the Vice Chair's consent shall be required. In the absence of both, the head of paid service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

### 16. The party whip

In this context the party whip means:

*"Any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner."*

- (a) When considering any matter in respect of which a member of a scrutiny committee is subject to a party whip the member must declare the existence of the whip, and the nature of it before the start of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

### 17. Procedure at scrutiny committees meetings

- (a) scrutiny committees and sub-committees shall consider the following business:
  - i) minutes of the last meeting;
  - ii) declarations of interest (including whipping declarations);
  - iii) questions from the public;
  - iv) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
  - v) responses of the executive to reports of the scrutiny committees; and
  - vi) the business otherwise set out on the agenda for the meeting.

## Scrutiny Procedure Rules

- (b) Where the scrutiny committee conducts investigations (e.g. with a view to policy development), the committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:
    - i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
    - ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
    - iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
  - (c) Following any investigation or review, the committee shall prepare a report, for submission to the executive and/or Council as appropriate and shall make its report and findings public subject to the usual provisions relating to exempt or confidential information.
18. **Matters within the remit of more than one scrutiny committees** - only one scrutiny committee now exists
19. **Designated Crime and Disorder Scrutiny Committee**
- The Scrutiny Committee shall be the Council's designated crime and disorder scrutiny committee:
- (a) to review or scrutinise decisions made, or other action taken in connection with the discharge by the responsible authorities of their crime and disorder functions;
  - (b) to make reports or recommendations to Council with respect to the discharge of those functions;
  - (c) to have a frequency of meetings as the Committee considers appropriate but no less than once in every twelve month period dedicated to scrutinising crime and disorder matters;
  - (d) may co-opt additional members from a responsible authority or co-operating body to serve on the Committee and this may be limited to a particular matter: and
  - (e) shall not allow a person co-opted to vote on any particular matter, unless the Committee so determines."



# **FINANCIAL PROCEDURE RULES**



# FINANCIAL PROCEDURE RULES

## CONTENTS

<b>QUICK REFERENCE GUIDE</b> .....	<b>4</b>
<b>A FINANCIAL MANAGEMENT</b> .....	<b>6</b>
A1 GENERAL .....	6
A2 LEGISLATION .....	6
A3 FORM OF ACCOUNTS AND PRIME FINANCIAL RECORDS .....	7
A4 FINANCIAL ADVICE AND GUIDANCE .....	7
A5 ACCESS TO FINANCIAL RECORDS AND INFORMATION .....	7
A6 RESPONSIBILITY OF OFFICERS AND MEMBERS .....	7
A7 BREACHES OF FINANCIAL PROCEDURE RULES .....	8
A8 SCHEME OF VIREMENT .....	8
A9 TREATMENT OF YEAR END BALANCES .....	9
A10 EMERGENCY EXPENDITURE .....	9
A11 STATEMENT OF FINANCIAL MANAGEMENT RESPONSIBILITIES .....	10
HEADS OF SERVICE .....	10
BUDGET HOLDERS .....	11
FINANCE AND PROPERTY UNIT .....	11
A12 ACCOUNTING POLICIES .....	12
A13 THE ANNUAL STATEMENT OF ACCOUNTS .....	12
A14 TRUST FUNDS AND CHARITIES .....	12
A15 STRATEGIC SERVICE DELIVERY PARTNERSHIPS .....	13
<b>B FINANCIAL PLANNING</b> .....	<b>14</b>
B1 PERFORMANCE PLANS .....	14
B2 CAPITAL EXPENDITURE AND FINANCE .....	14
B3 REVENUE BUDGET .....	15
B4 BUDGET FORMAT .....	16
B5 BUDGETARY CONTROL .....	16
B6 MAINTENANCE OF RESERVES .....	17
B7 RESOURCE ALLOCATION .....	17
<b>C RISK MANAGEMENT AND THE CONTROL OF RESOURCES</b> .....	<b>19</b>
C1 RISK MANAGEMENT .....	19
C2 INTERNAL CONTROL .....	19
C3 INSURANCE .....	20
C4 TREASURY MANAGEMENT .....	20
C5 ASSETS .....	21
C6 INVENTORIES AND STORES RECORDS .....	21
C7 INTELLECTUAL PROPERTY .....	22
C8 IRREGULARITIES .....	22
C9 AUDIT AND INSPECTION .....	23
INTERNAL AUDIT .....	23
EXTERNAL AUDIT .....	24
OTHER REVIEW BODIES .....	24
C10 PREVENTION OF FRAUD AND CORRUPTION .....	24

C11	STAFFING .....	24
<b>D</b>	<b>SYSTEMS AND PROCEDURES .....</b>	<b>25</b>
D1	GENERAL .....	25
D2	ORDERING OF GOODS AND SERVICES AND LETTING OF CONTRACTS ...	25
D3	CONTRACTS .....	26
D4	INCOME .....	27
D5	PAYMENT OF ACCOUNTS .....	29
D6	SALARIES AND WAGES .....	30
D7	OFFICERS TRAVELLING, SUBSISTENCE AND OTHER ALLOWANCES .....	30
D8	MEMBERS ALLOWANCES .....	31
D9	BANKING ARRANGEMENTS .....	31
D10	INFORMATION TECHNOLOGY .....	32
D11	TAXATION.....	32
D12	PETTY CASH ACCOUNTS.....	33
D13	PROCUREMENT CARDS.....	33
D14	ELECTRONIC PROCUREMENT .....	34
D15	ANTI-MONEY LAUNDERING .....	34
<b>E</b>	<b>EXTERNAL ARRANGEMENTS .....</b>	<b>36</b>
E1	GENERAL .....	36
E2	EXTERNAL FUNDING .....	36
E3	PARTNERSHIP .....	37
E4	WORK FOR THIRD PARTIES .....	38
E5	FRONT FUNDING.....	38

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# FINANCIAL PROCEDURE RULES

For the purposes of these rules, Chief Officers are defined as the Chief Executive and the Chief Operating Officer.

## Quick Reference Guide

*(Please note the following is only a guide and does not exempt you from needing to understand the provisions contained within the Financial Procedure Rules)*

**Warning: - Failure to comply may lead to disciplinary action**

### GENERAL

Financial Management and control in service units is the responsibility of the relevant Head of Service and his/her staff and therefore **everyone** has an obligation to be competent in financial matters.


- ✓ Expenditure can only be incurred where there is an approved **COUNCIL** budget  
No expenditure should be incurred based upon:
  - Members “approving” spending – they cannot establish budgets themselves
  - An approval letter from an external funding body
  - Amounts which were in budget in a previous financial year
- ✓ The Finance team are there to offer support and consultation
- ✓ If you are aware of an **ADDITIONAL** spending pressure or **DEFICIENCY** in income, highlight to your HOS/CE/COO – immediately!
- ✓ You can move up to **£20,000** (with the exception of salary budgets, capital budgets and others highlighted at rule A8.2.3) from one budget to another in any one year. But please remember you **MUST** tell Finance of ANY changes
- ✓ Any transfer of revenue budget above £20k or the transfer of salary budgets must be approved by Management Team
- ✓ Any transfer of capital budgets must be approved by the Executive
- ✓
- ✓ Always **PLACE AN ORDER** when you are committing the council to spending
- ✓ Unspent budgets **DO NOT** carry forward, contact your / HOS/CE/COO if there is a special need
- ✓ Heads of Service have responsibility for all assets inventories and stores under their control
- ✓ When contacting the Council’s bankers for extension or amendments to the provision of services, Finance **MUST** be informed of the request, to ensure proper management.


### IRREGULARITIES/LOSS/THEFT/FRAUD

- ✓ In any case where you suspect there may be irregularities/loss/theft or fraud, you must contact your Head of Service or Chief Officer **and** one of the following: -
  - Head of Legal and Democratic Services
  - Head of Finance and Property

- Internal Audit Manager

## **EMERGENCIES**

 Your Chief Officer or HOS can write to the Head of Finance and Property, who may give written approval for proposed urgent spending without budget provision for **UP TO £20,000**

 For proposed urgent spending without budget **EXCEEDING £20,000**, it must be determined that it is not practical in the time available to convene a full meeting of the Council. The agreement of the Scrutiny chair **MUST** be obtained. Where it is possible to meet these two requirements then spending can be undertaken with written approval from the Head of Finance and Property + Chief Executive + the Leader/Deputy Leader + the relevant or any other Executive portfolio holder.

Remember: - No written authorisations – No emergency expenditure

- ✓ The Head of Service **MUST** report back to the next meeting of Council in every case.

## **CAPITAL SPENDING**

- ✓ The capital budget **DOES NOT** confer authority to spend
- ✓ There has to be a report on each proposal before spending is committed. The Executive **HAS TO APPROVE** before commitments can be incurred
- ✓ The report needs to outline the effect of the proposed spending on the Revenue Account over a **3 YEAR PERIOD**

## **SCOPE OF FINANCIAL REGULATIONS**

**Please remember that:** - Financial Procedure Rules cover areas such as risk management, preventing fraud and corruption and anti –money laundering

**Please also remember that:** -

Financial Procedure Rules apply to **all** external funding programmes where the Council is the **ACCOUNTABLE** body

**and**

No bids can be submitted for **EXTERNAL FUNDING** unless they are in accordance with the Council's **EXTERNAL FUNDING STRATEGY**

**Warning:- If you overspend without approval, you will have a reduced budget the following year.**

# FINANCIAL PROCEDURE RULES

## A FINANCIAL MANAGEMENT

### Why is this important?

Good financial management secures value for money, controls spending, ensures due probity of transactions and achieves objectives on time. Decisions are informed by accurate accounting information. It covers all financial accountabilities, including the policy framework and budget.

### A1 GENERAL

- A1.1 Financial Procedure Rules exist to regulate the Council's financial affairs, to provide a framework for proper financial management and to maintain the required standard of financial administration for the Borough Council.
- A1.2 These Financial Procedure Rules should be read in conjunction with other policies of the Council and with the Council's Standing Orders, particularly in relation to ordering of goods and services and letting of contracts.
- A1.3 These rules are part of the Council's Code of Corporate Governance.

### A2 LEGISLATION

- A2.1 The Head of Finance and Property is the Officer charged with responsibility for the proper administration of the financial affairs of the Borough Council under Section 151 of the Local Government Act 1972.
- A2.2 The Head of Finance and Property is the responsible financial officer in accordance with the Accounts and Audit Regulations 2015 (and Amendments) (which cover specific issues and requirements which local authorities must comply with).
- A2.3 Under Section 114 of the Local Government Finance Act 1988, the Head of Finance and Property has the duty, after first consulting with the Monitoring Officer and Head of Paid Service (Chief Executive), to report to all Members of the Council and the external auditor if it appears to him/her that: -
- ❖ The authority, the Executive, a Committee or Officer of the authority, or a Joint Committee on which the authority is represented: -
    - has made or is about to make a decision which involves or would involve the authority incurring expenditure which is unlawful
    - has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority, or

- is about to enter an item of account, the entry of which would be unlawful
  - ❖ The expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.
- A2.4 The Head of Finance and Property is the Council's Money Laundering Reporting officer in respect of the Proceeds of Crime Act 2002.
- A2.5 Where, exceptionally, these rules are considered to be in conflict with legislation, employees are required to comply with the legislation. In all such cases a record of this must be provided to the Head of Finance and Property.

### **A3 FORM OF ACCOUNTS AND PRIME FINANCIAL RECORDS**

- A3.1 The Head of Finance and Property is responsible for determining the acceptable form of all accounts and prime financial records (manual or electronic). These records are to be retained as long as required for the appropriate legislation.

### **A4 FINANCIAL ADVICE AND GUIDANCE**

- A4.1 The Head of Finance and Property is responsible for ensuring the provision of advice to the Council, its Executive, Committees, Sub-Committees and Councillors and employees on all aspects of local government finance and the financial implications of the Council's policies and objectives.
- A4.2 The Head of Finance and Property may issue any instruction intended to secure proper financial administration, and this is to be effected by the responsible Officer. Any explanatory guidance on the application of the Financial Procedure Rules must only be produced with the approval of the Head of Finance and Property.

### **A5 ACCESS TO FINANCIAL RECORDS AND INFORMATION**

- A5.1 All employees must provide the Head of Finance and Property with any information he/she may require concerning the financial operations of the Council and allow him/her access at any time to the documents and records under their control.
- A5.2 The Head of Finance and Property shall be informed by the responsible Officer of any matters, which have significant financial implications for the Council before a report is submitted to the Executive or to a Committee or Sub-Committee. He/she must be given adequate time to consider the matter before despatch of the agenda item to Members.

### **A6 RESPONSIBILITY OF OFFICERS AND MEMBERS**

- A6.1 Responsibility for maintaining financial control and ensuring that expenditure is incurred and income is raised in accordance with the Council's policies rests

with Employees. Except when sitting as the Council, the Executive, a Committee or Sub-Committee, Members have no authority individually to direct that expenditure shall be incurred or income varied, although individual Members may, and where the Council, Executive, Committee or Sub-Committee so direct they shall, be consulted on proposals to incur expenditure or vary income. Individual Executive Members can also approve spending where there is budget provision for proposals up to £100,000.

- A6.2 The Chief Officers and Heads of Service must ensure that these Financial Procedure Rules are observed throughout the Service Unit(s) and applicable partners under their control.

## **A7 BREACHES OF FINANCIAL PROCEDURE RULES**

- A7.1 Any breach of these Financial Procedure Rules must be brought to the attention of the Head of Finance and Property and the appropriate Chief Officer or Head of Service, who may decide that disciplinary action should be brought against the offending employee.

## **A8 SCHEME OF VIREMENT**

- A8.1 **Definition** - Virement is the transfer of approved budgets within a service area from one detailed (subjective) budget heading to another.
- A8.2 **Restrictions** - The approved annual revenue and capital budgets cover various service areas and consist of various cost centres, each of which have their own individual budgets. These budgets must not be used for other purposes except under the provisions contained within these Financial Procedure Rules.
- A8.2.1 All virements must be consistent with the Council's objectives and are subject to the reporting requirements outlined under Budgetary Control (see rule B5).
- A8.2.2 Virement can be temporary or permanent. Where there is an estimated temporary or one-off reduction in expenditure then approved budgets cannot be vired to fund new, continuing or longer-term commitments.
- A8.2.3 Virement does not apply to the following budget types:
- ❖ Non-controllable budgets – costs which are controlled by another budget-holder including capital financing costs, insurances and central recharges.
  - ❖ Transfers between capital projects (unless authorised by the Executive under rule B2.7)
  - ❖ Transfers from service unit training budgets to other service unit budgets
  - ❖ Any transfers to or from salaries and associated costs budgets (unless authorised by Management Team)
- A8.2.4 Virements from training budgets are only permitted between the Service Unit and the corporate training budget

- A8.3 **Virements up to £20,000** - Heads of Service are authorised to vire up to £20,000 within their approved revenue budget from one detailed budget heading to another **per year** without the need for consultation **with the exception of the budget types outlined in rule 8.2.3 above**. Heads of Service are also authorised to transfer up to £20,000 of approved revenue budget between services subject to both the transferring and receiving Head of Service authorising such virements. They may only transfer approved budgets for expenditure to other approved expenditure budgets. Similarly they can only transfer approved budgets for income to other approved income budgets.
- A8.3.1 Before a Head of Service can authorise any virement he/she must ensure that any planned savings incorporated within approved budgets have been, or are capable of being, achieved before virement from any budget head takes place.
- A8.3.2 In all cases where the Head of Service authorises budget transfers they must be fully documented and the Head of Finance and Property must be notified immediately in writing. Heads of Service shall report upon virements made when submitting information for budget monitoring reports to the Executive.
- A8.4 **Virements over £20,000** - for revenue budget amounts over £20,000, excluding virement of salaries budgets, approval can be sought from:
- Chief Officers – up to £50,000
  - Head of Finance and Property – up to £100,000
- A8.5 **Virement of Salary Budgets** – for any proposal to vire salary and associated cost budgets approval should be sought from Management Team

## **A9 TREATMENT OF YEAR END BALANCES**

- A9.1 No savings arising in approved budgets shall be carried forward to the following financial year except with the approval of the the Executive and full Council.

## **A10 EMERGENCY EXPENDITURE**

- A10.1 In cases of emergency and where it is necessary for expenditure to be incurred for which no provision has been made in the approved annual budget, and for which no virement is available, an Emergency Expenditure approval must be sought.
- A10.2 For amounts not exceeding £20,000, the Head of Finance and Property may authorise the expenditure following a request made to him/her in writing by the relevant Head of Service/Chief Officer.
- A10.3 For amounts exceeding £20,000, the matter will then be dealt with in accordance with Budget and Policy Framework Procedure Rule 4 (where it is not practical to convene a full meeting of Council in the time available and the Chair of the Scrutiny Committee agrees).

- A10.4 For amounts exceeding £20,000, written approval shall be sought from the Head of Finance and Property and the Chief Executive, prior to consultation with the Leader, or in his/her absence the Deputy Leader and the relevant Executive Portfolio holder or in his/her absence another Executive member.
- A10.5 No Emergency Expenditure shall be incurred, for the above until all the written authorisations as required have been received.
- A10.6 For amounts attributable to the services of the Major Peacetime Emergency Plan, the Chief Executive and Emergency Officer (Chief Operating Officer in consultation with the Head of Finance and Property (or their authorised deputies) may authorise all necessary and proper expenditure, subject to a report being submitted to the next ordinary meeting of the Executive and the Scrutiny Committee.
- A10.7 Any approval given under this Rule shall be reported by the relevant Head of Service to the next meeting of the full Council.

## **A11 STATEMENT OF FINANCIAL MANAGEMENT RESPONSIBILITIES**

### HEADS OF SERVICE

- A11.1 Overall responsibility for budgets and financial control for services under his/her management, in accordance with the Council's Constitution, including the maintenance at all times of a system of effective controls including a full and proper division of duties to provide proper financial control.
- A11.2 Delegation of budget management, monitoring and control to budget holders and, where appropriate, supervisors of budget holders, as designated by the relevant Head of Service.
- A11.3 Responsibility for virement between cost centres and within cost centres (both subject to any limits or consultation requirements imposed by the Council) (currently £20,000 each year between individual budget heads without the need for consultation) and for ensuring the Council's objectives and priorities are maintained.
- A11.4 Responsibility for seeking supplementary estimates and for reporting on budget variations.
- A11.5 Responsibility for co-ordination of the production of the annual budget for the Service Unit
- A11.6 Responsibility for reporting to the Executive, the Scrutiny Committee and the individual Executive portfolio Members on;
- ❖ The requirements of the annual budget
  - ❖ The monitoring of the annual budget
  - ❖ The actual expenditure and income for the financial year

- A11.7 Responsibility for monitoring and controlling the activities of designated budget holders
- A11.8 Ensuring co-ordination of practices and maintenance of effective systems for financial control and the delivery of value for money within activities.
- A11.9 Responsibility for ensuring proper arrangements is in place for budgetary control, including maintaining a continuous record of commitments.
- A11.10 To ensure that all persons ordering goods or services and all designated budget holders are properly trained in financial matters and comply with Council policy and the Council's Constitution.
- A11.11 Promoting co-operative working between all Service Units, to ensure the proper administration of the financial affairs of the Council.
- A11.12 Co-operate with the Finance and Property Unit in the production of the Council's Annual Statement of Accounts.

#### BUDGET HOLDERS

- A11.13 Responsibility for controlling and managing specific budgets as designated by the relevant Head of Service. This incorporates a requirement to maintain a continuous record of commitments.
- A11.14 Monitoring of income and expenditure budgets in line with Council Policy, the Council's Constitution and reporting of variances to the relevant Head of Service.
- A11.15 The proper certification or authorisation of commitments (orders), accounts for payment and other payment requisitions and the proper accounting for income due, as authorised by the relevant Head of Service.

#### FINANCE AND PROPERTY UNIT

- A11.16 Provide proper financial information and advice, as directed by the Head of Finance and Property and Accounting Division Manager
- A11.17 Responsibility for co-ordination of the production of the Council's annual revenue and capital budgets. In preparing the budget the Finance Unit will: -
  - ❖ Maintain and supply budget information for presentation to the Management Team, Scrutiny Committee / Budget Scrutiny Panel, Executive and Council
  - ❖ Provide a budget timetable with key dates for estimate preparation and ensure that information is available when needed.
  - ❖ Provide a summary of budget variations for Heads of Service to include in Budget Reports in four of the annual Committee cycles and in monthly monitoring reports to Executive portfolio Members.



- ❖ Provide a standard narrative on the budget overview to accompany budget reports.
- ❖ Provide estimates for all centrally maintained expenditure and income: -
  - Salaries and Wages/National Insurance/Superannuation
  - Insurances
  - Pensions
  - Employee Car Leasing
  - Rents/Rates
  - Central Recharges
  - Capital Financing
  - Rental Income (to the extent that it is recovered via the periodical rental system)
- ❖ Provide advice on Growth and Savings

This list is not wholly prescriptive and can be amended by agreement with the Head of Finance and Property .

- A11.18 Responsibility for co-ordination of the preparation of the Council's Statement of Accounts.
- A11.19 Maintain an overview of the financial control of all budgets for which Heads of Service are responsible.
- A11.20 Preparation of reports to the Scrutiny Committee in four of the annual Committee cycles providing an overall revenue monitoring position for the authority as a whole.
- A11.21 Preparation of reports to Scrutiny Committee and full Council in four of the annual Committee cycles detailing Supplementary Estimates and Emergency Expenditure approvals in the year to date.
- A11.22 Co-ordination of the procedure for securing Emergency Expenditure approvals.
- A11.23 Co-ordination of the allocation of revenue and capital resources.

## **A12 ACCOUNTING POLICIES**

- A12.1 The Head of Finance and Property is responsible for the selection and operation of the accounting policies of the Council.

## **A13 THE ANNUAL STATEMENT OF ACCOUNTS**

- A13.1 The Head of Finance and Property is responsible for ensuring that the annual statement of accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice.

## **A14 TRUST FUNDS AND CHARITIES**

- A14.1 Trust funds and charity accounts must be administered in accordance with the appropriate statutory provisions and at least to the same standard as those operated by the Council, to demonstrate good stewardship and effective use of resources.

## **A15 STRATEGIC SERVICE DELIVERY PARTNERSHIPS**

- A15.1 The Chief Operating Officer is authorised to approve additional spending, or a reduction in spending, of up to £100,000 in relation to strategic service delivery partnerships in consultation with the Head of Finance and Property, Leader and the Executive Member for Resources and Performance Management

## **B FINANCIAL PLANNING**

### **Why is this important?**

The importance of this area is in the need for sound planning, monitoring and control of resources. Sound budget management is crucial to informing good decision making and achieving best value in the use of the Council's resources.

### **B1 PERFORMANCE PLANS**

- B1.1 The Council has various performance plans and strategies which need to be published to explain the objectives, current performance and proposals for improvement. The Annual Report is a key element of engagement with the public.
- B1.2 Advice should be sought from the Head of Finance and Property on the financial information that needs to be included in performance plans.
- B1.3 Heads of Service are responsible for ensuring that accurate and timely information is produced for the production, monitoring and review of performance plans.
- B1.4 Heads of Service are required to ensure that there are robust systems of control to ensure that timely and accurate information is maintained and recorded in the performance plans.

### **B2 CAPITAL EXPENDITURE AND FINANCE**

- B2.1 A five year Capital Investment Needs Strategy will be maintained and reviewed annually.
- B2.2 The Capital Programme will include all expenditure proposals which the Head of Finance and Property deems should be regarded as capital expenditure irrespective of how it is intended that they should be financed.
- B2.3 A Capital Budget is to be prepared annually for submission to the Executive and to the Council for approval.
- B2.4 The Capital Budget is to be accompanied by a statement showing the revenue effect of the budget over a three year period.
- B2.5 Projects within the capital programme can be released once the Head of Service is satisfied that:
  - Funding approvals are in place
  - Standing orders and procurement regulations will be complied with
  - A detailed breakdown of proposed net spending has been provided to the Head of Finance and Property

- Any revenue implications of the project are provided for within the revenue budget and medium term financial strategy

There is no requirement for a report to the Executive on each project but a full business plan should be in place and agreed with the relevant Chief Officer prior to commencement. The Head of Service or Management Team can however present a report to the Executive on the proposed project if it is considered appropriate”.

- B2.6 Provided that the estimated costs do not exceed the provision made within the approved Capital Budget, the Executive may authorise the expenditure subject always to compliance with the Council’s Standing Orders in relation to contracts.
- B2.7 Where the estimated costs of a scheme exceed the provision made within the approved Capital Budget, before a contract is entered into or expenditure is incurred the Executive must, wherever possible, determine that a virement be made from the provisions included for other schemes within the Capital Programme.
- B2.8 Where estimated excess costs over budget provision cannot be met by virement, before a contract is entered into or expenditure incurred, a report must first be made to the Executive to consider the allocation of the required additional resources and make a recommendation to the Council.
- B2.9 No amount provided in a Capital Budget approved by the Council may be used for any purpose other than that for which it was authorised except by prior authorisation of the Executive.
- B2.10 A monitoring report covering the whole of the Capital Budget must be submitted to the Scrutiny Committee . Following closure of the accounts for the year, reports must be made to Scrutiny Committee, on the actual expenditure and income for the year. Where the method of finance is by leasing, the report will include a cost comparison showing the differences in the annual revenue costs between leasing and conventional borrowing.

### **B3 REVENUE BUDGET**

- B3.1 Estimates of revenue expenditure and income, including a three-year forward assessment of the revenue budget, are to be prepared by the appropriate Heads of Service, as directed by the Head of Finance and Property. They must be submitted to the Scrutiny Committee and Executive in accordance with the Budget and Policy Framework Procedure Rules and in accordance with the timetable and any guidelines determined by the Council.
- B3.2 In association with the preparation of the annual revenue budget, Heads of Service are to review charges for services and rents and make appropriate recommendations to Scrutiny Committee and Executive.

## **B4 BUDGET FORMAT**

- B4.1 The format of the budget approved by full Council is the responsibility of the Head of Finance and Property, having regard for the appropriate legislation, codes of practice and service needs.
- B4.2 Heads of Service are responsible for preparing a budget in a format that complies with the requirements of the Head of Finance and Property

## **B5 BUDGETARY CONTROL**

- B5.1 Budgetary control must be maintained by the appropriate Heads of Service.
- B5.2 Heads of Service must maintain a continuous record of commitments and submit to Management Team in four of the annual Committee cycles a monitoring report on income and expenditure for services under their control. A monitoring report covering the overall revenue budget must be submitted by the Accountancy Division Manager to Scrutiny Committee and the Executive in four of the annual Committee cycles. Following the closure of the accounts for the year a report must be made to the Executive, on the actual expenditure and income for the year. On each reporting occasion detailed explanations must be given of major variations between expenditure and budget. The format of the reports shall be as directed by the Head of Finance and Property.
- B5.3 Heads of Service must also report monthly on their budgets to the relevant Executive portfolio Member.
- B5.4 Subject to the provisions outlined for virement, Heads of Service are responsible for ensuring that no amount included in any budget approved by the Borough Council is used for any purpose other than that for which it is authorised.
- B5.5 Transfers of expenditure provision between budget heads (virement) may be made only in accordance the provisions outlined in these Financial Procedure Rules for virement.
- B5.6 Heads of Service must ensure that any likely overspending or proposed item of expenditure not provided for in the approved estimates, which cannot be met by a virement, shall only be incurred with the prior consent of the Council. This consent is to be sought by means of an application for a supplementary estimate to the Executive.
- B5.7 Any shortfall in estimated income which cannot be met by virement shall be reported by the relevant Head of Service to the next meeting of the Scrutiny Committee.
- B5.8 No expenditure for which a supplementary estimate has been sought shall be incurred until the approval of the Council has been obtained, with the exception of the circumstances arising as detailed in these Financial Procedure Rules covering emergency expenditure.

- B5.9 A report detailing any variations and supplementary estimates to be considered and emergency approvals granted together with a summary of supplementary estimates (including emergency approvals) granted since the start of the current financial year, showing the overall effect on the General Fund, shall be presented to each meeting of the Council as directed by the Head of Finance and Property.
- B5.10 Subject to compliance at all times with these Rules and with the Standing Orders of the Council Heads of Service are empowered to incur expenditure up to the amounts included within their approved budget. No expenditure, capital or revenue, shall be incurred in connection with the adoption of any new policy or significant extension of existing policy without the prior approval of the Executive or the Council.
- B5.11 Where additional in-year spending is proposed and which is to be funded from expected income from grants, fees and charges or other contributions, the following authorisation limits will apply:
- Up to £20,000 – Heads of Service
  - Between £20,000 and £50,000 – Heads of Service in consultation with the Head of Finance and Property
  - Over £50,000 – Heads of Service in consultation with the Head of Finance and Property and the Executive Member for Resources and Performance Management
- B5.12 All such approvals outlined in regulation B5.11 above must be documented , signed and sent to the Head of Finance and Property for budget monitoring purposes.

## **B6 MAINTENANCE OF RESERVES**

- B6.1 The use or application of any earmarked reserve shall be a matter for determination by the full Council on the recommendation of the Executive and in accordance with the Council's Reserves Policy.
- B6.2 The Executive may approve the use of earmarked reserves up to a limit of £100,000 to support spending. Such approvals must be reported through to the next meeting of the Council.
- B6.3 Where the Executive recommend the use of earmarked reserves exceeding £100,000 then the approval must be given by full Council.
- B6.4 The Head of Finance and Property is responsible for providing advice on the prudent level of reserves, taking account of the advice of the external auditor on this matter.

## **B7 RESOURCE ALLOCATION**

- B7.1 The allocation of resources needs to be prioritised to ensure a fair distribution and to fulfil legal responsibilities. Resources may include staff, money, equipment, goods and materials.
- B7.2 The Head of Finance and Property will advise on the methods available for funding resources and assist in the allocation of resources to budget holders.
- B7.3 Heads of Service must work within the budget limits and use the resources allocated in the most efficient, effective and economic way. This is to ensure that they can achieve value for money.
- B7.4 Heads of Service must identify opportunities to minimise or reduce resource requirements or consumption without having a detrimental effect on agreed levels of service delivery.

## **C RISK MANAGEMENT AND THE CONTROL OF RESOURCES**

### **Why is this important?**

It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Authority. Equally, regulations are needed to ensure arrangements are in place to protect the assets and resources of the Council.

### **C1 RISK MANAGEMENT**

- C1.1 The Head of Finance and Property is responsible for ensuring that the Council has and maintains appropriate Risk Management arrangements.
- C1.2 Heads of Service should ensure that risk management is embedded in the Council's decision-making process so that the risk implications of strategic and operational decisions can be considered.
- C1.3 Appropriate Officers should ensure that risk management is maintained at an operational level and to report to Heads of Services changes in the risks faced by the Council.
- C1.4 Heads of Service should ensure that the Council's Risk Management arrangements are complied with in their service, and to ensure that new risks, threats and opportunities are assessed, appropriate controls are in place to address the risk and that any further actions required to reduce the identified risk are implemented.

### **C2 INTERNAL CONTROL**

- C2.1 Internal Control is the system of controls devised by management to help ensure that the authority's objectives are achieved in a manner which promotes economic, efficient and effective use of resources and ensures all income due to the Council is collected and that the Council's assets and interests are safeguarded, whilst securing probity and legitimacy of transactions and preventing and detecting fraud, misuse or irregularity.
- C2.2 The Head of Finance and Property is responsible for advising on effective systems of internal control.
- C2.3 Heads of Service shall ensure that a robust system of internal control is in operation throughout their service. They should ensure that there are arrangements to establish and review the sound arrangements for separation of duties, safeguarding assets, appraising, planning, authorising and controlling their operations in order to achieve continuous improvement, efficiency, economy and effectiveness.
- C2.4 Heads of Service should monitor the effectiveness of the system of internal control within their service on a regular basis, and ensure that they are performing the required control objectives.



- C2.5 Heads of Service and Chief Officers will provide Statements of Assurance on the operation of the governance arrangements including internal controls in their services to the Leader and Chief Executive to enable the Annual Governance Statement to be completed.

### **C3 INSURANCE**

- C3.1 The Head of Legal and Democratic Services shall arrange and administer all insurance taken out by the Council, in consultation with the Head of Finance and Property and in accordance with the requirements of the Council. Heads of Service must ensure that indemnity limits are adjusted as appropriate so as to ensure the Council is always adequately covered against risk.
- C3.2 Heads of Service shall promptly notify the Head of Legal and Democratic Services of all risks, liabilities, properties or vehicles which require to be insured and of any alterations affecting risk or insurance indicating the amount of cover required.
- C3.3 Heads of Service shall immediately notify the Head of Legal and Democratic Services of any fire, loss, accident, incident or other event which may give rise to a claim against the Council's insurers.

### **C4 TREASURY MANAGEMENT**

- C4.1 Treasury Management is defined as the management of the Council's cash flows, its borrowings and its investments, the management of the associated risks and pursuit of the optimum performance or return consistent with those risks. It includes all activity relating to banking arrangements, borrowing and lending of money, and leasing.
- C4.2 Control for overall treasury management matters will rest with the Head of Finance and Property who shall act in accordance with the Prudential Code for Capital Finance in Local Authorities and the Code of Practice on Treasury Management in Local Authorities produced by the Chartered Institute of Public Finance and Accountancy (CIPFA). No other officer of the Council, except those officers authorised in writing by the Head of Finance and Property are permitted to engage in treasury management activities.
- C4.3 The following clauses as recommended by the Code of Practice have been adopted by the Council.
- C4.4 This Council adopts CIPFA's Code for Treasury Management in Local Authorities.
- C4.4.1 A Treasury Policy Statement setting out strategy and procedures shall be adopted by the Council and subsequently its implementation and monitoring shall be delegated to the Executive
- C4.4.2 All money in the hands of the Council shall be aggregated for the purposes of treasury management and shall be under the direction of the Head of Finance and Property.

- C4.4.3 All executive decisions on borrowing, investment or financing shall be delegated to the Head of Finance and Property and through him/her to those officers authorised in writing by him/her who shall be required to act in accordance with Council policy, CIPFA's Prudential Code for Capital Finance in Local Authorities and the Code of Practice on Treasury Management in Local Authorities.
- C4.4.4 Reports shall be made to the Executive not less than four times in each financial year on the activities of the Treasury Management operation and on the exercise of powers delegated to the Head of Finance and Property. One such report shall comprise an annual report on Treasury Management for presentation by 30th September of the succeeding financial year.

## **C5 ASSETS**

- C5.1 Assets of the Council include land, buildings, plant and machinery, equipment, software, stock and information. The Head of Finance and Property shall direct how records of these assets should be maintained.
- C5.2 Heads of Service should ensure that all assets of the Council are appropriately maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of a disaster or system failure are in place.
- C5.3 The Council's assets should only be used for the purposes of the authority and should be properly accounted for. The Head of Finance and Property will determine appropriate arrangements for the maintenance of Asset Registers and other records of assets.
- C5.4 Heads of Service are responsible for maintaining appropriate arrangements for the security of assets under their control. This includes verification checks on assets on a periodic basis, for example an annual check of inventory.
- C5.5 Where assets are no longer required by the Council, these should be disposed of under the authorisation of Heads of Service according to the requirements of the authority (Standing Orders for Contracts) so as to maximise benefits.
- C5.6 Employees have a personal responsibility in respect of information assets, to protect and maintain the accuracy and confidentiality of information.
- C5.7 Keys to assets, buildings, plant, vehicles, safes etc. should be securely held at all times. The loss of any such keys must be reported to the Head of Finance and Property as soon as possible.
- C5.8 Heads of Service should make arrangements for the valuation of assets for accounting or other purposes to meet requirements specified by the Head of Finance and Property.

## **C6 INVENTORIES AND STORES RECORDS**

- C6.1 Heads of Service shall designate officers to be responsible for the safe custody and physical control of stores, vehicles, plant, furniture and equipment within

their own Service Units and for the maintenance of proper records and inventories for all assets and equipment held by the Service Unit. Heads of Service must ensure that inventories are kept up to date and checked at least annually.

- C6.2 The Chief Operating Officer shall maintain a proper record and inventories of computer hardware, software and communications equipment in order to ensure that this is completed. Heads of Service shall obtain the approval of the Chief Operating Officer or his/her authorised representative for any procurement, installations, relocations or reinstallations of any hardware, software or communications equipment.
- C6.3 Heads of Service shall arrange for periodic checks of equipment and stores to be carried out by officers other than those responsible for their safe custody and control. All stocks of equipment and stores are to be checked at least once per year. The Head of Finance and Property is to be advised of their value and any discrepancies that might have occurred by means of a certificate signed by the officer who carried out the stock check.
- C6.4 Each Head of Service shall be responsible for ensuring that stocks of equipment and materials are not excessive in relation to requirements. Surplus equipment and materials (other than leased items where prior consultation with the Head of Finance and Property is required) shall normally be disposed of by competitive quotation.
- C6.5 Each Designated Officer shall maintain such records as are deemed necessary by the Head of Finance and Property, to determine the use of the Council's vehicles and plant. No employee of the Council shall use Council vehicles, plant, or equipment for private purposes.
- C6.6 All write-offs or disposals of inventory or stock items are to be authorised by the Head of Service and notified to the Head of Finance and Property

## **C7 INTELLECTUAL PROPERTY**

- C7.1 Intellectual property is a generic term that includes writing, designs, software development and inventions. If the employee creates these during the course of employment, then, as a general rule, they belong to the employer, not the employee.
- C7.2 Where the Council decides to become involved in commercial exploitation of intellectual property, appropriate controls should be in place to protect the Council's interests including provisions within the Council's Code of Conduct for Employees.
- C7.3 Heads of Service should ensure that staff do not carry out private work in Council time and that staff are aware of the Council's rights with regard to intellectual property.

## **C8 IRREGULARITIES**

- C8.1 Chief Officers and Heads of Service shall notify the Head of Finance and Property and the Council's Monitoring Officer immediately of all financial or accounting irregularities or suspected irregularities including those relating to cash, stores, property, remuneration or allowances. The Head of Finance and Property shall ensure that the Internal Audit Manager is informed of these notifications.
- C8.2 The Council's Monitoring Officer) and Head of Finance and Property, on receipt of a report from a Chief Officer or Head of Service disclosing apparent irregularities shall initiate such action as the law provides or in his/her opinion the circumstances merit.

## **C9 AUDIT AND INSPECTION**

- C9.1 The Head of Finance and Property shall, to the extent that he/she considers necessary or desirable, conduct or arrange for the examination and audit of the accounts of the Council and of its Officers and agents.
- C9.2 Heads of Service are responsible for co-operating with the Head of Finance and Property to enable audit arrangements to be planned, completed and reviewed. This extends to audits and reviews by internal and external audit and any other external review body.
- C9.3 Where appropriate Chief Officers are responsible for ensuring that Heads of Service or nominated responsible officers have agreed and implemented actions arising from audits or external reviews.

### **INTERNAL AUDIT**

- C9.4 The Head of Finance and Property, or other officers authorised in writing by him/her, shall have access for any necessary examination and audit, at all reasonable times, to all cash, property, documents, books of account and vouchers appertaining in any way to the finances of the Council. He/she shall be entitled to receive such explanations as may be necessary to satisfy him/herself of the correctness of any matter under examination.
- C9.5 Before proceeding, Heads of Service are required to consult with the Head of Finance and Property about any proposed changes or developments to financial procedures, records, systems and accounts, and such changes are subject to the agreement of the Head of Finance and Property. Advice should be sought from Internal Audit in the following instances:
- C9.5.1 - during discussion of the initial draft specification for the new system and consideration of the internal controls to enable the audit view to be taken into account before the specification is finalised.
- C9.5.2 - during the design of the tests which are to be applied to the new system to verify its reliability, accuracy and fitness for purpose.

- C9.5.3 - during the evaluation of the new system test results and discussion of pre-implementation action required.

#### EXTERNAL AUDIT

- C9.6 A local Audit Panel is responsible for appointing external auditors to each authority. The External Auditors are independent and are governed by the appropriate legislation and applicable standards.

#### OTHER REVIEW BODIES

- C9.7 From time to time the authority may be subject to audit, inspection or investigation by external bodies, such as HM Revenue and Customs, who either have statutory or contractual rights of access and explanation.

### **C10 PREVENTION OF FRAUD AND CORRUPTION**

- C10.1 The Head of Finance and Property is responsible for the development and maintenance of anti-fraud and anti-corruption policies.
- C10.2 The Monitoring Officer is responsible for the development and maintenance of the Whistle-blowing Policy.
- C10.3 All employees and Members of the Council must comply with the requirements of the Council's Code of Practice on the receipt of gifts and hospitality.

### **C11 STAFFING**

- C11.1 The Head of Paid Service (Chief Executive) is responsible for providing overall management to staff. They are also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
- C11.2 Heads of Service in consultation with the Chief Operating Officer and the Head of Finance and Property should ensure that there is an accurate forecast of staffing levels linked to an appropriate budget provision.
- C11.3 Heads of Service are required to ensure adequate control over such costs as sickness, overtime, training and temporary or agency staff. Heads of Service should ensure that there is compliance with Personnel Policies and instructions.
- C11.4 Heads of Service should ensure that checks are undertaken as required by the Recruitment and Selection policy prior to employing staff to ensure that they are appropriately qualified, experienced and trustworthy.

## **D SYSTEMS AND PROCEDURES**

### **Why is this important?**

This area forms much of the routine financial business of the Council and involves large numbers of transactions and staff. This area will be of interest to many people and it is important that such a major area of activity is clearly regulated and those regulations are supported by thorough detailed standards.

### **D1 GENERAL**

- D1.1 The Council operates a wide range of financial systems and controls to ensure that it can achieve its objectives.
- D1.2 Each financial system shall be documented in sufficient detail to allow a competent person with basic knowledge of the purpose of the system to operate, maintain and monitor the system. Each Head of Service shall ensure that such documentation exists for every financial system under their control and is updated as and when required.
- D1.3 All changes to these financial systems shall be notified to the Head of Finance and Property , however Heads of Service are responsible for the monitoring and proper operation of these systems.
- D1.4 Any changes to agreed financial procedures by Heads of Service to meet their specific service requirements should be agreed first with the Head of Finance and Property.
- D1.5 Heads of Service shall ensure that their staff receive relevant financial training and that their staff are competent to use local and central financial systems as necessary to perform their role effectively.
- D1.6 All data submitted for processing and information provided to the Head of Finance and Property by staff, shall conform to any timetables or data requirements as agreed by the Head of Finance and Property.
- D1.7 The Head of Finance and Property shall issue appropriate advice and guidance about systems and controls required to secure satisfactory standards of probity and regularity and to monitor that these are achieved.
- D1.8 Staff must not undertake, authorise, or instigate transactions that result in any financial advantage to themselves or their immediate friends and family. They should ensure that they declare these issues to their manager, who should make appropriate arrangements to address this potential conflict of interests.

### **D2 ORDERING OF GOODS AND SERVICES AND LETTING OF CONTRACTS**

- D2.1 The Council's Standing Orders and Procurement Strategy contain specific instructions relating to the letting of contracts, the issue of variation orders on contracts, and the purchase of goods and services, and these must be followed at all times.

- D2.2 Employees and Members of the Council must not use Council stationery or computerised systems to place orders with suppliers for goods or services intended for personal use. Under no circumstances shall orders for such goods or services purport to be issued on behalf of the Council.
- D2.3 Officers authorised to order goods and services or to seek tenders for contracts must comply with Council Policy, the Council's Standing Orders, National Directives and these Financial Procedure Rules. They must make appropriate arrangements for the approval of orders and ensure that all orders are made on official order forms or via ordering systems that have been approved by the Head of Finance and Property.
- D2.4 Purchases of equipment, goods and materials shall be made through the most economical means, having regard to practicality, sustainability and in accordance with the Council's Standing Orders making use of co-ordinated purchasing agreements where these are available.
- D2.5 Staff must not, under any circumstances, order or authorise anything which would result in a payment to themselves or their immediate family. Where it is intended that the Council pay a member of staff or their immediate family, the order or invoice(s) concerned must be authorised by another approved member of staff.

### **D3 CONTRACTS**

- D3.1 The Head of Finance and Property is to be informed in writing of all contracts where the value exceeds £50,000.
- D3.2 Where contracts provide for payment to be made by instalments, Heads of Service must ensure that a Contract Register is kept showing the payments made under each contract together with any other payments and related professional fees.
- D3.3 All requests for payment in respect of a contract are to be made by means of a certificate in a form agreed with the Head of Finance and Property and certified by an authorised Officer. The certificate must show particulars relating to the contract, its total amount, the sum paid to date and the amount of retention money deducted. The names and specimen signatures of persons authorised to certify shall be supplied to the Head of Finance.
- D3.4 Every extra or variation to a contract shall be certified by the authorised Officer(s). In cases where these extras or variations cause a material variation in previously estimated costs, they shall be included in budget monitoring reports.
- D3.5 The Head of Finance and Property shall, as he/she considers necessary, direct the examination of final accounts, documents and vouchers relating to contracts. He/she shall be entitled to make all such enquiries and receive such information and explanations as he/she may require to satisfy himself/herself as to the accuracy of the accounts submitted.

- D3.6 Without prejudice to the legal obligations of the Council, Architect, Engineer or supervising officer under any contract, the final certificate relating to the completion of a contract for building construction or engineering works shall not be issued until the appropriate Officers, private architects, engineers or consultants have provided to the Head of Finance and Property a detailed statement of account and other relevant documents.
- D3.7 Where a contractor goes into receivership during the contract, officers should ensure that the Council's is not exposed to unreasonable risk. This could take the form of performance bonding, or other arrangements to mitigate the costs of the loss of contractor.
- D3.8 The Architect, Engineer or supervising officer for a contract should ensure that a signed contract or other appropriate contract arrangements are in place prior to commencement of works or services.
- D3.9 Contracts that are subject to annual payment for example insurance premiums, computer (hardware & software) contracts, or annual maintenance agreements should be verified to confirm that these are still valid requirements and Accountancy Services are informed of the timing of large sums to facilitate treasury management.
- D3.10 Competition Law requirements introduced through the Subsidy Control Act 2022 require Officers to consider if a contractual arrangement provides direct or indirect support to an organisation or enterprise over any other that is capable of effecting competition or investment within the UK or outside territories.
- D3.11 Consideration must therefore be given against subsidy (financial assistance) tests and possible exemptions. Where a subsidy is determined to be present, officers must consider further steps to make a contract award lawful. The council will be obliged to publish relevant information on the UK Transparency Database where a subsidy is determined to have been provided and is greater than £100,000 in value.

#### **D4 INCOME**

- D4.1 Arrangements for the safe and efficient receipt of, and accounting for, all money, i.e. cash and cheques due to the Council, are subject to the direction of the Head of Finance and Property who may issue such instructions, as he/she deems necessary. All employees must comply with these instructions.
- D4.2 All money received by any employee on behalf of the Council must be promptly paid into the Council's Cash Office or to the Council's Bank in the form in which they are received and in accordance with instructions issued by and at intervals agreed with the Head of Finance and Property. In any interim period between receipt and banking, the responsible employee must ensure that the monies received are at all times kept secure in a safe or locked cabinet. Under no circumstances must the limits on safes etc., be exceeded. Where this is likely to occur, an additional pay-in to the Bank or Cash Office must be made.
- D4.3 All receipt forms and books, tickets and other financial stationery shall be ordered and supplied to Heads of Service in accordance with instructions



issued by the Head of Finance and Property. The Accountancy Division Manager must be notified as soon as possible of all events for which financial stationery, tickets etc., will be required. The Officer responsible for the event must ensure that proper control and accounting arrangements are implemented.

- D4.4 All employees responsible for receiving money will in all cases give a receipt. This will be by means of a receipting machine, by the use of a receipt book bearing the Council's name, or by means of a ticket where appropriate. Where a cash till is in use, all income received shall be recorded through the till.
- D4.5 Where payment is received in the form of a cheque, the number of the receipt(s) issued must be written or printed on the back of the cheque and on the paying-in slip which must also record the amount of the cheque. Cheques made payable to an individual or another organisation (third party cheques) must not be accepted. Council cheques made payable to an individual may be accepted, with the written agreement of that individual, to defray any debt that individual may have to the Council.
- D4.6 Where payment is received in the form of a debit or credit card or other form of electronic payment, details of the payment must be cross-reference to the receipt and appropriate procedures used to confirm the legitimacy of the transaction. Officers should ensure that these payment details are securely maintained.
- D4.7 All transfers of Council money between staff members shall be signed for by them. All transfers of Council money to security firms acting for the Council shall be signed for by a member of staff and a representative of the firm to whom the money is transferred and a record made of the seal number(s) or envelope number(s).
- D4.8 Personal cheques shall not be cashed out of money held on behalf of the Council.
- D4.9 In respect of credit income due to the Council, accounts shall be rendered promptly within 21 days by the relevant Head of Service, and appropriate and accurate information supplied for subsequent recovery action, as directed by the Head of Finance and Property.
- D4.10 The Head of Finance and Property is to be notified promptly of all income due under contracts, leases and other arrangements entered into by the Council. The appropriate Head of Service shall ensure that lease renewals are negotiated promptly and details of the revised periodical payments notified to the Head of Finance and Property without delay.
- D4.11 Heads of Service have a responsibility to assist the Head of Finance and Property in collecting accounts that they have originated by providing any further information and in pursuing the matter on the Council's behalf.
- D4.12 Non-payment of accounts shall be followed up by the effective action to pursue the accounts within defined timescales, before proceeding with legal action to recover the debt in accordance with Council policy.

- D4.13 Heads of Service must operate appropriate performance management systems used to monitor the recovery of income.
- D4.14 Irrecoverable debt can only be written off in accordance with Council policy, and with the agreement of the Head of Finance and Property or other officer(s) authorised by him/her. A schedule of all sums written off during each financial year must be prepared by Heads of Service at the end of each financial year for inclusion in the Council's accounts. Heads of Service will provide information as directed by the Head of Finance and Property to enable the appropriate accounting adjustments to be made.
- D4.15 The setting of fees and charges for services shall be made after advice has been sought from the Head of Finance and Property.
- D4.16 The receipt of income through electronic systems shall only be permitted with the approval of the Head of Finance and Property. The system should ensure that there is appropriate security over access, record keeping and reconciliation of the systems with the council's main financial systems.
- D4.17 A person who is not involved in the collection or banking process must reconcile money collected and deposited to the bank account.
- D4.18 Heads of Service should ensure that where post is opened, at least two people are present so the money received in the post is properly identified and recorded.
- D4.19 Heads of Service should ensure that the responsibility for cash collection is separated from that of identifying the amount due and reconciling the amount due to the amount received
- D4.20 The use of third parties to collect income should be monitored to ensure compliance with these Financial Procedure Rules and appropriate standards.

## **D5 PAYMENT OF ACCOUNTS**

- D5.1 The Head of Finance and Property will direct that any procedures and instructions necessary for the verification and passing for payment of invoices and claims are detailed and issued
- D5.2 The primary responsibility for ensuring the correctness of the invoice or claim for payment remains with the certifying officer.
- D5.3 All invoices and claims for payment including final accounts of contracts shall be examined and verified by the appropriate responsible Officer. The names and specimen signatures of officers authorised to certify shall be supplied to the Head of Finance and Property.
- D5.4 Before certifying an account for payment, the certifying officer must be satisfied that: -
  - D5.4.1 - the work, goods or services to which the account relates have been fully received or properly carried out

- D5.4.2 - the account has not previously been passed for payment; is the proper liability of the Council; and is in accordance with Council Policy and Standing Orders.
- D5.4.3 - the payment is within estimate provision and has been allocated to the correct expenditure code.
- D5.4.4 - the prices are correct and that discounts and VAT are properly calculated and recorded.
- D5.4.5 - deductions for tax are made as appropriate under the Construction Industry Tax Deduction Scheme.
- D5.4.6 - the appropriate entries have been made in inventories of stock records.
- D5.4.7 - the order number is recorded on the certification grid.

## **D6 SALARIES AND WAGES**

- D6.1 The payment of all salaries, wages, gratuities, compensation and other allowances to employees or former employees of the Council shall be made through the Council's payroll system.
- D6.2 Each Head of Service shall without delay notify the Council's payroll provider and the Head of People and Development, of all matters affecting those payments and in particular: -
  - D6.2.1 Appointments, resignations, dismissals, suspensions, secondments and transfers;
  - D6.2.2 Absences from duty for sickness or other reason that may affect any aspect of payments to staff;
  - D6.2.3 Changes in remuneration other than normal incremental progression, nationally negotiated pay awards and agreements of general application;
  - D6.2.4 Information necessary for maintaining records of service for the purposes of superannuation, income tax, national insurance and other statutory and voluntary deductions from pay.
- D6.3 All time sheets and other documents in support of payments to employees shall be in a form prescribed or approved by the Head of Finance and Property and shall be submitted to the Council's payroll provider before the dates specified by him/her. The relevant Head of Service shall certify all such time sheets and documents or a responsible officer designated by him/her. The names and signatures of officers authorised to certify shall be supplied to the Head of Finance and Property
- D6.4 The Head of Finance and Property is authorised to direct the implementation of all nationally agreed pay awards, except for matters where the Council is required to exercise its discretion, and to implement incremental salary progression in accordance with national and local schemes.

## **D7 OFFICERS TRAVELLING, SUBSISTENCE AND OTHER ALLOWANCES**

- D7.1 All claims for payment of car mileage, travelling and subsistence and other allowances and expenses shall be made only in accordance with the rates agreed from time to time by the Council for costs properly incurred on Council activities. All claims shall be signed by the Head of Service/Chief Officer or other responsible officer designated by him/her.
- D7.2 Signed claims for subsistence and travel by public transport may be reimbursed through Petty Cash. Claims for car mileage must be made at monthly intervals on the prescribed form through the Councils payroll system.
- D7.3 The certification by the Head of Service or other responsible officer shall be taken as confirmation that the journeys were authorised and that the allowances and expenses were properly and necessarily incurred. Notwithstanding the prime responsibility of the certifying officer to satisfy him/herself as to the validity and accuracy of the claim, the Head of Finance and Property may at his/her discretion direct the examination of the claims and be provided with any explanations he/she may seek.
- D7.4 Officers should ensure that these arrangements and limits apply when travelling, subsistence or other allowances are paid through the Council's P-Cards. Payments made that are in excess of allowances will be deemed to be private expenditure and recovered from the officer concerned.
- D7.5 Officers should ensure that where required that they obtain receipts for travel and subsistence expenditure, and provide these details in support of the claims involved.
- D7.6 The Council will not pay or reimburse parking fines or other similar costs i.e. on the spot penalties, excess travel charges etc. that have been incurred by officers.

## **D8 MEMBERS ALLOWANCES**

- D8.1 Payments to Members of the Council (and to any co-opted persons) in respect of special and basic responsibility, financial loss, travel and subsistence allowances will be made under the direction of the Head of Finance and Property. Claims must not exceed the amounts laid down from time to time by the Council and must be made on the prescribed form and at intervals, if any, laid down by the Council.
- D8.2 All claims submitted shall be properly certified by the Member concerned. The certification will be taken to mean that the Member has attended the meeting, conference or seminar for which the allowance is being claimed; that the meeting etc. was an approved duty under the Council's Scheme and that the period of absence from home was entirely for the purpose of the meeting etc., concerned. For claims for travel by motorcar on approved duties, the lower rate of car mileage will be paid unless the Member certifies that the use of the motorcar "resulted in a substantial saving of time". Where more than one Member attends the same conference or seminar etc., outside the Borough, wherever possible they should travel together.

## **D9 BANKING ARRANGEMENTS**

- D9.1 All receipts shall be paid into and all payments made out of the Council's Bank Accounts by or under the direction of the Head of Finance and Property
- D9.2 All arrangements with the Council's Bankers under the Council's Banking Contract shall be made solely under the direction of the Head of Finance and Property. He/she shall be authorised to open such accounts in the name of the Council and give directions as necessary for the making of payments on behalf of the Council and for the deposit of money received by the Council.
- D9.3 Authorisation for the direct debiting of the Council's bank accounts shall be given only under the personal signature of the Head of Finance and Property or other officer authorised in writing by him/her.
- D9.4 All cheques shall be ordered only as directed by the Head of Finance and Property who shall require proper arrangements to be made for their safe custody.
- D9.5 Cheques drawn on the Council's bank accounts shall bear the facsimile signature of the Head of Finance and Property. Before issue, all cheques must have been subjected to a secondary independent scrutiny and endorsed as a valid payment by an officer authorised by the Head of Finance and Property. For amounts of £10,000 and above, cheques shall also be initialled by the Head of Finance and Property or other officer(s) authorised in writing by him/her. These arrangements apply to BACS and other electronic payments where appropriate.
- D9.6 At intervals determined by the Executive, the Head of Finance and Property shall direct that competitive quotations be sought for the provision of banking services to the Council.

## **D10 INFORMATION TECHNOLOGY**

- D10.1 Chief Officers and Heads of Service must comply with the Council's Information Services Strategy and the Information Technology Security Policy.
- D10.2 Computerised systems which involve a financial operation or produce output that may influence the allocation of resources must conform to acceptable minimum standards of control as directed by the Head of Finance and Property
- D10.3 Computerised systems which contain financial information which support or affect the accounts of the Council must be reconciled to the Council's main Financial Management System in accordance with instructions issued under the direction of the Head of Finance and Property.
- D10.4 Heads of Service with systems that involve the operation of electronic ordering, receipting or financial record systems shall ensure that an appropriate system of internal control is in place.

## **D11 TAXATION**

- D11.1 The Head of Finance and Property is responsible for ensuring that appropriate advice is available on all taxation issues that affect the authority.
- D11.2 The Head of Finance and Property is responsible for ensuring the authorities tax records are maintained and that all tax payments are made, tax credits received, and tax returns submitted by their due date as appropriate.
- D11.3 Officers must ensure that the appropriate VAT liability is attached to all income due and that all VAT Recoverable on purchases complies with the legislation.
- D11.4 Officers must ensure that the VAT liability of activities, especially land and property transactions, have been approved by the Head of Finance and Property prior to commencement.
- D11.5 Heads of Service must ensure that all persons employed by the authority are added to the authorities payroll and so are treated appropriately for taxation, unless the individuals are bona fide self employed or are employed by a recognised staff agency.
- D11.6 Officers must follow the advice issued by the Head of Finance and Property on taxation matters.

## **D12 PETTY CASH ACCOUNTS**

- D12.1 The Head of Finance and Property will direct the setting up of petty cash, cash floats and imprest accounts for officers and the determination of the individual amounts thereof and the purposes for which they may be used.
- D12.2 In all cases petty cash, cash floats and petty cash account books must be kept securely and be in a form approved by the Head of Finance and Property All payments made out of petty cash shall be supported by properly authorised vouchers that have also been signed by the person receiving the money.
- D12.3 All officers holding petty cash accounts shall submit periodic claims for reimbursement as directed by the Head of Finance and Property and vouchers shall support each claim.

## **D13 PROCUREMENT CARDS**

- D13.1 The Head of Finance and Property is responsible for the issue of Procurement Cards to nominated members of staff and is responsible for providing instruction and guidance on the use of the Cards.
- D13.2 Officers should ensure that they comply with the guidance issued by the Head of Finance and Property and ensure that they keep the Card and any associated codes safe at all times. Cardholders are not permitted to share or delegate the use of the card issued to them to any other person.
- D13.3 Officers should ensure that when using the Card in circumstances that are covered by official allowances, (subsistence, travel etc) that they are aware of

the appropriate allowances and that card payments made in excess of these allowances will be recovered from the officer concerned.

- D13.4 Officers are required to obtain and retain receipts and VAT invoices for Card transactions.

## **D14 ELECTRONIC PROCUREMENT**

- D14.1 The arrangements for normal ordering of goods and services apply in the case of electronic procurement (including any purchases through the Internet). Such systems shall only be considered if they can ensure that there are appropriate access controls, security, accountability for transactions and audit trails of actions.
- D14.2 Heads of Service shall authorise nominated officers to operate the various aspects of electronic procurement in consultation with the Head of Finance and Property
- D14.3 Heads of Service shall ensure that there are appropriate arrangements in their service to;
- D14.3.1 - create orders
  - D14.3.2 - authorise Orders (as required)
  - D14.3.3 - ensure that the order has been created against the correct cost code.
  - D14.3.4 - record the receipt of goods and match this to the order
  - D14.3.5 - match invoices to the Goods received note and order (as required)
  - D14.3.6 - separate duties so that no one officer can perform all aspects of procurement.
- D14.4 The approval of the Head of Finance and Property is required prior to the introduction of new systems of electronic procurement or the operation of any changes to the systems of electronic procurement.
- D14.5 Where an approved electronic procurement system is in operation and the required controls have been operated in the Service, the requirements for the payments of accounts (Section D5) maybe modified.

## **D15 ANTI-MONEY LAUNDERING**

- D15.1 The Council is required to ensure that there are adequate controls to detect and prevent the Council handling the proceeds of crime. Where the officer is involved in a single or cumulative transaction of €15,000 (£13,000) or more from or to a third party they must;
- D15.1.1 Ensure that the third party produces satisfactory proof of identity

- D15.1.2 If the third party identified acts or appears to act for another person then they must take reasonable measures to identify that person.
- D15.1.3 Not proceed any further with the transactions if they are not satisfied with the identity.
- D15.2 In order to facilitate this no officer of the Council is permitted to receipt cash of a value of £10,000 or over for a single transaction or a series of related transactions.
- D15.3 In all cases where there is doubt about the identity, further action must not be taken without consulting the Head of Finance and Property It is important that the third party is not given any information concerning any suspicions.
- D15.4 The records relating the transaction must be retained as following;
  - D15.4.1 A copy of the Proof of identity
  - D15.4.2 Information about the source of evidence
  - D15.4.3 Information enabling the evidence to be re-obtained, if required.
  - D15.4.4 Details of the transaction between the Council and the third party.
  - D15.4.5 Retained for five years after the relationship ended or the date of the last transaction
- D15.5 Any officer who knows or has reasonable grounds for suspecting that a third party is engaged in money laundering through transactions with the Council, must inform the Head of Finance and Property as soon as practicable. The Head of Finance and Property will consider whether or not to disclose this to the Police and will record the reasons for that decision.



## **E EXTERNAL ARRANGEMENTS**

### **Why is it important?**

The importance of this area is in the local authority's distinctive leadership role for the community, bringing together contributions from the various stakeholders, maximising funding opportunities and achieving best value. This may involve the establishment of partnership arrangements, joint ventures and externally funded projects, and it is essential that the responsibilities, obligations and commitment attached to such arrangements are properly managed and accounted for.

### **E1 GENERAL**

E1.1 Unless specifically provided otherwise, Financial Procedure Rules apply in the event of the Council, the Executive, a Committee or Sub-Committee or Officer acting as agent for another local or public authority or company. They also apply where the Council acts as the Accountable Body under any partnership funding arrangements.

### **E2 EXTERNAL FUNDING**

- E2.1 All applications or bids for grant or other external funding which include supporting contributions from the Council must be notified to and agreed in advance with the Head of Finance and Property. This requirement relates to both cash contributions and any other Council contribution.
- E2.2 All applications or bids for grant or other external funding which DO NOT include supporting contributions from the Council must be notified in advance with the Head of Finance and Property.
- E2.3 On notification of approval of a grant or other external funding to the Council, the relevant Head of Service must immediately notify the Head of Finance and Property; supply him/her with a copy of the written approval, and inform him/her of the name of the officer designated to act as the Council's Responsible Officer for this funding.
- E2.4 The Responsible Officer shall prepare claims for grant assistance or other external funding promptly and in accordance with the criteria for claiming the grant or funding, and submit grant claim forms for authorisation and signature by the Head of Finance and Property. The Responsible Officer shall ensure that the authorised and signed claim form is received by the grant or external funding body by the specified date.
- E2.5 The Responsible Officer shall ensure that proper accounting arrangements and prime records are maintained for the purposes of audit by the Council, the Council's external auditors and the grant or external funding body.
- E2.6 The Head of Finance and Property must be informed before the Council acts as an accountable body for external funding or assumes financial responsibility on behalf of third parties for funding. The Responsible Officer shall ensure that there are appropriate arrangements to minimise the risk to the Council, such as standards of internal control, auditing arrangements, monitoring and reporting.

### **E3 PARTNERSHIP**

- E3.1 Where necessary partners should be aware of their responsibilities under the Council's Financial Procedure Rules and Standing Orders for Contracts.
- E3.2 Project/Partnership Managers should ensure that risk management processes are in place to identify and assess all known risks.
- E3.3 Any Partnerships or project shall be appropriately appraised to assess the viability of the project in terms of resources, staffing and expertise.
- E3.4 All the partners, including the Council, should agree and accept the roles and responsibilities involved in the partnership or project, before the partnership or project commences.
- E3.5 Regular communication should be undertaken with other partners during the partnership or project to ensure problem identification and sharing.
- E3.6 The Head of Finance and Property must be consulted to advise on effective controls, scheme appraisal for financial viability, risk appraisal and management, resourcing (including taxation), audit security and control requirements.
- E3.7 The project/partnership manager shall provide appropriate information to the Head of Finance and Property to enable appropriate accounting arrangements can be made and records made in the Council's Statement of Accounts.
- E3.8 Partnership or Project management is responsible for ensuring appropriate governance arrangements are in place for the project or partnership. The governance arrangements should ensure that there is;
  - E3.8.1 A clear statement of the partnership principles and objectives (for example a contract, constitution etc)
  - E3.8.2 Clarity on each partner's role within the partnership
  - E3.8.3 Definition of the roles of partnership board members (or other management arrangements)
  - E3.8.4 Line management responsibilities for staff that support the partnership.
  - E3.8.5 A statement of funding sources for joint projects and clear accountability for proper financial administration.
  - E3.8.6 A protocol for dispute resolution within the partnerships (for example escalation and appeal processes).
  - E3.8.7 A clear legal status for the partnership
  - E3.8.8 Clarity on the ability of partners' representatives to bind their organisation to partner decisions.

#### **E4 WORK FOR THIRD PARTIES**

- E4.1 Any new areas of work for third parties shall be appropriately estimated and charged for after consultation with the Head of Finance and Property
- E4.2 Appropriate information shall be provided to the Head of Finance and Property to ensure that accounting and financial reporting arrangements are maintained.

#### **E5 FRONT FUNDING**

- E5.1 The Head of Finance and Property must approve any instances where the authority is requested to front fund an external body. He will determine the information and arrangements that are required to support this arrangement.
- E5.2 Officers must ensure that there are appropriate controls in place to ensure proper use of the funds by the external body, and that this does not expose the Council to undue risk.

# Index

Access to Financial Records and Information .....	7
Accounting Policies .....	12
Anti-Money Laundering .....	32
Assets .....	19
Audit and Inspection .....	21
Banking Arrangements .....	29
Breaches of Financial Procedure Rules .....	8
Budget Format .....	14
Budgetary Control .....	15
Capital Expenditure and Finance .....	13
Contracts .....	24
Electronic Payments .....	32
Emergency Expenditure .....	9
External Arrangements General .....	34
External Funding .....	34
Financial Advice and Guidance .....	7
Financial Management General .....	6
Form of Accounts and Prime Financial Records .....	7
Front Funding .....	36
Income .....	25
Information Technology .....	30
Insurance .....	18
Intellectual Property .....	20
Internal Control .....	17
Inventories and Stores Records .....	19
Irregularities .....	20
Legislation .....	6
Maintenance of Reserves .....	16
Members Allowances .....	29
Officers Travelling, Subsistence and Other Allowances .....	28
Ordering of Goods and Services and Letting of Contracts .....	23
Partnership.....	35
Payment of Accounts .....	27
Performance Plans .....	13
Petty Cash Accounts .....	31
Prevention of Fraud and Corruption .....	22
Procurement Cards .....	31
Quick Reference Guide .....	4
Resource Allocation .....	16
Responsibilities of Officers and Members .....	7
Revenue Budget .....	14
Risk Management .....	17
Salaries and Wages .....	28
Scheme of Virement .....	8
Staffing .....	22
Statement of Financial Management Responsibilities – Budget Holders .....	11
Statement of Financial Management Responsibilities – Finance Unit .....	11

Statement of Financial Management Responsibilities – Heads of Service .....	10
Systems and Procedures General .....	23
Taxation .....	30
The Annual Statement of Accounts .....	12
Treasury Management .....	18
Treatment of Year End Balances .....	9
Trust Funds and Charities .....	12
Work For Third Parties .....	36

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# **STANDING ORDERS FOR CONTRACTS**

***Version 11.0***

*(February 2023)*

## **1. 0 Table of Contents:**

2. 0 Standing Orders for Contracts: Context [Page 4](#)

2.1 Contract Value Thresholds [Page 5](#)

3. 0 Standing Orders Applicable to ALL Contracts [Page 7](#)

### **Procedures:**

3. 1 For Contracts Less Than £2,000 [Page 12](#)

3. 2 For Contracts Above £1,000 and Below £20,000 [Page 12](#)

3. 3 For Contracts Above £20,000 and Below £100,000 [Page 13](#)

3. 4 For Contracts Above £100,000 [Page 14](#)

### **Appendix A**

#### **The Tender Process: Procedures**

1. Invitation of Tenders: Steps to Follow [Page 19](#)

2. Pre-Approved Contractors (Works) [Page 19](#)

3. Absence of Pre Approved Contractor (Works) [Page 20](#)

4. Open Tender [Page 20](#)

5. Submission of Tenders: Steps to Follow [Page 21](#)

6. Opening & Accepting Tenders [Page 21](#)

7. Nominated Sub Contractors & Suppliers [Page 23](#)

8. Principles of Positive Action [Page 23](#)



## 1.1 Revision History

<b>Version</b>	<b>Date</b>	<b>Author</b>	<b>Description</b>
1.0	April 1994	Tom Forshaw	Original
2.1	17/10/2006	Chris Gay	Executive Approval
2.2	29/01/2010	Chris Gay	Updated EU Thresholds
3.0	14/07/2011	Chris Gay	Review of Constitution and e-tendering
4.0	17/09/2013	Chris Gay	Review of Constitution
5.0	10/04/2014	Chris Gay	Contractor pre-approval, New Thresholds
6.0	Nov 2015	Chris Gay	Council Reorganisation & minor amends
7.0	Dec 2016	Eric Dickinson	Sealing of documents
8.0	Feb 2017	Eric Dickinson	Council Reorganisation & Review
9.0	April 2018	Eric Dickinson	Amendments after Organisation Review
10.0	29/09/2021	Chris Gay	Introduction e-notification Service & contract sealing
11.0	22/02/23	Chris Gay	Update

For the purposes of this document Chief Officers are defined as including only the Chief Executive and the Chief Operating Officer.

## **2. 0 Standing Orders for Contracts: Context**

Local Authorities are required by law to maintain proper arrangements for the administration of financial matters. The following Standing Orders for Contracts (SOC) apply to the procurement of all supplies, services and works, and the disposal of assets on behalf of Burnley Borough Council. They provide the framework, with associated relevant policies<sup>1</sup>, to enable the Council to conduct financial matters to the highest standards of probity in a clear, visible and transparent way and ensure the fair selection of suppliers.

Equally important are the provisions of value for money through competition and the avoidance of practices which may restrict, prevent or distort competition. These Standing Orders facilitate delivery of value, competition and best practices.

Everyone involved in procurement and contracting on behalf of the Council, regardless of value, is required to comply with these Standing Orders. This includes any partnership or grant funded arrangements for which the Council is the accountable or host body.

Exceptions to these Standing Orders may be sought where expediency is required, for example in response to an emergency or due to the specialist nature of the supplies, services or works required. In such cases the use of 'emergency powers' as set out in the Council Constitution are to be followed.

Where these Standing Orders refer to action being taken by a Committee or Sub-Committee such action may require confirmation by the Executive or the Council unless authority has been delegated to that Committee or Sub-Committee.

The Council is committed to providing value for money in all it does; and recognises that this may involve following new and innovative ways of procurement. As such these standing orders will be kept under periodic review to ensure they remain fit for purpose and allow the flexibility to adopt new approaches.

NOTE: The word 'contract' includes any binding arrangement whether documented in a formal contract, an accepted order, or in correspondence. It also normally includes binding arrangements made verbally, however these Standing Orders prohibit the making of a verbal contract with a value greater than £2,000 .

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<sup>1</sup> Such policies will be clearly identified where relevant within SOC

## 2. 1 Contract Value Thresholds

<b>Threshold</b>	<b>Summary procurement method</b>	<b>Go To:</b>
<b>Less than £2,000</b>	Verbal agreement with written or electronic record; market testing undertaken appropriate to the need or value of the contract/ purchase	<a href="#">Page 12</a>
<b>Above £2,000 and Below £20,000</b>	Market testing undertaken by the method deemed most appropriate by the relevant Head of Service (3 competitive quotes) or use an available Framework Agreement or Dynamic Purchasing System (DPS)	<a href="#">Page 12</a>
<b>Above £20,00 and Below £125,000</b>	Three competitive quotes obtained. Supplier can be drawn from Open Tender or other procedures, Framework Agreement or DPS, Pre - Approved Suppliers/ Select list. Contracts Finder website used to advertise opportunities above £25,000	<a href="#">Page 13</a>
<b>Above £125,000</b>	Executive authority required. Tenders invited, public advertisement on Contracts Finder and Find a Tender (FTS). Supplier can be drawn from an Open Tender or other relevant procedures, a Framework Agreement or DPS, Pre - Approved Suppliers/ Select list. Compliance with UK e-notification Service ( <a href="#">PPN 10/20</a> ) is required for above public procurement threshold tenders	<a href="#">Page 14</a>

## 2. 2 Public Procurement Thresholds

<b>Contract</b>	<b>Threshold Net of VAT)</b>	<b>Treshold (Inc VAT)</b>	<b>For further Information:</b>
<b>Supplies*</b>	<b>£189,330</b>	<b>£213,477</b>	<b>VAT: See SOC 2i</b> <a href="https://www.gov.uk/guidance/public-sector-procurement">https://www.gov.uk/guidance/public-sector-procurement</a> *These thresholds will remain in place until 1 January 2024. .
<b>Services*</b>	<b>£189,330</b>	<b>£213,477</b>	
<b>Works*</b>	<b>£4,733,252</b>	<b>£5,336,937</b>	
<b>Concessions*</b>	<b>£4,733,252</b>	<b>£5,336,937</b>	

As a Public Body the Council is required by law to comply with the 2015 Public Contract Regulations. Standing Orders for Contracts identify these requirements and the subsequent actions needed as and when applicable.

In all cases where purchase or contract values are above applicable procurement thresholds the subsequent procurement activity must follow the prescribed procedures. Failure to comply with this may lead to a formal challenge of our procurement decisions that could result in severe penalties, including financial, being awarded against the Council.

## 2. 3 Contact Details for further information:

Governance Manager ☎ 01282 477163

Standard tender documentation is available via the Governance Manager/ SharePoint (Hub). To prepare and publish above threshold opportunities (see SOC 18i) the Council uses the Governments e-notification service Find a Tender Service (FTS). For further detail, contact the Governance Manager or [PPN 10/20](#).

## 3. 0 Standing Orders Applicable to all Contracts: General Matters

The following Standing Orders apply to all contracts and sales agreements or purchase orders:

### **SOC 1. Compliance with Contract Policies**

- i. Officers dealing with procurement and contracting must do so in accordance with Burnley Borough Council's Finance Procedure Rules and Guidance issued by the Head of Finance and Property Services for the operation of Procurement Systems, these Standing Orders for Contracts, and The Public Contract Regulation 2015 or successor regulations.
- ii. Unless specifically provided otherwise, they apply in the event of the Council or delegated officer acting as agent for another local or public authority or company or organisation. They also apply where the Council acts as the Accountable Body under any partnership or external funding arrangements
- iii. Chief Officers and Heads of Service must ensure that these Standing Orders are observed throughout the Service(s) under their control. They must ensure that appropriate staff are aware of and comply with these requirements.
- iv. That joint procurement contracts or purchasing framework agreements established through collaboration, or other similar arrangements, should be used when procuring supplies, services or works that are the subject of those arrangements
- v. The potential for collaboration with other public bodies must be considered when planning a procurement exercise or changes in service provision, including use of existing framework agreement opportunities
- vi. Once the need to procure supplies, services or works with a value of £20,000 or above has been established, the Council's Governance Manager must be contacted to establish if collaborative opportunities or existing Framework agreements are available to avoid unnecessary cost, duplication and mobilisation

### **SOC 2. Value Added Tax**

- i. Consideration must be given as to whether or not VAT will apply to relevant contracts and the relevant rate which might be applicable. Where VAT does apply, this must be included in the assessment of the contract value in order to determine whether or not the contract will exceed the relevant thresholds see 2.2.

### **SOC 3. Estimate of Costs (Market Testing and Request For Quotation)**

- i. A genuine estimated cost of supplies, services, works or income from sales should be obtained in line with the appropriate SOC thresholds prior to starting a procurement or asset disposal or contracting exercise (see also SOC 6 (ii) on whole life costs)
- ii. To stimulate competition approved e-procurement platforms (Including the Chest) may be used to advertise requests for quotation (RFQ) for purchases with an estimated value above £2,000 and up to £20,000
- iii. The RFQ must include a short-written specification detailing the Council's requirement; a clear pricing schedule and details of what other information is to be returned. It must set out the evaluation criteria to be used
- iv. Subject to legislative compliance, the evaluation may include factors which demonstrably aim to achieve the delivery of value for money and provide opportunities for local business
- v. In some cases, trading concessions may not match SOC threshold limits, in such cases consideration of value must be calculated as required by the Concessions Directive or successor legislation

### **SOC 4. Land Transactions**

- i. Land transactions are to be dealt with as set out in the Scheme of Delegation (Part 3 of the Council's Constitution). Where tenders are invited SOC 18, 20 and 21 will apply where legally possible, save that the highest bid will be accepted by the Head of Legal and Democratic Services or officer with delegated authority
- ii. The contract documentation in relation to land transactions shall be in such form as the Head of Legal and Democratic Services determines is sufficient to protect the Council's interests

### **SOC 5. Disposal of Assets**

- i. Assets with a collective value below £5,000 may be disposed of by any means determined by the relevant Head of Service
- ii. Assets valued at between £5,000 and up to £50,000 must be disposed of by a method chosen by the Head of Service and a written justification of the choice retained

- iii Land and property assets valued over £50,000 must be disposed of in accordance with SOC 4 and the Council's Financial Procedure Rules. Please seek advice from the Head of Legal and Democratic Services with regards to sale of other assets valued over £50,000. In any disposal of assets confirmation must be obtained that any personal data or information has been removed or destroyed in confirmation with the Council's Records Management and Information Security Policies
- v Written records must be maintained of all actions relating to the disposal of assets.

### **SOC 6. Splitting of Contracts**

- i. Contracts cannot be artificially split with a view to bringing their value below any SOC threshold or public procurement threshold
- ii. The principle of aggregation must be applied to arrive at a total contract value in relation to meeting requirements within SOC and Public Procurement thresholds i.e. the total contract value is the sum of the annual values for the contracting period. i.e. a five-year contract term at an annual value of £12,000 per annum, has a £60,000 total contract value etc.

### **SOC 7. Contracts to be in Writing and in Official Systems**

- i. All contracts over £2,000 shall be in writing in advance using appropriate procedures (tender or purchase order). Contracts under £2,000 may be made verbally with a written record kept of the details of the contract
- ii. Purchase orders must be raised on the Civica 'Radius' Purchasing system for all supplies, services and works. Petty cash and p-cards may also be used up to their appropriate limits
- iii. The officer should ensure that there are appropriate contract arrangements in place prior to the provision of supplies, services or works; further guidance on this should be sought from Legal Services as required

### **SOC 8. Capital Expenditure**

- i. Once allocated, capital expenditure will be included in the Capital Budget for approval and released by the Executive or Council.
- ii. Finance Procedure Rules provide further guidance and details on the requirements for Capital Expenditure

## **SOC 9. Conditions to be included in Contracts**

- i. Officers must seek guidance as appropriate to the purpose of the contract from the relevant service area including Legal Services as to any conditions that may need to be incorporated into contracts
- ii. Where possible all contracts must contain a clause on publication of payment and confidentiality terms highlighting the implications of Freedom of Information requests and publication of public spending information
- iii. Where contracts involve the handling of names and addresses or personal data of the public, service users, Councillors or employees of the Council or where confidential data is held or processed or where the contracting officer deems it appropriate, contractors shall be required to comply with UK Government Cyber Essentials scheme<sup>2</sup> or be part of the Public Service Network. Where personal data is special data then the supplier should be required to comply with UK Government Cyber Essentials Plus.
- iv. Appropriate registration documentation must be provided prior to transfer of any personal or confidential data

## **SOC 10. Sub-Contractors**

- i. Where a contractor permits a sub-contractor to be appointed the contract shall ensure that the sub-contractor enters into a contract with the main contractor
- ii. The contracting officer shall consider the requirement of the terms of the sub contract indemnifying the contractor and the Council against any breach of their own obligations, after a risk assessment of the liability and the approval of the relevant Head of Service
- iii. The term 'Sub-Contractor' shall include a contractor who is party to a contract with the Council in respect of which an internal or external contractor acts as main contractor
- iv. Tender responses received from a third party must be rejected i.e. where a contractor or supplier has been invited to tender and they subsequently pass on the tender in order for a third party to respond

## **SOC 11. Contract Variations**

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<sup>22</sup> [About Cyber Essentials - NCSC.GOV.UK](https://www.ncsc.gov.uk/about-cyber-essentials)



- i. All arrangements for variations to existing contracts shall be in writing and signed by the relevant Head of Service or by another responsible Officer as he or she may determine
- ii. Variations that would increase the contract cost in excess of an additional £50,000 shall not be made without the authority of the Executive, appropriate Council Committee or Sub-Committee or by use of emergency powers as appropriate and set out in the Council Constitution

## **SOC 12. Exemptions from Standing Orders**

- i. Where the contract is of an estimated value up to and including £125,000 exemptions can be made by the relevant Head of Service, with the approval of the Head of Legal and Democratic Services or the Head of Finance and Property. The reason for the exemption and the approval shall be recorded in writing and retained with the Council's copy of the contract
- ii. Where the contract is of an estimated value exceeding £125,000 exemptions from these Standing Orders can be made only by the Executive, the Council or the relevant Committee (determined by reference to Part 3 of the Constitution) and their reasons for making the exception shall be recorded in minutes
- iii. For the avoidance of doubt the provisions elsewhere in the Council's Constitution concerning Executive decision making by Individual Members of the Executive shall also apply to this part
- iv. Where expediency is required Officers should consider if they can comply with existing exemptions or if they need to invoke the use of urgency/ emergency powers provided for in the Council Constitution
- v. Approval of an exemption to waive Standing Orders must be specific as to which Standing Orders are being waived
- vi. No exemption can be made that would contravene any applicable Public Contract Regulations
- vii. Any contracts entered into through collaboration with other public bodies, where a competitive process has been followed, that complies with the contract procedure rules of the leading organisation, will be deemed to comply with SOC (13 to 20 and 22) and no exemption is required
- viii. Where the supplies, services or works to be procured are funded, partially or fully, by an external funding body the Council may use pre-

approved contractors not registered on Constructionline or any other pre approval organisations that the Council may choose to use from time to time, where the pre-approval process of the funding body has identified such contractors as meeting expected requirements of the funder and the Council; and where appropriate such requirements comply with Public Contract Regulations 2015.

### **SOC 13. Subsidy Control Act 2022**

- i. Under the Subsidy Control Act officers are required to consider if a contractual arrangement provides support to an organisation that gives them an economic advantage, meaning equivalent support could not have been obtained on commercial terms. This could include for example a below market rate loan or free, or below market value, use of office space.
- ii. The purpose of the subsidy control regime is to prevent public authorities from giving financial advantages to enterprises in a way that could distort competition.
- iii. If following the regime guidance<sup>3</sup>, you determine that a subsidy is or may be being provided then you must comply with the subsidy control principles and regime. For further information please contact the Governance Manager.

### **3. 1 For Contracts Less than £2,000**

#### **SOC 13. Letting Contracts less £2,000**

- i. Contracts or sales orders with a value below £2,000 may be made verbally, with a written or electronic record being kept within an official system i.e. purchasing system or p-card
- ii. Market testing may be carried out at the frequency and by the method deemed most appropriate by the relevant Head of Service, where this is undertaken a record of the method used must be kept

### **3. 2 For Contracts between £2,000 and £20,000**

#### **SOC 14. Letting Contracts Above £2,000 and up to £20,000**

- i. For contracts above £2,000 and up to £20,000 the contracting officer must ensure that market testing is carried out so that the Council attains value for money in procuring supplies, services and works

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<sup>3</sup> [Subsidy Control Regime Guidance](#)

- ii. Market testing should be carried out at the frequency and by the method deemed most appropriate by the relevant Head of Service, a record of the method used must be made
- iii. Recommended methods include:
  - At least three written competitive quotations or tenders should be invited from suppliers where practicable
  - E-tendering platforms such as “The Chest” may also be used to conduct the tender process electronically where practicable
- iv. Contracts Finder may be used to advertise opportunities below £25,000
- v. Pre-Approved contractors may be included in the market testing (see guidance at Appendix A)
- vi. If other than the lowest quotation is accepted the contracting officer shall record the reason in writing and that record must be kept with the Council copy of the contract or purchase order
- vi. Subject to legislative compliance due consideration must be given to the appropriateness of local suppliers being provided with the opportunity to compete; using the principles of positive action (see guidance in App. A8).

### **3. 3 For Contracts Above £20,000 and up to £125,000**

#### **SOC 15. Letting contracts above £20,000 and up to £125,000**

- i. The Governance Manager should be consulted to ascertain if the need can be met through existing collaborative procurement arrangements including a Framework Agreement or if there is an opportunity for joint procurement (See SOC 1.v)
- ii. Contracts estimated to be of a value above £20,000 and up to £125,000 must not be let unless a reasonable number of written competitive quotations or tenders have been received, usually between three and five
- iii. Quotes or tenders can be requested and obtained in writing or through an approved e-tendering platform, and the preferred method will be determined by the relevant Head of Service
- iv. The e-procurement portal Contracts Finder must be used to place a notice for all tenders or requests for competitive quotations for purchases above £25,000
- v. Pre-Approved contractors may also be used (see guidance in Appendix A)
- vi. Quote or tender documentation must state:

- A short specification detailing the Council's expectation and requirement
- A clear pricing schedule and details of what other information is to be returned
- The criteria which the Council will use to evaluate the quotations
- Subject to legislative compliance, factors which demonstrably aim to provide value for money and opportunities for local business to compete
- The last date and time by which the quotation should be returned
- The name of the Officer to whom they should be returned
- Any written quotations must be returned in plain sealed envelopes which besides the addressee details, should bear only the word 'Quotation or Tender' and the subject to which it relateAll electronic quotations must be submitted through an approved e-tendering platform or portal

**SOC 16. Receipt of Quotations: contracts above £20,000 and up to £125,000**

- I. No written quotations or tenders shall be considered unless contained in an envelope marked with the words 'quotation/ tender' that are received within the specified time
- II. Appropriate arrangements must be made to ensure quotations and tenders are kept secure until opening
- III. All written quotations or tenders must be opened by the Head of Service (or authorised Officer) and witnessed by an Officer other than the contracting Officer
- IV. Electronic quotations or tenders should be submitted through an approved e-tendering platform or portal; these will be into a secure designated e-mail address which will be accessible, at the designated opening time, only by the relevant Head of Service, Governance Manager or authorised Officer
- V. Once the submission deadline has passed a summary of quotations and tenders received shall be recorded and initialled by the Officers present
- VI. If any quotation or tender other than the lowest is accepted the reasons for doing so shall be recorded by the person with authority to accept, and details should remain available for inspection for the life of the contract or a period of six years, whichever the longer

- VII. An appropriate contract will be formed either by using the Civica Purchasing System to place an order or other appropriate methods to form a contract with the required terms; refer to Legal Services for further advice

### **3. 4 For Contracts Above £125,000**

#### **SOC 17. Authorisation of Contracts Above £125,000**

- i. No tenders or associated public notices (see SOC18) for:
- Carrying out work
  - Sale or supply of goods or materials or utilities
  - Sale or supply of services
  - Disposals of any interest in land or property, (as set out in Part 3 of the Constitution) subject to the application of the scheme of delegation

with an estimated cost in excess of £125, 000 shall be issued except by authority of the relevant Head of Service in consultation with the Head of Finance and Property Services and the relevant Executive portfolio Holder

- ii. Approval to accept a tender or quotation above £125,000 must be sought from the Executive. The Executive or delegated Officer has the power to accept a tender or quotation in accordance with these Standing Orders. Unless specified otherwise the default position is that the Executive accepts the tender. This is acceptance prior and subject to the formation of a formal contract

#### **SOC 18. Contracts above £125,000 require Public Notices**

- i. No contract which exceeds an estimated £125,000 in value shall be entered into unless a public notice has been issued for the given opportunity.
- ii. This MUST be done through publication of a contract notice as follows:
- On the Government Contracts Finder website and On both Contracts Finder and the e-notification service Find a Tender Service website where the contract value exceeds the appropriate Find a Tender Service public procurement threshold see 2.2 and updates
- iii. In addition to ii above a notice or advert may also be placed:
- In one or more newspaper circulating in the district
  - Electronically on the Council website
  - In a relevant journal where the Head of Service deems it appropriate

- iv. The notice shall invite tenders and shall state the last date and time for receipt of tenders (not normally less than fourteen days from the date of publication, and longer if above public procurement thresholds)
- v. The notice shall state that no tender will be considered unless it is in a plain sealed envelope or parcel addressed to the Head of Legal and Democratic Services and bearing the words 'Tender for [*name of tender*]' with no other identifying mark OR that it is submitted and received within the appropriate time scales through an approved e-tendering platform
- vi. Where a contract value exceeds £125,000 or applicable public procurement thresholds the Council may enter into an existing Framework Agreement or DPS; for example a framework set up by the Governments' Crown Commercial Service, without giving public notice or advertising on Find a Tender or Contracts Finder. This is providing that the Framework Agreement has been set up in compliance with The Public Procurement Regulations 2015 and directives, that the Council is able to access the Framework services etc.; and that the Council complies with any competition requirements required by the Framework as necessary
- vii. A notice of Contract Award must be published on Contracts Finder for all contracts between £25,000 and the Find a Tender procurement threshold.
- viii. A notice of contract award must be published on both Find a Tender and Contracts Finder for all contracts above relevant Find a Tender public procurement thresholds.

**SOC 19. Contract Conditions for Contracts above £125,000**

- i. Every contract exceeding the value of £125,000 must state:
  - The work to be done or the services to be provided and/ or the materials to be supplied
  - The price and any discounts
  - The time within which the contract is to be carried out
  - Also, a determination should be made by the technical advisor through assessment of the relevant risks as to any requirements with regard to the provision and payment of liquidated damages where the contractor fails to meet the terms of the contract
- ii. That if the contract is not carried out properly or the time limit is not met, the Council can:
  - Cancel all or part of the contract
  - Complete the contract

- Recover from the contractor, or parent company or insurance, any additional costs in completing the contract
  - Take other legal action against the contractor
- iii. In every formal contract for the execution of work or provision of supplies and services, the following clauses or a clause to similar effect shall be inserted:
- Every contract must state that all supplies, services or works must comply with any relevant British Standards, British Code of Practice or European equivalent in force at the date of tender
  - Every contract must state that the Council can cancel the contract and recover any resulting losses if the contractor or their employees or agents, with or without his/ her knowledge:
    - a) Does anything improper to influence the Council to give them the contract OR
    - b) Commits an offence under the Bribery Act 2010 or under Section 117(2) of the Local Government Act 1972 and amendments or successor Acts
- iv. Where there are existing forms of contract available the contracting Officer should consider their use, subject to meeting the above minimum requirements
- v. Where a contractor goes into receivership during the contract, officers should ensure that the Council's is not exposed to unreasonable risk. This could take the form of performance bonding, or other arrangements to mitigate the costs of the loss of contractor.

### **SOC 20. Receipt of Tender for Contracts above £125,000**

- i. No tender above £125,000 shall be considered unless it is contained in an envelope or parcel and is received physically in the Head of Legal and Democratic Services's office OR received securely through an approved e-procurement platform or portal, as is described in Standing Order 16 iv, within the time specified in the public notice
- ii. All such tenders, however received, shall remain in the custody of the Head of Legal and Democratic Services until the time appointed for their opening
- iii. All such tenders shall be opened at the appointed time by a member of staff appointed by the Head of Legal and Democratic Services

- iv. Where a tender invitation provides for e-tendering, electronic tenders shall be opened at the appointed time by a member of staff appointed by the Head of Legal and Democratic Services for both paper and electronic tenders received a proforma should be completed identifying the tender name, tendering body and price offered. This record should be signed by those Officers present identifying their official capacity. This register will be maintained by Officers of Legal and Democratic Services. The tender shall be passed to the relevant Head of Service or such other Officer they may determine for evaluation and/ or the required pre-contract checks
- v. No person shall make public the contents of the tenders until the contract has been let. This shall not prevent the relevant Head of Service and Executive or Committee from seeking such legal, financial or technical advice on any tender, as they require for evaluation purposes

### **SOC 21. Signing and Sealing of contracts**

- i. Contracts over an estimated value of £125,000 shall be submitted to the Head of Legal and Democratic Services for approval and signature. They shall be accompanied by a certificate signed by the relevant Head of Service or such other senior officer as they may determine, stating that there is budget provision for the expenditure and that Standing Orders and appropriate The Public Procurement Regulations 2015 have been complied with
- ii. Such contracts may be sealed where the Head of Legal and Democratic Services considers it appropriate. Any two persons will attach the seal from the group consisting of the Council's Solicitors and Fellows of the Chartered Institute of Legal Executives and Licensed Conveyancers or by one of that group and the Chief Executive and the Chief Operating Officer
- iii. The appropriate Officer is responsible for ensuring that a signed contract or other appropriate contract arrangements are in place in advance of the supply of goods, services or works. Please refer to Legal Services for further advice

### **SOC 22. Acceptance of Tenders - Contracts above £125,000**

- i. The Head of Service or the Officer to which power to accept was delegated by the Executive shall select a tender after evaluation. If he or she selects other than the most advantageous tender that fact and the reasons for it shall be reported to the next meeting of the Executive, Council or relevant Committee and recorded in its minutes



- ii. Where the power to accept the contract still rests with the Executive, Council or Committee, the checked tenders shall be submitted to the Executive, Council or relevant Committee for evaluation and selection of the winning tender/contractor.
- iii. If the Executive, Council or Committee selects other than the most economically advantageous tender its reasons shall be recorded in the minutes.

### **SOC 23. Contract Register and Data Transparency**

- i. Details for all contracts above £5,000 should be maintained centrally within the Legal and Democratic Services office
- ii. Details of all contracts and expenditure above the limit defined in the Council's policy on Data Transparency should be available for publication as set out in the policy
- iii. The contract officer is responsible for informing the Head of Legal and Democratic Services of the details of the contract as required under the requirements on Data Transparency

## **Appendix A**

### **The Tender Process: Guidance to Maintain Compliance with Procurement Regulations**

#### **1. Invitation of Tenders: Steps to Follow**

The following sections identify steps that can be undertaken to invite a tender or quote, in all cases SOC and the Public Procurement Regulations 2015 and directives are applicable to local authorities must be followed. Tenders must be sought through, but are not limited to, the following procedures:

- Open Tender
- Restricted Tender
- Competitive Dialogue
- Competitive Dialogue with Negotiation
- Innovation Partnership
- Negotiated Procedure without Prior Publication

For further information please contact the Governance Manager

## **2. Pre-Approved Contractor (Works)**

2a The Council can select pre-approved contractors to be invited to tender or quote for construction related works below public procurement thresholds as follows:

- i. A list of approved contractors can be drawn up using companies currently registered with ConstructionLine  
<http://www.constructionline.co.uk>
- ii. An advert for the opportunity must also be placed on the Contracts Finder and if the contract value is above the public procurement threshold the Find a Tender Service websites and contractors selected through a two-stage process using the PAS 91 Selection Questionnaire. Those contractors selected to participate will then be included with those contractors identified through the Constructionline route
- iii. Where a contract is ABOVE the public procurement threshold for Works pre-approved contractors can be invited to tender as above BUT the procurement procedure used MUST comply with the Public Contract Regulations
- iv. Where a contract is BELOW the public procurement threshold for works between three and five contractors who are pre-approved through the above route to carry out contracts of the same type and up to the value for the contract which the Council proposes to enter into shall be invited to tender
- v. Where the works to be procured are funded, partially or fully, by an external funding body the Council may use pre-approved contractors not registered on Constructionline where the pre-approval process of the funding body has identified such contractors as meeting expected requirements of the funder and the Council; and where appropriate such requirements comply with Public Contract Regulations

2b. When selecting pre-approved contractors invitations must be sent to:

- i. Those contractors identified at 2a i & 2 iii above, to participate in the given opportunity
- ii. If less than three contractors are identified as being pre-approved for the given opportunity then alternative tender procedures as prescribed within SOC should be considered

### **3 Absence of Pre-Approved Contractor (Works)**

3a. Below the public procurement Works threshold and where there are no registered contractors for a particular category of works on Constructionline then a Select List may be drawn up. However, the Open Tender route should be considered first. Where a Select List is to be drawn up, this can only be for opportunities below the public procurement Works threshold as follows:

- i. The method used should be through an advert for expressions of interest and for contractors to be selected through a two-stage process using the PAS91 Selection Questionnaire
- ii. Expressions of interest for opportunities above £25,000 must be advertised on Contracts Finder; and may be advertised on the Council Website, appropriate local newspaper or commercial journal
- iii. Only those contractors selected through the PAS 91 Selection Questionnaire may be included on a Select List. In all cases there must be compliance to The Public Contract Regulations 2015.

### **4. Open Tender Procedure**

4a. The following requirements apply where Open tenders are sought. The advertisement for the tender opportunity must be published appropriate to the contract value as described in SOC. The advertisement must:

- i. Invite tenders to be submitted
- ii. State the nature and purpose of the contract
- iii. State where further details may be obtained
- iv. State the date and time by which tenders must be received. This must be at least 14 days after the publication of the advertisement. For tenders with an estimated value above public procurement thresholds this date must be in accordance with those procurement rules.

4b. Only in situations where the estimate is above public procurement thresholds can a more than one stage procurement be followed. The use of an Selection Questionnaire (SQ) can be used with an Invitation to Tender (ITT) or similar. The SQ template is available from the Governance Manager.

### **5. Submission of Tenders: Steps to Follow**

5a. Invitations to tender must state that no tender will be received unless it is enclosed in a plain addressed sealed envelope. The envelope must bear the word 'Tender for [*name of tender*]'. The envelope must not bear any numbers or markings that would identify the sender.

- i. All tender envelopes received will be marked with the time and date of receipt and kept securely until they are opened
- ii. Tenders received through e-tendering will be automatically time and date 'stamped' when received, and will only be made available by the system for opening at the appointed time
- iii. Any and all tenders received after the time and date specified will be classed as a late tender, and should not be opened as part of the tender opening process or considered as part of the tendering process
- iv. Late tenders should be opened independently so that appropriate steps may be taken to return tenders to the sender
- v. A record must be kept of actions taken to return tenders and this must be retained with a photo copy of the original tender envelope for two years after the end of the contract period
- vi. All envelopes received should be retained with the tender details

## **6. Opening and Acceptance of Tenders**

- i. Tenders must be opened only by those Officers or members authorised to do so, and who are not the contracting Officers of the tender in question
- ii. All tenders, which are received, must be recorded on a proforma that identifies tender name, tendering body and price (see SOC 20 v)
- iii. Contracts may be awarded based on price alone or based on price and/ or other criteria, usually quality. If a contract is to be awarded solely on the basis of price then the tender accepted must be the lowest price OR the highest if payment is to be made to the Council
- iv. This general rule does not apply if the Executive has received a report from the appropriate Officer recommending approval to the acceptance

of a different tender where applicable and not in contravention of appropriate Public Contract Regulations

- v. In some cases the lowest priced tender might not be the most acceptable to the Council because of other factors. An evaluation of additional criteria considered must be provided to either the responsible officer, the Executive or the Council. In such cases it is recommended that the principle of 'most economically advantageous' tender (MEAT) is considered
- vi. Where price is not the only consideration details of the evaluation used must be lodged with the Head of Legal and Democratic Services  
Tender sums, rates etc cannot be altered after receipt or during the evaluation process, unless all tenderers have been asked to reconsider and resubmit their tenders. Such action can only be taken with the prior agreement of the Head of Service. Where resubmission is sought, the rules covering the receipt of tenders will apply, this must be applied equally to all bidders as appropriate
- vii. Where a successful tender is subsequently found to be erroneous the supplier must accept the consequences of their error and honour the tender or withdraw from the tender process. Based upon the selection criteria the next nearest competitive tender would be acceptable. Withdrawal from the tendering process is not possible once the contract has been accepted by the Council
- viii. The power to accept a tender rests with the Head of service unless the contract value is above SOC 17 threshold where it rests with the Executive, Council or Scrutiny Committee, unless this has been delegated to an Executive Member, Head of Service or Officer. Without this delegation no tender above this threshold can be accepted without an appropriate committee report being prepared, considered, approved and recorded in minutes

## **7. Nominated Sub-Contractors and Suppliers**

- i. These rules apply where the Council has the power to nominate a sub-contractor or supplier to a main contractor
- ii. Tenders shall be invited for the nomination unless the contracting Officer records why it is not reasonably practicable to obtain

competitive tenders and the estimated value of the contract is below £125,000

- iii. If tenders are invited one of the procedures set out in A2 or A3 above must be followed and rules covering receipt of tenders will apply

## **8. Principles of Positive Action in Providing Opportunities for Local Suppliers**

8a. To support the raising of awareness of Council purchasing procedures and provide opportunity for local suppliers to bid for work, contracting officers should:

- i. Have knowledge of the local market place for procurement
- ii. Make local suppliers aware of Council procurement procedures and contract opportunities
- iii. Suppliers/ bidders shall not be restricted by reference, in tender or quotation documentation, to geographical location
- iv. Evaluation must not be weighted in such a way as to give unfair advantage to local suppliers
- v. Officers cannot discriminate, but should ensure that they have taken reasonable steps to consider the local market place when procuring as well as the most economically advantageous tender

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### **References:**

#### **Contracts Finder**

<https://www.gov.uk/contracts-finder>

#### **Find a Tender Services**

<https://www.find-tender.service.gov.uk/Search>

#### **Public Procurement Tresholds**

<https://www.gov.uk/guidance/public-sector-procurement>

#### **Procurement Policy Notices (PPN)**

<https://www.gov.uk/government/collections/procurement-policy-notes>

**Crown Commercial Services:**

<http://ccs.cabinetoffice.gov.uk/i-am-buyer/find-a-product-or-service/framework-summary-list>

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21 February 2018

## **Officer Employment Procedure Rules**

### **1. Recruitment and appointment**

The Council will follow its approved recruitment and selection procedures, including the preparation of job descriptions, person specifications and advertisements, when seeking to make officer appointments.

As part of the recruitment procedure the Council will make arrangements for a copy of the following declaration to be included in the recruitment information sent to all applicants:

*'Under the Local Government Act 2000 you must declare in writing whether you are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Member or officer of Burnley Borough Council; or the partner of such persons.*

*No candidate so related to a Member or officer will be appointed without the authority of the relevant chief officer or an officer nominated by him or her'.*

Applicants will also be advised that the Council will disqualify any applicant who seeks the support of any Member for any appointment with the Council.

No Member will seek support for any person for any appointment with the Council.

### **2. Recruitment of Chief Executive/ Head of Paid Service and other officers on JNC Terms and Conditions.**

Where the Council proposes to appoint the Chief Executive/Head of Paid Service or any other officer on Joint Negotiating Committee for Local Authority Chief Executives and for Chief Officers of Local Authorities (JNC Terms and Conditions) it will prepare a job description, person specification and advert. Except where the position is to be advertised internally first the Council will make arrangements for the post to be advertised in such a way as to bring it to the attention of persons who are qualified to apply for it.

A committee of the Council, constituted as an Appointments Committee as set out in Paragraphs 4, 5 & 6, will be established to recruit the relevant Officers. The Head of People and Development, or in their absence the Strategic HR Consultant, will be appointed as the Proper Officer for the appointment and will advise the Appointments Committees.

Members of the Executive will have the opportunity to raise objections to decisions about the appointments of senior officers i.e. those on JNC Terms and conditions.

### **3. Appointment of Chief Executive/ Head of Paid Service- by Full Council**

The Full Council will approve the appointment of the Chief Executive/ Head of Paid Service following the recommendation on the appointment by the Appointments Committee as set out in Paragraph 4. That committee must include at least one member of the Executive.

**4. Appointment of Chief Executive/ Head of Paid Service**

The Appointments Committee will comprise:

Leader;

Deputy Leader;

Executive Member for Resources and Performance Management; and  
the Leaders of the two largest Opposition Groups.

Any of the above mentioned Appointment Committee members may nominate a substitute to take their place on the Committee.

Such substitute shall, save in the case of the Executive Member for Resources and Performance Management, be a member of the same political group as the member being substituted.

Any substitute nominated by the Executive Member for Resources and Performance Management shall be a member of the Council's Executive.

**5. Appointment of officers on JNC Terms and Conditions (other than the Chief Executive or Heads of Service) – i.e. Chief Operating Officer.**

The Appointments Committee will comprise:

Leader or Deputy Leader

Relevant Executive Member

Chair (Vice Chair as sub) of the Scrutiny Committee

Chief Executive

If, by the application of these Rules the membership of the Committee does not include at least one Member of an opposition group, then the Leader of largest opposition group (or their nominee) will be substituted for the Scrutiny place on the Committee.

**6. Appointment of officers on JNC Terms and Conditions (other than the Chief Executive/ Head of the Paid Service or Directors) – i.e. Heads of Service**

The Appointments Committee will comprise

Leader or Deputy Leader,

Relevant Executive Member; and

Chief Executive and/or Chief Operating Officer

Whichever of the Leader or Deputy are to be on the Appointments Committee, if they are also the Relevant Executive Member then another member of the Executive should be appointed to make up the three. The Chief Executive and Chief Operating Officer may both sit on the Committee if this is relevant to the responsibilities of the post.

**7. Other appointments**

Appointment of assistants to political groups shall be made in accordance with the wishes of the political group.

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## **Officer Disciplinary Procedure Rules for Officers Subject to JNC Terms and Conditions**

### **1. Establishing if there is a case to answer**

Where there is a serious complaint or a misconduct allegation received against a Protected Officer (Head of Paid Service, Monitoring Officer or Section 151 Officer) or other Chief Officer of the Council, an Investigating Panel will be convened to consider the seriousness of the allegation, if there is potentially a case to answer and whether an investigation is required. The Council's Investigating Panel will be comprised of a minimum of 3 people dependent on who the allegation is against:

- Leader or Deputy Leader
- Chief Executive
- Section 151 Officer
- Monitoring Officer
- Chief Operating Officer
- Strategic HR Manager

Where it is confirmed there is a potential case to answer, North West Employers or other organisation will be contacted to assist in identifying a suitably qualified independent investigator.

Where the conclusions of the independent investigator's report to the Investigating Panel are that the allegation is one that could constitute dismissal or disciplinary action short of dismissal the matter will be referred to the relevant Investigating Committee detailed below for a disciplinary hearing to be held.

The process will be in line with approved investigatory processes and the model disciplinary procedures set out in the terms and conditions in the Joint Negotiating Committee for Local Authority Chief Executives and for Chief Officers of Local Authorities (the JNC Terms and Conditions) (whichever is appropriate).

In case of conflict between these Collective Agreements and the Council's agreed procedures the Council's procedures shall prevail.

### **2. Protected Officers - Head of Paid Service, Monitoring Officer and S151 Officer**

The **Investigating Committee for Protected Officers**, i.e. the Head of Paid Service, Monitoring Officer and S151 Officer - shall comprise of at least five elected members of the Council appointed on a politically balanced basis, to include the Leader and/or Deputy Leader and other senior members.

This Committee must be appointed by the Council at least 20 working days before the relevant meeting.

The Investigating Committee for Protected Officers will comprise:

- Leader
- Deputy Leader
- Executive Member for Resources and Performance Management
- Chair of the Scrutiny Committee
- Vice Chair of the Scrutiny Committee

4.9-100719

If as a result of the Committee's findings there is a proposal to dismiss a Protected Officer of the Council, the reports of the Investigating Committee for Protected Officers and the Independent Investigator should then be sent to an Independent Panel for its consideration prior to the proposal being considered by the Council.

The Council will be required to approve a proposal to dismiss the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer only following the receipt of advice, views or recommendations from the Council's Investigating Committee for Protected Officers which have been verified by a panel of Independent Persons.

**The Independent Panel** shall comprise at least two independent persons appointed by the Council under section 28(7) of the Localism Act 2011 or, in the case of the Council having insufficient independent persons, such person(s) appointed by another authority for the same purpose, such persons being appointed to the Independent Panel in the following priority order -

- a relevant independent person who has been appointed by the authority and who is a local government elector;
- any other relevant independent person who has been appointed by the authority
- an independent person who has been appointed by another authority or authorities.

**Council** - Before the taking of a vote at the relevant meeting of the Council on whether or not to approve the dismissal proposal, the Council must take into account, in particular:

- the conclusions of any investigation into the proposed dismissal;
- any advice, views or recommendations of the Disciplinary Committee;
- any representation from the Protected officer; and
- the views and conclusions of the Independent Panel.

### **3. Investigating Committee for other officers employed on JNC Terms and Conditions**

The Investigating Committee will comprise:

Leader or Deputy Leader  
Relevant Executive Member  
Chair (or sub Vice Chair) of the Scrutiny Committee

This committee will be advised by the Chief Executive or the Chief Operating Officer and the Strategic HR Manager as appropriate.

Where the relevant Executive Member is the Leader or Deputy another Member of the Executive could make up the three.

The Council is **not** required to approve a proposal to dismiss Chief Officers other than Protected Officers.

#### **4. Terms of Reference of the Investigating Committees**

The Investigating Committee will consider the investigatory report and provide the officer under investigation with the opportunity to state his/her case before making a decision and in line with JNC Terms and Conditions, may decide to:

- take no further action;
- state their opinion as to whether (and if so to what extent) the evidence they have obtained supports any allegation of misconduct against the chief officer;
- determine the disciplinary action (if any) or a range of actions which appear appropriate to take against the chief officer. The appropriate action will be drawn from the following list: –
  - a. a recorded verbal warning;
  - b. a written warning;
  - c. suspension on half pay or no pay for a specified period;
  - d. reduction in salary for a specified period;
  - e. an invitation to resign or accept retirement;
  - f. dismissal with notice; (not Protected Officers)
  - g. dismissal without notice; (not Protected Officers)
  - h. recommend informal resolution or other appropriate procedures;
  - i. refer back to the Investigating Officer for further investigation and report
  - j. other disciplinary action short of dismissal.

If there is a recommendation to dismiss a Protected Officer, the reports and notes of the Investigating Committee for Protected Officers and the Independent Investigator should then be sent to the Independent Panel for its consideration prior to advising the Council.

#### **5. Appeals**

For Protected Officers an appeal against a proposal to dismiss will be considered at the Council meeting where the proposal is being considered. This would also include redundancy dismissals.

All other disciplinary appeals from Investigating Committees may be made to an JNC Appeals Committee constituted for that purpose.

#### **6. General**

If, by the application of these rules the membership of the Committee does not include at least one Member of an opposition group, then the Leader of the largest opposition group (or their nominee) will be substituted for the, or one of the Scrutiny places on the Committee.

The Investigating Committees will not include any member or officer with a direct personal involvement in the complaint or who has participated in the preliminary investigation.

**7. Other matters**

- (a) **Suspension.** The Head of Paid Service, Monitoring Officer and 151 Officer 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 in order for such further period as directed by the Designated Independent Person in accordance with the JNC Terms and Conditions.

Suspension of all other officers on the JNC Terms and Conditions should be reviewed on a regular basis and where possible lengthy periods of suspension should be avoided.

- (b) Subject to the Rules contained in this Part and Council Policy relating to the discipline of officers not subject to the JNC Terms and Conditions **Members** will not be involved in the dismissal of any officer except where that involvement is necessary for any investigation or inquiry into alleged misconduct or to hear an appeal.
- (b) **Redundancy - proposal to dismiss Head of Paid Service, Monitoring Officer and S151 Officer**

Any proposal that potentially involves the redundancy dismissal of the Head of Paid Service, 151 Officer or Monitoring Officer must be first considered by the Independent Panel prior to the decision being taken by Council.

5.1 20230222

## **Code of Conduct for Members and Guidance on the Code**

### **Contents**

Page 162	Introduction and <b>General Principles of Conduct</b> for Members and Co-opted Members
Page 165	<b>The Code of Conduct for Members</b> Part 1-General Provisions Part 2-Interests- Disclosable Pecuniary Interests and Other Interests
Page 174	<b>Guidance on the Code – General Guidance</b>
Page 174	Legal Requirements, Reasonableness and Fiduciary Duty
Page 175	Equality
Page 176	The Council as an Employer
Page 177	The Council as an Employer – Recruitment and Redeployment
Page 178	The Council as an Employer – Discipline and Grievance
Page 19	The Council as an Employer – Negotiations with Staff
Page 180	Relationships with Officers – Personal Relationships
Page 180	Relationships with Officers - Monitoring the Performance of Officers
Page 181	Enquiries and Complaints about Officers or Services
Page 182	Relationships with Officers - Circumstances in which officers can be contacted out of office hours
Page 182	Relationships with Officers – Other Contacts with Officers
Page 183	Relationships with Others; Dealing with the Media; and Disclosure of Information
Page 184	Interests
Page 184	Members Acting as Directors, Trustees etc. of other organisations
Page 186	Development Proposals by Members, Officers and the Council
Page 187	The Distinctive Roles of Members and Officers

Page 188	Protocol: Chief Executive/ Chief Operating Officer and Political Groups
Page 189	Access to Information – Members of Executive, Committee or Sub-Committee
Page 190	Access to Information – Members not a Member of the Executive, a Committee or Sub-Committee
Page 191	Use of Council Facilities
Page 193	Guidelines for use of Photocopying Services for Council Members
Page 195	Guidelines for use of Rooms by Political Groups
Page 195	Accepting Gifts and Hospitality
Page 196	Members’ Allowances
Page 197	<b>Guidance for Members involved in Development Control Decisions</b>
Page 198	Planning Application – Progress
Page 199	Discussing with Applicants and Lobbying of and by Members
Page 201	Site Visits
Page 203	Training
Page 204	Declaration and Registration of Gifts and Hospitality
Page 204	Committee Procedures and Decisions
Page 205	General Role and Conduct
Page 206	Sanctions



## **Code of Conduct for Members and Guidance**

### **1. Introduction**

The Council is determined to provide excellent local government for the people of the Borough. It promotes and maintains high standards of conduct by Members and Co-opted Members and has adopted a Code of Conduct for Members, in line with its obligations under section 27(2) of the Localism Act 2011. The Code of Conduct is set out at pages 162 to 163. To help Members understand their conduct responsibilities, they should make sure they read and understand the General Principles (pages 162 to 163) and Guidance on the Code (pages 174 to 207).

### **2. General Principles of Conduct for Members and Co-opted Members**

The Code and the Guidance are based on the following General Principles.

#### General Principles

Members and co-opted Members must behave according to the highest standards of personal conduct in everything they do as a Member. In particular they must observe the following principles of conduct, some of which are set out in law.

#### Selflessness

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

#### Honesty and Integrity

Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

#### Objectivity

Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

#### Accountability

5.1 20230222

Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

#### Openness

Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

#### Personal Judgement

Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

#### Respect for Others

Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

#### Duty to Uphold the Law

Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

#### Stewardship

Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

#### Leadership

Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

### **3. Training**

3.1 All Members to undertake Code of Conduct/ethical standards training annually, and to make it compulsory for all Members to receive training on Safeguarding Level 1 and CSE, within 6 months of their election for New Members and within 6 months of this change being approved at Full Council (i.e. 22nd May 2018) for existing Members

3.2 All Members on Full Council determining a development control application and all Members appointed to the Development Control Committee must attend annual training on planning law and procedure. This training must take place within 1 month

5.1 20230222

of the Annual Appointments Council or being appointed to the Development Control Committee before they can determine any development control application, and failure to do so may be a breach of the Code of Conduct.

However a Councillor could not be prevented from taking part in a development control decision at Full Council if they hadn't attended training, but could be prevented at Development Control Committee.

3.3. All Members appointed to the Licensing Committee must attend annual training on licensing law and procedure. This training must take place within three months of being appointed to the Licensing Committee. Members newly appointed to the Licensing Committee will not be eligible to sit on any of its sub committees unless they have completed this training. This is because of the quasi-judicial nature of the sub- committee which requires members who are sufficiently skilled to exercise their required powers and duties.

3.4 Records of attendance will be maintained by the Democracy Team and any apparent failure to attend will be notified in the first instance to the Member concerned and the relevant Group Leader, and if not rectified at the next available session will be referred thereafter to the Monitoring Officer or the Audit & Standards Committee who may recommend that the Member be removed from the Development Control Committee or Licensing Committee as is relevant..

## THE CODE OF CONDUCT

### Part 1

#### General provisions

##### Introduction and interpretation

1.—(1) This Code applies to you as a member of the Council.

(2) (2) It is your responsibility to comply with this Code. Failure to do so may result in a sanction being applied by the Council. Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and a fine of up to £5,000 and /or disqualification from office for a period of up to 5 years. In this Code—

“meeting” means any meeting of—

- (a) the Council;
- (b) any of the Council’s committees or sub-committees, joint committees or joint sub-committees;

“member” includes a co-opted member and an appointed member.

##### Scope

2.—(1) Subject to sub-paragraphs (2) and (3), you must comply with this Code whenever you—

- (a) conduct the business of the Council (which, in this Code, includes the business of the office to which you are elected or appointed); or
- (b) act, claim to act or give the impression you are acting as a representative of the Council,

and references to your official capacity are construed accordingly.

(2) this Code does not have effect in relation to your conduct other than where it is in your official capacity.

(3) Where you act as a representative of the Council—

- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority’s code of conduct; or
- (b) on any other body, you must, when acting for that other body, comply with this Code, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

## General obligations

3.—(1) You must treat others with respect.

(2) You must not—

- (a) do anything which may cause your authority to breach the Equality Act 2010
- (b) bully, harass or victimise any person;
- (c) intimidate or attempt to intimidate any person who is or is likely to be—
  - (i) a complainant,
  - (ii) a witness, or
  - (iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

### ***Bullying, Harrassment and Victimisation – Definitions and Examples***

- *Bullying is a particular form of harassment and may be characterised as persistent, offensive, intimidating, malicious or insulting behaviour, possibly through an abuse or misuse of position or power where the intention or outcome is to undermine, humiliate, denigrate or injure the recipient. Examples of bullying include: shouting at others in public or in private; personal insults; ignoring or excluding individuals; persistent, excessive, unfair or unjustified criticism; setting impossible deadlines or targets/objectives or making inconsistent demands. This list is not exhaustive.*
- *Harassment is, in general terms, unwanted, unreasonable and offensive conduct affecting the dignity of the individual. It includes verbal, non-verbal and physical conduct that may be related to age, gender, race, disability, sexual orientation, religion and belief, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. Examples of harassment include: unwanted physical contact, offensive jokes or banter, offensive emails, pictures or graffiti, unwelcome sexual advances, exclusion and victimisation. This list is not exhaustive.*
- *Victimisation is treating someone less favourably than others because the individual has, in good faith, complained (whether formally or otherwise) that someone has been bullying or harassing them or someone else, or supported someone to make a complaint or given evidence in relation to a complaint. Examples include: Isolating someone because the individual has made a complaint or treating them differently. This list is not exhaustive.”*

4. You must not—

- (a) 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 advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is—
    - (aa) reasonable and in the public interest; and
    - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

6. You—

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of your authority—
  - (i) act in accordance with your authority's reasonable requirements; and
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7. – (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by-

- (a) your authority's chief finance officer; or
- (b) Your authority's monitoring officer,

Where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

8. Members are required to comply with any investigation in relation to complaints against their conduct or relating to other elected members of the authority. Failure to do so is considered a breach of the Code of Conduct.

## **Part 2**

### **Interests**

#### **Section 1**

##### **Disclosable Pecuniary Interests**

This Part explains the statutory requirements of the Localism Act 2011 (Sections 29-34) in relation to disclosable pecuniary interests. These are enforced by criminal sanction.

#### **1. Notification of disclosable pecuniary interests**

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you were civil partners) of the following descriptions:

- (a) Details of any employment, office, trade, profession or vocation carried on for profit or gain
- (b) Details of 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 you in carrying out duties as a member, or towards your election expenses. (This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

5.1 20230222

(c) Details of any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the Council under which goods or services are to be provided or works are to be executed; and which has not been fully discharged.

(d) Details of any beneficial interest in land which is within the area of the Council.

(e) Details of any licence (alone or jointly with others) to occupy land in the Borough for a month or longer.

(f) Details of any tenancy where (to your knowledge) the landlord is the Council; and the tenant is a body in which the relevant person has a beneficial interest.

(g) Details of any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of the Council; and either the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or if that 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.

For the purposes of the above “relevant period” means the period of 12 months ending with the day on which you notify the Monitoring Officer of your disclosable pecuniary interest, and “relevant person” means you or your spouse or partner as defined above.

## **2. Register of interests**

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection and will be published on the Council’s website.

## **3. Sensitive interests**

Where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Localism Act 2011.

## **4. Non participation in case of a disclosable pecuniary interest**



5.1 20230222

a) If you are present at a meeting of the Council, the Executive, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting:

- You must not participate in any discussion of the matter at the meeting.
- You must not participate in any vote taken on the matter at the meeting.
- If the interest is not already registered, you must disclose the interest to the meeting.
- If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

In addition, as stated in Council Procedure Rule 20, you should leave the room where the meeting is held while any discussion or voting takes place, except when it applies to Strategic Plan Progress Reports at Full Council due to the various subject matters involved in the reports.

b) Where an Executive Member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the Executive Member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

## **5. Dispensations**

The Audit and Standards Committee may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

## **6. Offences**

It is a criminal offence to

- Fail to notify the Monitoring Officer within 28 days of election of any disclosable pecuniary interest;
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting;
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest;

5.1 20230222

- As an Executive Member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, fail to notify the Monitoring Officer within 28 days of the interest;
- Knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting;

The criminal penalties available to a court are to impose a fine of up to £5,000 and disqualification from being a councillor for up to 5 years.

## **7. Notification of changes**

Whilst not a statutory requirement, the Council under this Code of Conduct requires you to notify the Monitoring Officer within 28 days of any new disclosable pecuniary interest, or any change to a disclosable pecuniary interest already notified/registered.

## **Section 2**

### **Other Interests**

## **8. Notification of Other Interests**

(1) In addition to the above you must, within 28 days of this Code being adopted by or applied to your authority; or your election or appointment to office (where that is later), notify the Monitoring Officer in writing of the details of your interests within the following categories, for inclusion in the register of interests:

(a) Details of any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;

(b) Details of any body exercising functions of a public nature, any body directed to charitable purposes or any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;

(c) Details of any gift or hospitality with an estimated value of at least £25 that you have received, or is offered and refused, in connection with your role as a member of the Council and details of the donor.

(2) You must, within 28 days of becoming aware of any new interest or change to any interest registered under this paragraph notify the Monitoring Officer of the details of that new interest or change.

## **9. Disclosure of Other Interests**

(1) Subject to sub-paragraphs (2) to (6), where you have an interest described in paragraph 8 above or in paragraph (2) below in any business of your authority, and

5.1 20230222

where you are aware or ought reasonably to be aware of the existence of that interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) You have an interest in any business of your authority where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a member of your family or any person with whom you have a close association, to a greater extent than the majority of other council tax payers.

(3) Where you have an interest in any business of the authority of the type mentioned in paragraph 8(1)(c), (gifts and hospitality) you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Where you have an interest by virtue of paragraph 8(1) but, by virtue of paragraph 11, sensitive information relating to it is not registered in the register of members' interests, you must indicate to the meeting that you have an interest, but need not disclose the sensitive information to the meeting.

(5) Where you have an interest in any business of your authority by virtue of paragraph 8 or 9(2), and you have made an Executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

## **10. Register of interests**

(1) Any interests notified to the Monitoring Officer under paragraph 8 above will be included in the register of interests.

(2) A copy of the register will be available for public inspection and will be published on the authority's website.

(3) Where a disclosable pecuniary interest is notified to the Monitoring Officer it need not be separately notified or separately registered as an interest under this section of the Code.

## **11. Sensitive interests**

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, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

## **12. Non participation in case of certain other interests**

(1) Where you have an interest in any business of the Council by virtue of paragraph 8 or 9(2) AND the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgment of the public interest AND where that business—

(a) affects your financial position or the financial position of a person or body through whom the interest arises ;or

(b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person through whom the interest arises,

you must not participate in any discussion of the matter at the meeting, and you must not participate in any vote taken on the matter at the meeting.

Note: In addition, as stated in Council Procedure Rule 20, you should leave the room where the meeting is held while any discussion or voting takes place, except when it applies to Strategic Plan Progress Reports at Full Council due to the various subject matters involved in those reports.

(2) Where you have an interest in any business of the Council to which paragraph 12(1) applies, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise, and provided that you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

(3) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have an interest under paragraph 12(1) that relates to the functions of your authority in respect of—

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) an allowance, payment or indemnity given to members;

(iii) any ceremonial honour given to members; and

(iv) setting council tax or a precept under the Local Government Finance Act 1992.

(4) Where, as an Executive Member, you may discharge a function alone, and you become aware of an interest under paragraph 12(1) in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

## **Guidance on the Code**

This Guidance is in two parts

- (1) General guidance (pages 174 to 196); and
- (2) Guidance for Members involved in Development Control decisions (pages 197 to 206).

### (1) **GENERAL GUIDANCE**

#### **Legal Requirements**

The Council is a public authority. Its decisions can be reviewed by a range of courts and tribunals and overturned if they are irrational, improper or unfair.

#### **Reasonableness**

Members have final responsibility for decisions of the Council. When taking part in the Council's decision-making processes, you should:

- take into consideration everything you regard as relevant, or which you are advised is relevant;
- disregard anything which you consider is not relevant, or which you are advised is not relevant;
- follow the correct procedure.
- not take part in the decision if you have a personal and prejudicial interest under the Code of Conduct.

Sometimes you may have to take decisions that you personally disagree with if these are the "right" decisions for the Council, taking account of the above factors.

#### **Fiduciary Duty**

In law, a fiduciary is someone who occupies a position of such power and confidence over the property of another that the law **requires** him or her to act solely in the interests of the person he/she represents. This is in contrast with an ordinary business relationship, in which each party is free to seek purely personal benefits from his or her transactions with the other. So, for example, a guardian, a trustee or an executor are all fiduciaries.

As a Member controlling the Council's assets and finances, you are in a position of trust. You have a **fiduciary duty** to act in the interests of the people of Burnley and, in some cases, in the wider public interest.

## **Fairness**

When you are a member of any Sub-Committee, Committee, Executive or a Council appointee on an outside body considering the case of individuals, you should act fairly at all times. This means:

- you must not have any personal interest in the case;  
  
(this means you must not stand to gain or lose personally by any decision on the case, and neither must your family or close friends)
- you must listen to what is said on behalf of all parties to the case before reaching your decision.

## **Equality**

A variety of laws require the Council not to discriminate and to provide equal opportunities for all with regard to access to employment, facilities and service delivery.

Public authorities have a **general duty** to

- tackle racial discrimination
- promote equality of opportunity; and
- promote good race relations

To meet our duties to promote equality all Members:

- should be fully aware of the Council's Equality Policy which outlines the Council's commitment to equality of opportunity in both employment and service delivery.
- should acknowledge that oppression, disadvantage and discrimination exist in society. They should recognise that they have the power to reduce the inequalities experienced by residents within the Borough and a responsibility to work actively to eliminate discrimination both within and outside the Council.
- should recognise and accept that particular individuals or groups, be they black and other minority ethnic members of the community, gypsies, travellers and asylum seekers, lesbians and gay men, young and old, disabled people and women are denied equality through intentional, and in some cases, unintentional discrimination.
- should value and be committed to celebrating the diversity of the local population.
- should actively oppose discrimination carried out on the grounds of age, colour, disability, ethnic origin, gender, gender reassignment, HIV status,

#### 5.1 20230222

marital status, race, religious and cultural beliefs, sexuality, social background, political affiliation, spent convictions and trade union membership.

- should be committed to eliminating all forms of discrimination – direct and indirect, individual and institutional. Within the resources available to them and should work towards providing employment opportunities, facilities and services that are appropriate, sensitive and accessible.
- should always act as representatives of the authority and therefore should refrain from making any remarks both within and outside the council that may lead to conflict, divisions and hatred between different racial groups or geographical areas.
- recognise that discrimination and disadvantage have undermined the quality of life of many members of our community. Eradication of such discrimination and disadvantage is a necessary way of improving the quality of life for all Burnley residents
- take any necessary action to discharge their legal obligations to ensure equality of opportunities and the elimination of unjustified discrimination
- take action to ensure that equality is at the heart of all access arrangements to its facilities, employment and services and believe that this can be achieved through mainstreaming of equalities issues.
- ensure that all your plans, policies, practices, procedures and decisions reflect and incorporate equal opportunities objectives.

#### **The Council as an Employer**

- ❖ Recruitment
- ❖ Discipline and Grievance
- ❖ Negotiations with Staff
- ❖ Setting Salaries and Grades

The Council is one of the Borough's largest employers and Members may be required to make, or can influence, decisions which profoundly affect employees.

In making employment decisions, the key principles to follow are:

- Members should not gain financially, nor should their family or friends;
- In making public appointments or recommending people for rewards or benefits, Members should make choices on merit, using objective criteria;

#### 5.1 20230222

- Members have a duty to declare any interest;
- Where friends, relatives or members of their household are in some way involved in an employment related matter, Members must not participate in any Committee, working party or panel dealing with that person or issues affecting that person's interest;
- Except when it is part of their remit to do so at Committees of the Council (e.g., Appeals Committees), Members should not seek to influence management decisions on individual staff training, disciplinary grievances, or salary matters;
- Members should be open about, and are accountable for, the decisions they make in the role of employer. However, some employment matters, e.g. personal information about employees, disciplinary procedures, should be dealt with in confidence. Unauthorised disclosure of personal data may be a breach of the Data Protection Act 1998, as well as a breach of the Code of Conduct.

In addition, Members should remember that although the law provides for any Member to have access to papers related to the work of the Council's Executive and Committees, unless they are Members of the relevant Committee, there is no automatic right to information about:

- any individual applicant to become an employee, or
- any individual who is an employee (this includes details of grade and pay, and any disciplinary, grievance or other employment issue that involves a particular employee); or
- consultations or negotiations over any labour relations matter.

When acting as employer, Members are bound by the complete framework of National and European employment law and may be personally liable for decisions which discriminate on the basis of race, gender, sexual orientation, age or disability.

### **The Council as an Employer – Recruitment and Redeployment**

The law and Constitution lay down rules for the appointment of staff. You must ensure that you observe these scrupulously at all times.

If you are called upon to take part in appointing an Officer, the only question you should consider is which candidate is the best one for the job. You should not let your political or personal preferences or prejudices influence your judgement.

In-house training in the law and procedure for recruiting staff is available. This training is compulsory, and only Members that have been trained can take part in Member level appointments.

Members may only make appointments to those posts which have been approved as subject to selection by Members – these are the Chief Executive, Chief Operating



Officer and Heads of Service posts. The law does not permit the involvement of Members in appointments below that level.

The panel must use objective criteria and make its decision:

- with access to all the relevant facts;
- on the basis of merit.

Therefore, Members must not seek to influence:

- any appointment made by Officers;
- any appointment made by a Member panel to which they do not belong.

In both Officer and Member appointments, Members must:

- never ask colleagues to support or criticise any candidate;
- resist any attempt by others to seek their support or otherwise for any candidate;
- report to the Monitoring Officer any attempt to influence an appointment to the Council;
- be able to satisfy themselves that the Council's recruitment policies and procedures are properly applied;
- not participate in the recruitment process where friends, relatives or members of their household are applying for the post.

You must not favour an applicant for a job with the Council by giving him or her information not available to other candidates.

Members not participating in an appointment will not have access to the information about the applicants that the panel considers.

You must not give a reference for any applicant applying for a job with the Council (including internal applicants). It is, however, acceptable for you to give references for current or past employees of the Council who are applying for jobs outside the Council and unconnected with it. Also, Members may give references for job applicants if they are doing so not as a Member but as a former/existing employer or colleague. The reference must clearly state that this is the context in which it is given.

### **The Council as an Employer – Discipline and Grievance**

In-house training in the law and procedure relating to discipline and dismissal is available for Members. Members must attend this training before they can take part in hearing disciplinary appeals.

When participating in disciplinary appeals a Member must declare to the Monitoring Officer any kinship or friendship with the employee who has been disciplined. This would include common membership of an association (or society or trade union), trusteeship or other kind of relationship. Once this interest has been declared the Member shall take advice as to whether or not it is such as ought to debar the Member from participating in the appeals process.

Staff have the right to be disciplined in accordance with the Council's laid down procedures, which stress impartiality and objectivity. Members may, of course, report apparent breaches of the Council's Code of Conduct by staff to an appropriate senior manager and give evidence at any hearing if requested to do so. But thereafter they must not seek to influence:

- any disciplinary matter heard by Officers;
- any disciplinary matter heard by an appeals panel to which they do not belong.

At disciplinary appeals, Members act in the role of employer. The employee, the manager who has disciplined him or her, and other staff who work for the Council have the right to have clear standards at work which are enforced consistently.

Member decisions must be based on the facts of the case. Political or personal considerations must not be allowed to influence the decision.

Because the information about disciplinary cases relates to particular employees, in law, Members, other than those hearing the appeal, have no right to see the papers.

All the principles in this section apply equally to Member involvement in employee grievance appeals.

### **The Council as an Employer – Negotiations with Staff**

Member level negotiations will normally be carried out by the Joint Consultative Committee, which will meet to deal with corporate industrial relations matters as required.

Industrial relations matters which do not have a corporate significance will be dealt with by the appropriate Head of Service.

At the Joint Consultative Committee, Members should act only in the role of employer. Members who are Members, officials or employees of a trade union must not serve on bodies which have a responsibility for negotiating with that trade union.

In the interests of openness and objectivity, Members should not "do deals" with the trade union side during private and informal meetings, especially if no Officer is present to advise on and record any agreement. Neither should they disclose confidential information to the trade union side in the course of any consultations or negotiations. This principle applies to all matters relating to staff in which staff representatives are involved, including disciplinary, grievance and recruitment matters.

### **Relationships with Officers – Personal Relationships**

Mutual respect between Members and Officers is essential to good local government. Close personal familiarity between individual Members and Officers can damage this relationship and prove embarrassing to other Members and Officers.

It is not enough to avoid actual impropriety. You should at all times avoid any occasion which might create suspicion or any appearance of improper conduct.

You must declare to your party whip any relationship with an Officer which might be seen as influencing your work as a Member. This includes any family, business or sexual relationships. Officers too have a duty to declare any such relationship to their Manager.

Members must not be the Executive Member with reporting relationship for the Service Unit for which an employee holding a politically restricted post works to whom they are:

- married;
- the partner;
- otherwise closely related such as sisters, brothers, parents, grandparents, aunts, uncles, nephews, nieces, cousins, and in-laws;

or take part in the consideration of any decisions where a Member's relationship with an Officer might be seen to jeopardise the work of the Council.

### **Relationships with Officers – Monitoring the Performance of Officers**

Members have the right to criticise reports or the actions taken by Officers but they should always:

- seek to avoid personal attacks on Officers;
- ensure that criticism is constructive and well-founded.

You should avoid undermining respect for Officers at Executive and Committee meetings, or in any public forum. This would be damaging both to effective working relationships and to the public image of the Council. Members need to be aware that an Officer could take unfounded or unfair criticism as grounds for resignation, and in extreme cases Officers could issue claims for slander or libel or constructive dismissal.

Members should not refer publicly to issues relating to the conduct or performance of employees if a disciplinary investigation is under way or if an internal or external appeal is still to be dealt with.

## **Enquiries and Complaints about Officers or Services**

Enquiries about services should be raised with the most appropriate officer. If in doubt refer to the A-Z, or to the list of enquiry/complaints officers in the front of the Handbook and Diary. The quickest way of raising an enquiry is over the telephone. Alternatively you may wish to e mail or fill in a Member Enquiry Form or send a letter. Out of hours enquiries can be made to a special telephone number (see page 178).

Complaints about Officers or Council services should be made to the relevant Complaints Officer of the service where you feel the fault lies. Your complaint will be dealt with in accordance with the Council's Complaints Procedure.

Members have a right to know if action has been taken to correct a matter, but for reasons set out in the section on the Council as an Employer, they must not, either:

- influence or try to influence the level of disciplinary action to be taken against an Officer, or
- insist (not be seen to insist) that an employee is disciplined.

Members must not sit on any appeal that hears a case in which they have been involved.

Members have a duty to raise any issues they have reason to think might involve fraud or corruption of any sort with the Monitoring Officer or Head of Finance and Property.

### **Be Positive**

Members should celebrate success and good work and thank the people responsible.

Members should be understanding about the difficulties that Officers have in dealing with increasing workloads and decreasing resources, just as Officers are encouraged to be understanding about the pressures on Members.

### **Relationships with Officers – Circumstances in which Officers can be Contacted Out of Office Hours**

If there is an emergency appropriate Officers can be contacted via the out of hours Emergency Service. This service is manned 24 hours per day, 365 days per year. The telephone number is 01757 244475.

If there is a situation which is not strictly an emergency but which cannot reasonably await the next working day, the Emergency Service will contact the Head of Service or a member of Management Team at home. He or she will decide whether it is necessary to contact other Officers. It should be noted that Emergency Service staff will not supply any Officer's home number direct.

For situations where Members simply wish to leave a message for a particular officer or Service Unit after office hours, they should use the Councils main switchboard number, 01282 425011 and leave a message when prompted. Messages will be

checked every morning by a member of staff from Customer Services and passed on to the appropriate person that day.

Officers who regularly work from home can be contacted during the working day via their office. They are expected to deal with queries from Members in exactly the same way as if they were in the office.

Members may contact Officers direct at their homes by any special arrangement agreed between them.

**In all other circumstances the general rule is do not contact Officers at home.**

### **Relationships with Officers – Other Contacts with Officers**

Members are elected to represent the interests of their constituents, but you should not seek special treatment for any individual. When dealing with Council Officers, you must declare any special relationships with constituents, e.g. close personal friendship.

It is legitimate for Members and Officers to talk about Council business, even where matters have been delegated for Officer decision. However, Members should not put pressure on an Officer to decide those matters in a particular way. This might lead Officers to make decisions that:

- are not objective and cannot be accounted for;
- favour unfairly one member of the public over another

You should avoid bringing or attempting to bring undue influence to bear on an Officer to take any action which is:

- against procedure or policy;
- a breach of the disciplinary code for employees;
- in conflict with the Constitution including Standing Orders or Financial Procedure Rules

Officers have a duty to report any attempt to exert improper influence. The Monitoring Officer, or nominated Officer, will investigate any such report.

### **Chairs of Committees and Executive Members**

Senior Officers are expected to work closely with Executive Members and Committee Chairs and to meet regularly with them. It is legitimate for Officers to consult such Members about decisions delegated to Officers, but the ultimate decision can only be taken by the officer or Member/s given the delegated power to do so.

Executive Members or Chair should not seek to influence an Officer to reduce the options or withhold information which he/she should properly report to a Committee or the Executive.

**Relationships with Others; Dealing with the Media; and Disclosure of Information**

Try to help every resident who asks for help. If that person is not a constituent of your Ward, it may be that a Member for that Ward would be better able to help. However, you are not obliged to refer the constituent to another Member and, indeed, there may be circumstances where this is inappropriate, e.g. if the resident particularly wants your help rather than that of another Member.

Always be courteous to members of the public, even if you disagree with their views.

Find out who is the best person to deal with a query – sending it to the wrong person can only delay a response.

If you cannot do what people ask, explain clearly the reasons why.

Criticise political opponents only on the basis of what they have said or done, without being personal.

Abide by the rules of debate – they are there to help everybody.

**Dealing with the Media and Disclosure of Information**

Be wary of what you say to the media. It can sometimes be misquoted or taken out of context.

The proper spokesperson for the Council (i.e. the person with authority to speak on behalf of the Council) is either the relevant Officer, Executive Member or Leader of the Council, depending on the issue. If in doubt, seek advice from the Council's Public Relations Officer.

**N.B.** This does not prevent any Member of the Council speaking on his or her own behalf or on behalf of any individual or group of residents.

Many of the documents you will see as a Member and much of the information you receive will be confidential. You must not disclose that information to anyone else.

In particular you must not disclose to or discuss with the public and press:-

Any proceedings which take place in meetings from which the press and public are excluded

Any matters which disclose confidential information within the meaning of the Local Government Act 1972

Any matters which are contained in reports marked "exempt" within the meaning of the Local Government Act 1972.

If in doubt, ask the Head of the Chief Executive's Office or the Monitoring Officer.

## **Interests**

**The law relating to the classification of interests and speaking and voting rights has changed substantially and Members are recommended to read Part 2 of the Council's Code of Conduct very carefully.**

The law relating to Members who are two months or more in arrears on payments for Community Charge or Council Tax has not changed.

Section 106 of the Local Government Finance Act 1992 provides that no Member of the Council who is two months or more in arrears on payments for Community Charge or Council Tax is permitted to vote at any Council or Committee meeting on any matter affecting:

- The setting of the Council's budget; or
- The setting of the Council's Council tax; or
- The administration, including penalties and enforcement, of the Community Charge and the Council tax

It is the responsibility of any Member to whom Section 106 applies to:

- Disclose the fact; and
- Not vote on any matter specified in Section 106

It is ultimately the responsibility of Members to determine whether or not they have a declarable interest and whether or not they can speak and/or vote. Officers who know from previous dealings that a Member has such an interest may if the opportunity arises remind that Member of the rules but they are under no obligation to do so, and the fact that such an officer has not done so does not absolve the Member from his/her responsibility. If a Member is in any doubt he/she should actively seek advice from the Monitoring Officer, or the Head of Legal and Democratic Services. Err on the side of caution.

## **Members Acting as Directors, Trustees, etc. of Other Organisations**

Members are often appointed to outside bodies/organisations because of their status as a Member. These appointments are generally regarded as roles where members represent the Council and Members are bound by the Code of Conduct.

In some circumstances such an appointment may mean that a member, as an individual, has certain separate legal obligations placed upon him/her which are different or may conflict with their obligations to the Council. In these circumstances members play a useful role, as a Member, in the business of that body or organisation.

However, a member has an overriding legal duty to that body or organisation and not the Council. A member must always act in the best interests of that body or organisation, which may or may not coincide with the Council's.

Examples of such appointments are Company Directors or Trustees of Charities. Another example are appointments to Review Boards for Council Tax and Housing Benefit. Where, under law, a Board is a separate legal entity from the Council Members are required to act without being influenced by that role as a Member or member of a political group. A Chair of a Review Board has a special legal responsibility for each decision made by a Board and must personally approve every written decision. Such duties include respecting any confidential information of the outside body/organisation.

Other appointments, for example as a member of a Management Committee, may not carry such personal or legal responsibility and members must always follow the Code of Conduct where the business of such bodies/organisations coincides with that of the Council.

This is not an exhaustive list of examples and Members should familiarise themselves on appointment to outside bodies and organisations with the relevant rules, procedures and legal requirements and continue to remain aware of such matters throughout their period of appointment.

### **Registering and declaring membership of the Freemasons.**

It is necessary for Freemasons to declare membership of the Freemasons Grand Charity under Part 2 of the Code of Conduct, which states that members need to register with their authority membership of bodies that are directed to charitable purposes.

All Freemasons pay an annual subscription fee to their own individual Masonic Lodge, part of which automatically goes to the Grand Charity. Therefore Freemasons are obliged under the Code of Conduct to register their membership of the Grand Charity and to declare this interest where appropriate.

### **Registering and declaring membership of political council associations.**

Membership of Member associations should be registered with the authority under Part 2 of the Code of Conduct.

Paragraph 8(1) (b) ) requires the registering of membership of bodies “whose principal purposes include the influence of public opinion or policy.”

Political party Member associations fall under this paragraph and membership of political party Member associations therefore need to be registered.

## **General guidance on Development Control functions**

### **Lobbying of and by Members**

Members who are not on Development Control Committee should avoid lobbying fellow Members who are members of that Committee. They may, however, speak on behalf of their constituents but only if the appropriate notice to speak has been given



in line with the 'Right to Speak' procedures. The relevant forms for applying for a Right to Speak at committee meetings are available from the Town Hall and must be filled in and returned to the Town Hall by the appropriate date.

### **Development Proposals by Members, Officers and the Council**

*Development proposals by Members and Officers of the Council must be handled in such a way which gives no grounds for accusations of bias, favouritism or disadvantage. Similarly applications for development made by the Council or for development on Council owned land must be dealt with in a way which is open to public scrutiny.*

An officer must not act as an agent for anyone pursuing a planning matter with the Council. Any Member who acts as an agent (paid or unpaid) must take no part in the decision making process for that proposal.

Should any Member or officer submit their own application for the Council's approval they must inform the Head of Housing and Development Control and must take no part in either processing or determining the application. Such planning applications must not be dealt with under delegated powers, no matter how minor an application it may be, and must be identified in the written report to Development Control Committee as being the application of a Member or officer.

Proposals for the Council's own development must not be treated under delegated powers and must be reported to Development Control Committee and identified as the Council's own development in the written report to Committee.

### **Declaration and Registration of Interests**

*The law and Model Codes set out guidance for Members generally on declaring interests, these must be followed scrupulously by Members of Development Control Committee. The national guidance advises that not only should impropriety be avoided but also any appearance, or grounds for suspicion of, impropriety. The responsibility for this rests with each Member.*

Members who have substantial property interests, or other interests which would prevent them from voting on a regular basis, should avoid serving on the Development Control Committee.

Advice on what constitutes an interest is set out in the Model Code. If it is perceived that a member may further a private or a personal interest, rather than the general public interest, through their membership of Development Control Committee, then that member should consider whether it is appropriate for them to continue to be a member of the committee.

Private interests could arise through family, friends, clubs, societies, football clubs, Freemasons, trade unions, special interest groups and voluntary bodies. The national guidance says that the test for deciding whether such an interest should be declared is whether a member of the public, knowing all the facts, would reasonably think that the member might be influenced by the interest. If so, then the interest

must be disclosed and the Member must take no further part in the relevant proceedings. It is for the Member, not officers, to decide whether an interest should be declared.

### **Committee procedures and decisions**

*Members of the public and Members who are not members of Development Control Committee who wish to speak in support of, or against, a development proposal will be allowed to do so.*

Members wishing to speak in support or against a development proposal for **personal** reasons, i.e. not in their role as Ward Members, must refer to the guidance on Declarations of Interest as set out in Part 1 of this Guidance.

### **General Role and Conduct**

Members whether on Development Control Committee or otherwise should not attempt to influence the content of the officers' consideration of a planning application or the recommendation.

### **The Distinctive Roles of Members and Officers**

Put simply, Members are responsible for determining policy; Officers are responsible and accountable for implementing policy and managing the organisation.

Given these roles, Officers are expected to work within and pursue Council policies. Equally, Members must not interfere with executive matters that are properly the responsibility of Managers.

### **Members' Role**

Members have a complex role and are required to act simultaneously in three capacities:

- **As Politicians** - in this capacity you will normally belong to a political grouping represented on the Council and will express political values and support the policies of the group to which you belong.
- **As Representatives** – in this capacity Members interpret and express the wishes of the electorate and seek to account for service priorities, allocation of resources and ultimate performance.
- **As Council/Committee/Executive Members** – in this capacity Members have personal, individual, and collective responsibility for the Local Authority organisation and its activities. You are responsible for ensuring that adequate management arrangements are in place; to develop and take decisions on the use of the Authority's physical, financial and human resources, and to concern yourselves with the performance, development, continuity and overall well-being of the organisation.

## **Officers' Role**

Officers of the Council have, in broad terms, the following main roles:

- They are the **managers** of the services for which the Council has given them responsibility. They are accountable for the efficiency and effectiveness of those services and for proper professional practice in discharging their responsibilities
- They are responsible for the appointment of officers below Deputy Chief Officer level. (In our structure terms this means Service Unit Managers and below)
- They are the **professional advisors** to the Council, its Committees and Members in respect of their service
- They may **initiate policy proposals** for Members to consider as well as being **implementers of agreed policy**
- They **ensure** that the Council always acts in a lawful manner

### **Protocol: Chief Executive / Chief Operating Officer and Political Groups**

#### **General**

- The Chief Executive and Chief Operating Officer are employees of the Council as a whole and their overriding responsibility is to the Council and not to any party political group or other grouping of Members (hereafter called "Group"). Their political neutrality should be respected
- All Members of the Council have an equal right of access to the Chief Executive and Chief Operating Officer
- The Chief Executive and Chief Operating Officer are expected to work closely with the political administration to give them information, assistance and advice. It is inevitable there will be more contact and more dialogue between the officers and the Leader, Deputy Leader, other Members of the Executive and Chairs and Vice-Chairs of Committees than with other Members but the officers will maintain political neutrality
- The Chief Executive and Chief Operating Officer need to develop good working relationships with minority groups. The Chief Executive and Chief Operating Officer will not reveal to other Members the content of the discussion with any Group, unless consent has been specifically given by the Leader of the Group concerned

#### **Briefings**

- It is a basic requirement of Officers that information, other than of a routine or trivial nature, given to one Group is offered to all Groups. It is also important for the effective conduct of Council business if the chief Executive and Chief

Operating Officers keep in regular contact with all Groups to provide information, give advice and answer questions on items of corporate importance. Accordingly, regular liaison meetings can be very valuable, offering a regular and confidential forum for dialogue and discussion

- The Chief Executive will also offer a briefing once a cycle to Group Leaders on an individual basis if they wish to take this up. Notes from any such meetings would be confidential and would not be shared with any other Members or officers (outside the Management Team). This regular briefing will be in addition to any ad hoc briefings or meetings on specific issues
- In addition, a Group Leader may request the Chief Executive or Chief Operating Officer to arrange a confidential briefing for the Party Group on any matter of relevance to the Council. In such cases, a similar briefing will be offered to other Groups. The role of Officers at such briefings will be to provide information and answer questions; any debate within the Party Group should take place after the Officer has left. Normally, only the Chief Executive and Chief Operating Officer or Service Unit Managers will attend briefings, although they may ask a colleague for 'technical' information to accompany them if required. Group Leaders should refer their requests for officer attendance to the Chief Operating Officer in the first instance. (Note: Officers will not attend Party Group meetings at which there are persons present who are neither elected Members of the Council, nor in the service of the Council)
- All Council media (press) releases will be sent automatically to each Group Leader (or nominated Committee spokesperson)
- The Chief Executive will, as far as possible, ensure that all Ministerial/VIP visits have cross-party involvement

### **Information**

- There is a long-standing arrangement that a copy of any information supplied by an officer to a Member is sent to the appropriate Executive Member or Committee Chair. If this information is requested on a confidential basis, however, officers will not pass this information to any other Member

### **Access to Information – Members of the Executive, a Committee or Sub-Committee**

As a Council Member you have all of the rights available to members of the public to inspect reports, minutes and background papers appearing on the public part of any Executive, Council Committee or Sub-Committee agenda.

However, background papers not usually available to the public would only be available to a Council Member who sits on the relevant Committee which considered the report, and providing it is not deemed to be highly confidential.

You also have additional rights as a Member. You are legally entitled to information that you need in order to carry out your work as a Member. But you are not entitled

to confidential information which is not directly relevant to your role as Member, or information which relates to a particular person or a commercially sensitive matter.

You should not request confidential information in order to use it for a purpose not legitimate for your role as a Member, because you are in a position of trust. Your motive for requesting confidential information is, therefore, relevant and you should be prepared to disclose the reason for your request.

If, for example, you are pursuing an issue on behalf of a constituent, this would be a legitimate reason and should be made known to the Officers from whom you are seeking the information. You must not abuse this trust by disclosing information that is confidential or exempt from disclosure to the public.

This is particularly relevant to information which is commercially sensitive, related to a tendering process or personal information relating to staff or members of the public.

In addition to Committee and Executive reports and background papers you are entitled to see any papers the Council has which properly relate to the work of a Committee or Sub-Committee that you are on. However, because an issue has been considered by a Committee this does not mean that you may see all the papers that relate to it.

If the papers contain exempt or confidential information you will need to demonstrate “a need to know” and give reasons why you need to see the papers in order to perform properly your duties as a Member and this need must not be outweighed by any public interest requiring nondisclosure. You must not ask for information on a matter on which you would have to declare an interest.

If you are refused access to documents you feel you have the right to see, the dispute will be determined by the Head of Legal and Democratic Services.

### **Access to Information**

#### **- Members not a Member of the Executive, a Committee or Sub-Committee**

As a Member, you have the right to see some information on Committee agendas which is exempt from disclosure to the public, on a “need to know” basis.

You have no automatic right of access to information about:

- any particular employee of the Council;
- applicants for employment with the Council;
- occupiers of Council accommodation;
- applicants for such accommodation;
- recipients of financial assistance from the Council;

#### 5.1 20230222

- applicants for such assistance;
- recipients of any Council service;
- applicants for any such service;
- the adoption, fostering, care or education of a particular child;
- items proposed during negotiations over a contract for property, goods or services;
- negotiations or consultations with the Council's trades unions;
- legal proceedings taken or defended by the Authority where the Council interest could be compromised;
- any action to be taken to prevent, investigate or prosecute a crime;
- the identity of a protected informant.

However, if you can establish that in order to carry out your duties as a Member, you need information to which you would not normally have access, then the Head of Legal and Democratic Services may provide access.

If you attend an Executive or Committee meeting on which you do not serve as a Member, you may remain in attendance even if the public have been excluded but only with the consent of the Executive/Committee. You must not attend if you have an interest in any matter being discussed.

#### **Use of Council Facilities**

A schedule of the services which the Council provides for Members is set out below.

1. Free photocopying facilities for Council and Ward matters, through the document copying office in the Burnley Town Hall. A shredding machine is also available for confidential documents if required.

A small photocopying machine is located in the Members' Room of the Burnley Town Hall.

2. Access to Information Technology facilities - via computers in the group office and many cases from Members' homes. All Members having such access are to sign an agreement to abide by the IT Security Policy.
3. Structured and formulated Member training both 'in house' and external.
4. Members' room and facilities:
  - i. Limited library - books journals, periodicals, reports and copies of Committee agendas.
  - ii. Newspapers - Burnley Express, Evening Telegraph and the Guardian.

5.1 20230222

- iii. Telephone and additional 'phone in the kiosk on the Civic Floor opposite Committee Room number one.
  - iv. Small photocopying machine.
  - v. Letter writing facilities.
5. Provision of Group Offices for the political parties. Limited filing assistance provided for the majority Group Office as required.
6. Typing, diary and filing services provided for the Council Leader by staff in Support and Member Services.
- Typing facilities for other Council Members are also available from Support and Member Services.
7. Assistance with research and additional support available for Executive Members, Chairs and Vice-Chairs when requested.

**Council facilities:**

You must use any Council facilities provided for you in your role as Member strictly for that purpose and no other. For example, you must not use rooms in the Town Hall or any of the Council's paper, computers, photocopiers, or printers for any personal, business-related or party-political matter (subject to the provisions below), nor on behalf of any community groups of which you are a member, unless a payment has been agreed for the service with the Head of Legal and Democratic Services.

Under Sections 95 and 96 of the Representation of the People Act 1983 (RPA), Candidates at both Parliamentary and local government elections are entitled to use publicly funded accommodation to hold election meetings.

Under the RPA:

1. Candidates at parliamentary or local government elections are entitled to the use of premises in a school or other community meeting room, at reasonable times.
2. Use is free of charge, but candidates must meet the costs of preparing, heating, lighting and cleaning and restoring it to its usual condition after the meeting.
3. Candidates must pay for any damage to the room or premises.
4. Reasonable notice must be given by or on behalf of the candidate.
5. At local elections, meetings must be for the purpose of promoting or procuring the giving of votes in the forthcoming election.
6. The meeting must be open to the public.
7. The council will keep a list of suitable rooms within as well as outside the constituency. The list must be available for inspection at reasonable hours by a candidate or their agent.

## **The Members' Support Service**

Secretarial assistance is available to help with work such as casework, meetings and correspondence that deals with Council matters. But you should not ask staff to assist you with any personal, business or party political matter, or decide how your casework will be dealt with although advice can be given. This is so even when the person being contacted is a constituent, an Officer, or a Member.

## **Advice from Council Officers**

Officers can only be asked to provide advice to Members on matters which clearly relate to those matters which arise from being an elected Member.

The Council can only provide legal representation to an individual Member where the action is taking place in the name of the Council and the individual deserves the protection of the Council. All such matters should be raised with the Head of Legal and Democratic Services in the first instance.

## **Political Party Workers**

Members are often assisted by political party workers. There is no objection to this, but no non-elected party worker has any legal entitlement to:

- information to which Members have access only in their role as Members; (although it is our normal practice to allow Group Observers to have the paperwork circulated to Group meetings)
- use Council facilities provided for the use of Members

The principles which apply to use of facilities provided for Members (and the Officers employed to assist them) apply equally to all Council property and facilities; and all Council employees.

## **Guidelines for use of Photocopying Services for Council Members**

The Council provides a photocopying service as part of its range of Support Services to Council Members. This comprises the small photocopier in the Members' Room, intended for use by individual Members, and the central photocopying service also in the Town Hall, which is operator controlled.

The Council also arranges for the copying and distribution of Agendas and reports, to Political Groups represented on the Council, as this is considered to be ancillary and incidental to the Council's activities.

Neither of these services (or any other Member Support Services) is to be used for the conduct of party political activities. The Council is expressly prevented by legislation and a Publicity Code from publicising, or assisting others to issue publicity on behalf of Political Groups or organisations.



Councils are usually politically controlled. In publicising the activities of the Council there will often be reference to the controlling Political Group. This is permitted if the intention is to publicise the Council's activities.

There will be occasions when documents produced by a political organisation, e.g. a briefing paper on a particular policy, or new initiative affecting Local Government, are to be considered at a Political Group Meeting, or even a Council Committee Meeting. If the document is intended to assist the Council's activities or is ancillary to them it is legitimate for that document to be copied and distributed.

It is important to make the distinction between where the document originates and its intended use. The fact that a document is produced by a Political Party is not sufficient in itself to prevent the Council arranging for it to be photocopied and circulated.

***If the document was intended to be used to affect public support for a political party then, by law, the Council cannot arrange for it to be copied or circulated.***

Given these considerations:

1. The Council will continue to photocopy for and distribute to Political Groups represented on the Council, documents to be considered at Political Group Meetings.
2. Political Groups are required to restrict their requests for the copying and distribution of documents to those items to be considered in connection with the Council's business.
3. No documents intended to publicise the work of Political Groups or organisations will be printed or published by the Council and Council Members or Political Group Officers are required **not** to contravene this guideline.
4. The Council can photocopy material for individuals or for Political Parties at a commercial charge but care must be taken to ensure that there is no breach of the law.
5. All documents intended to be copied and or distributed on behalf of Political Groups are to be handed to the Head of Legal and Democratic Services, or his representative. No Council Member or Political Group Officer should give those documents to the central photocopying operator or issue instructions for copying to the operator.
6. The photocopier in the Members' Room is available for use in connection with Council business. For example, taking copies of correspondence to and from constituents. It is not for use in connection with private business or Party Political activities, for example Election literature.
7. Any queries on these guidelines should be raised with the Head of Legal and Democratic Services.

### **Guidelines for use of Rooms by Political Groups**

The Council's Policy on the use of Council accommodation for Party Political meetings is:

*“The rooms shall not be used for the purpose of holding Party Political Meetings or Party Political exhibitions (other than meetings attended wholly or mainly by Members of the Council and which are ancillary to or incidental to the Council's activities).”*

The use of rooms at Burnley and Padiham Town Halls permitted under this policy will be free of charge. The policy also applies to the use of rooms in other Council accommodation but a charge may be made for that use if, in the opinion of the Head of Service responsible for that accommodation, it would result in a loss of income from other bookings.

This policy is intended to permit the use of Council accommodation for Political Groups represented on the Council.

Political Groups, whether or not represented on the Council will not be permitted to use Council accommodation for Party Political events or meetings.

All rules about use of rooms (e.g. No Smoking) must be observed.

### **Accepting Gifts and Hospitality**

The Code of Conduct says that a Member must within 28 days of receiving any gift or hospitality over the value of £25 provide written notification to the Monitoring Officer of the existence and nature of that gift or hospitality.

You must not:

- accept gifts or hospitality from an organisation that has dealings with the Authority, where this could be seen as likely to influence your work and decisions as a Member

This can include hospitality such as tickets to social or sporting events that are offered to you in circumstances where they are not available in the same way or at the same price to the general public.

Otherwise you may accept gifts that are:

- of a value up to £25; and
- appropriate to you as a representative of the Council

Any gifts or hospitality received over the value of £25 must be notified in writing within 28 days to the Monitoring Officer.

Because it can at times be difficult for a Member to judge what gifts and hospitality are appropriate to accept you are strongly advised to seek guidance from the Head of Legal and Democratic Services or the Monitoring Officer before acceptance.

**Members Allowances**

Members are entitled to claim various allowances in connection with their duties and responsibilities. Full details can be obtained from the Finance and Property Management Service Unit.

The Council's "Financial Procedure Rules" sets out rules as to how and in what circumstances allowances can be claimed.

It is very important that Members follow these rules carefully and take advice if needed. Nothing is more damaging to the credibility of the Council than an allegation that allowances have been falsely claimed.

Although it is a commonly held view that Members are not adequately compensated for the time and effort that they put into their Council work, it is not legitimate to try to increase that compensation either by outright falsehoods or by manipulating the system. An example of the latter is non-attendance at Conference sessions which have been paid for by the Council.

## **CODE OF CONDUCT FOR MEMBERS**

### **2. GUIDANCE FOR MEMBERS INVOLVED IN DEVELOPMENT CONTROL DECISIONS**

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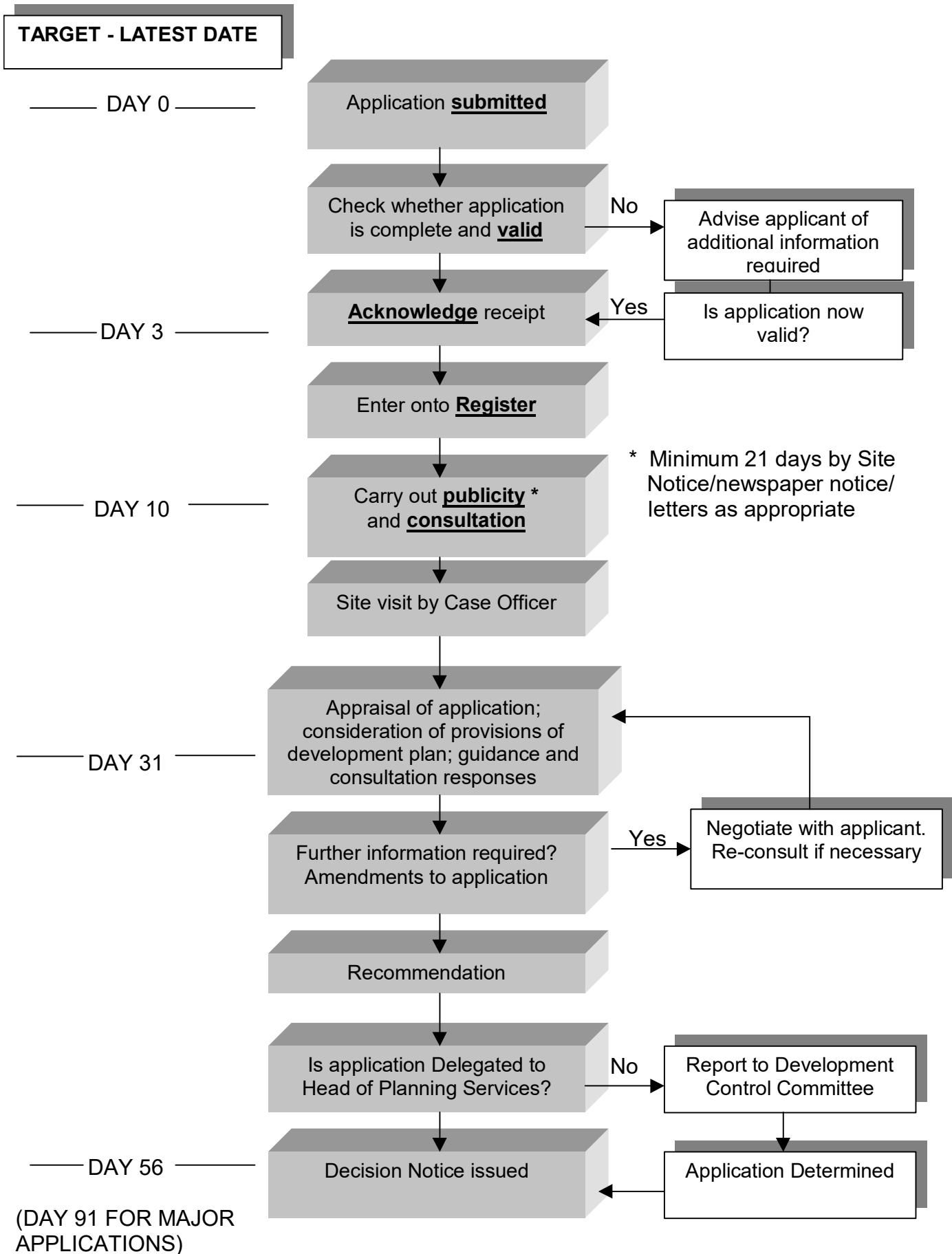
#### **1. Introduction**

- 1.1 *This guidance has been prepared to assist Members who are involved in Development Control decisions and is supplementary to the revised Code of Conduct for Members, which was adopted by the Council in July 2007*
- 1.2 This Council determines around 700 planning applications each year and each application must be dealt with in a manner which is fair, open and in accordance with national planning guidance. Achieving an open development control process depends on the integrity of all those involved, officers and members alike.
- 1.3 Membership of Development Control Committee brings with it special responsibilities over and above those carried by Ward Members. This guidance will assist Members of Development Control Committee in reconciling their roles as representatives of the community with the responsibility for ensuring proper planning of the Borough.

#### **2. Development Control in Burnley**

- 2.1 Burnley Borough Council determines around 700 planning applications each year. Over 80% of all applications are dealt with under the Scheme of Delegation and are determined by the Head of Housing & Development Control. Less than 20% of applications currently go before Development Control Committee for a decision. The applications which are placed before Committee are those which are controversial, or have given rise to objection, or are not in accordance with the current development plan and require the careful consideration of the Committee.
- 2.2 The attached flow chart shows the progress of a planning application from receipt to decision. At present 80% of all applications pass through this process and are 'determined' within eight or thirteen weeks, which is the current national target.

## PLANNING APPLICATION - PROGRESS



## **Guidance for Members involved in Development Control Decisions**

### **3. Discussions with Applicants**

- 3.1 Members who are members of Development Control Committee should, as far as is practicable, discourage any applicant or agent or other interested party from approaching them in relation to any individual planning application or any other matter which may give rise to a planning application. It is advisable to refer all queries to the planning officers.
- 3.2 From time to time meetings may occur between Members and potential developers, for the sake of openness the following guidelines must be followed:-
- a) the meeting shall be pre- arranged and shall be organised through or by an officer of Planning and Environment Services;
  - b) the meeting shall take place in Council Offices or on site in appropriate circumstances, in which code of practice for Site Visits (see section 5) must be followed;
  - c) an officer from Housing & Development Control must be present throughout the meeting;
  - d) a record of the meeting must be made by the Officer;
  - e) in the event of a planning application being made in respect of the development proposals discussed at the meeting, the record shall be made available for public inspection and shall form part of the planning application file.

### **4. Lobbying of and by Members**

*Once it becomes known that a Member is a Member of the Development Control Committee, he or she is likely to be lobbied from time to time by people who have submitted planning applications, or people who have an interest in seeing a planning application refused or approved. This guidance will help Members deal with these potentially awkward situations.*

- 4.1 Members of Development Control Committee should not encourage any applicant, agent, potential applicant, potential agent or other interested party from approaching them in any way in relation to any individual planning application, or any other matter which may give rise to a planning application. If an approach is made the Member should restrict themselves to giving advice about rules and procedure, including suggesting to those who are lobbying that they should speak or write to the relevant planning officer, or a Member who is not a member of the Development Control Committee.

- 4.2 If a member of Development Control Committee is approached by an applicant or agent or other interested party in relation to a particular planning application, the member should:-
- a) inform the applicant or agent or interested party that such an approach should only be made to officers of the Council or to elected members who are not members of Development Control Committee;
  - b) Tell the Head of Housing & Development Control or case officer that such an approach has been made; identifying the site, the nature of the approach, by whom it was made, and the action taken by the member concerned;
  - c) Keep an adequate written record so as to enable the member to disclose the fact of such an approach if and when the application is considered at Development Control Committee;
  - d) Disclose the fact and nature of the approach at the relevant meeting of the Development Control Committee.
- 4.3 Members of Development Control Committee must take care about expressing an opinion which may be taken as indicating that they have already made their mind up about an application, before having heard all the relevant arguments and evidence at committee. This is known as pre-determination.
- 4.4 If a member of Development Control Committee receives written representations directly relating to a planning application, the member should immediately pass the correspondence to the Head of Housing & Development Control so that the representation may be taken into account in the consideration of the application and in the report to Development Control Committee.
- 4.5 Members of Development Control Committee should take great care to maintain impartiality when attending public meetings in relation to planning applications. They should consider carefully whether it is appropriate to attend in the first place and should not agree to chair such meetings. If they wish to attend to hear the arguments raised at the meeting they should ensure that an officer from Housing and Development Control is available to attend the meeting with them. Members attending such a meeting must make it clear they are there to listen and must not give an opinion on the merits or otherwise of the development proposal.
- 4.6 If a member of Development Control Committee has had any personal involvement with an applicant, agent or interested party, whether or not in connection with the actual application before committee or not, which could give rise to a perception that the member's judgement may be affected, then the member must declare an interest in accordance with the Code of Conduct for Members.

5.1 20230222

- 4.7 If a member is unsure about whether or not an interest should be declared, they should contact the Head of Legal and Democratic Services for advice.
- 4.8 Members of Development Control Committee should exercise care in their social contact with known developers and agents and should refrain altogether from such contacts when developments are known to be contemplated or proposed or where controversial decisions are likely to be needed.
- 4.9 Members of Development Control Committee should not use any political meeting prior to a Development Control Committee nor declared political stance to decide how to vote. The use of political 'whips' at group or other meetings is contrary to the National Code, and may amount to maladministration.
- 4.10 Members of Development Control Committee, or indeed any other Members, must not put pressure on officers for a particular recommendation.

## **5. Disclosable Pecuniary Interests and Other Interests See Part 2 of the Code of Conduct**

## **6. Site Visits**

- 6.1 Deferring a decision to allow for a site visit shall only be used when, in the Committee's view, the expected benefit in assisting the Committee to determine the application is substantial. A site visit is only likely to be necessary when the impact of the proposed development is difficult to visualise from the plans, photographs and other supporting information provided at Committee. The reason for making the site visit must be minuted clearly.
- 6.2 A site visit will normally take place immediately preceding the next Committee meeting following the decision to make the visit. The applicant and the occupiers and owners of private land to which access is desirable to view the application shall be informed and prior agreement for access shall be obtained.
- 6.3 Code of practice for Site Visits (see below)

### **CODE OF PRACTICE FOR THE CONDUCT OF SITE MEETINGS**

- ***Site meetings shall be used solely to acquire information about the nature of the application or related issue and its implication. No debate on the planning merits of the case will be permitted***



- ***Members shall endeavour not to express their personal opinions in relation to the application or the contents of the Officer's report***
- ***During the course of site meetings Members and Officers should endeavour to keep together as a group rather than engage individually in discussions with applicants or objectors. Discussion shall be via the Chair***
- ***If during the course of a site meeting the proceedings are disrupted by the applicant or objectors, the Chair (or in his/her absence the Vice Chair) may terminate the meeting at his/her discretion***
- ***Any Member having a pecuniary or other interest shall disclose that interest at the start of the meeting. Where that interest is clear and substantial the Member concerned shall withdraw from the site meeting***
- ***At the end of the site meeting, the Chair will give the Officers an indication of how the Members wish the application to be dealt with. There will normally be an agreement for the Officers to determine the application under delegated powers in accordance with the Committee report or a referral back to Committee***
- ***A record of the proceedings shall be kept by an Officer from the Democracy Team***

- 6.4 Members of Development Control Committee must not make their own private arrangements to make site visits, although they can view sites from the public highway or other such publicly accessible viewpoints.
- 6.5 Members of Development Control Committee must not enter any premises which are the subject of a planning application, or known to be likely to become the subject of a planning application, for any purpose in connection with such an application, save in the course of a site visit accompanied by officers.
- 6.6 A written record of Members attending organised site visits will be kept by the Democracy Team.

## 7. Training

*Members must exercise their representational role on behalf of their constituents, at the same time the planning process requires them to take decisions within a legal framework which is continually evolving and changing through legislation and case law. In order to exercise these duties Members need to have access to good quality and relevant training, and regular advice sessions provided by officers.*

- 7.1 To remain eligible to serve on Development Control Committee, members must receive formal training in planning procedure and planning law. This formal training will be provided to members annually, with less formal training workshops and updating sessions offered as appropriate.
- 7.2 Records of attendance at the formal training will be maintained by the Democracy Team and any apparent failure to attend will be notified in the first instance to the Member concerned and the relevant Group Leader, and if not rectified at the next available session will be referred thereafter to the Monitoring Officer or the Audit & Standards Committee who may recommend that the Member be removed from the Development Control Committee .
- 7.3 All Members on Full Council determining a development control application and all Members appointed to the Development Control Committee must attend annual training on planning law and procedure. This training must take place within 1 month of the Annual Appointments Council or being appointed to the Development Control Committee before they can determine any development control application, and failure to do so may be a breach of the Code of Conduct.  
However a Councillor could not be prevented from taking part in a development control decision at Full Council if they hadn't attended training, but could be prevented at Development Control Committee.

## **8. Declaration and Registration of Gifts and Hospitality**

- 8.1 Members of Development Control Committee may be offered gifts or hospitality from people with an interest in a planning proposal. Such offers must be declined. If receipt of hospitality is less than £25 in value and refusal would cause offence, Members should seek the advice of the Monitoring Officer or Head of Legal and Democratic Services

## **9. Committee procedures and decisions**

*Reports to Development Control Committee will describe the proposed development, will summarise the objections and views of those consulted, and of those who have made representations, as well as the material considerations of the case. Reports will contain a full and considered justification and an officer recommendation. Amendments and additions to the reports, made following the writing of the reports, will be provided on a separate sheet available at the committee meeting – known as the Green Sheet.*

- 9.1 Members of Development Control Committee should seek to familiarise themselves with proposals and the written reports which form the agenda before the meeting. If members have detailed and technical questions which they feel they would like to raise regarding a particular report, they should give the officers concerned prior warning so that the information can be brought to committee and that all members of the committee can have benefit of the information provided.

9.2

### **THE RIGHT TO SPEAK AT DEVELOPMENT CONTROL COMMITTEE**

- ***Planning applicants and their agents, members of the public and Members, and any other interested party have a right to speak at Development Control Committee***
- ***Those wishing to speak must complete the prescribed form and return the form to the Town Hall no later than 5.00pm three days before the meeting (as Development Control committee meetings are usually held on Thursday evenings, forms must be returned to the Town Hall by 5.00pm on the Monday immediately preceding the meeting)***
- ***The form must include a summary of the points to be raised***

- ***Any person making representations at the committee meeting will be allowed to speak for no more than 5 minutes***
- ***If more than one person wishes to speak on the same issue the total time allocated for presentation of that issue may be restricted and divided between the speakers, this is subject to the discretion of the Chair of the Committee***

9.3 The Planning Officer will present the consideration of the planning proposal, using visual aids where appropriate. Members of the Committee may then speak and invite the guidance of officers as appropriate. The consideration will be followed by a vote on the proposal.

9.4 If it appears that the Committee may be minded to make a decision contrary to the officers' recommendations, the planning officer should be given the opportunity to explain the implications of the contrary decision before it is taken. Before making a decision contrary to officer advice the Committee should consider whether to defer the formal decision until a full draft of the reasons for the decision is available.

9.5 If a decision is taken contrary to officer advice, the members must give reasons for their decision. The reasons for the decision must be clearly minuted and a copy of the reasons placed on the application file. The name and vote of each Member present at the meeting will be recorded in the notes taken by the Committee Administrator.

9.6 Any additions, deletions or alterations to conditions imposed by Committee will be minuted and recorded on file.

## **10. Review of Decisions**

*In order to give members a better understanding of the impact of their decisions, to show examples of good and bad design, to develop an understanding of the role of the committee in guiding development.*

10.1 At least once a year the Development Control Committee will visit a sample of implemented planning permissions to assess the quality of its decisions. The Committee will use the opportunity to assess its contribution to the improvement of design quality, to consider the impact of decisions made and to assess whether it needs to review any policies or practices.

## **11. General Role and Conduct**

11.1 Members whether on Development Control Committee or otherwise should not attempt to influence the content of the officers' consideration of a planning application or the recommendation.

- 11.2 Members and officers have different, but complementary roles. Both serve the public, but Members are responsible to the electorate while officers are responsible to the Council as a whole. Officers advise Members and the Council and carry out the Council's work. They are employed by the Council not by individual Members, and it follows that instructions may only be given to officers through a Council or committee decision. A successful relationship between Members and officers can only be based on mutual trust and understanding of each other's positions. This relationship and the trust that underpins it must never be abused or compromised.
- 11.3 Any criticism of an officer by Members of Development Control Committee shall be made in writing to the Head of Housing and Development Control and not to the officer concerned. It is inappropriate for any member to publicly criticise or personally abuse an officer during a meeting of the Committee.
- 11.4 Decisions made in Development Control Committee must be made on sound planning grounds only. Party political issues must not be raised at Committee, nor used to influence the consideration of planning applications.
- 11.5 Members who sit on Development Control Committee are serving the town as a whole, and not just their ward constituencies. In dealing with planning applications Members must fulfill number of roles both as representatives of the people and as decision makers, objectively considering the facts and deciding upon them. This is particularly relevant to Members of Development Control Committee who must strike a balance between listening to and responding to the concerns of their constituents and making a decision in accordance with proper planning considerations.

## **12. Sanctions**

*If the Development Control Committee is found to have made what is termed an 'unreasonable' decision the Council may be faced with a financial penalty for having made that decision. If an individual Member of the Council is considered to have acted unreasonably he or she may be subject to a finding of maladministration, and may find that their actions result in disqualification from public office.*

- 12.1 An applicant who has been refused planning permission has a right of appeal to the Secretary of State, if an appeal is successful and it is shown that the Council's conduct in dealing with the matter was unreasonable, the appellant's costs may be awarded against the Council.
- 12.2 If objectors feel that the Council, in determining to grant an application, did not observe their statutory obligations to carry out all necessary procedures, base their decision on the development plan or take into account all representations, they may apply for a judicial review of the decision. In some circumstances this could result in the decision being reversed and if this were the case the applicant's cost may be awarded against the Council.
- 12.3 The Secretary of State possesses a range of powers which could be exercised where a local planning authority appears to be making inconsistent

5.1 20230222

decisions or decisions which are seriously in conflict with national and development plan policies. This could involve a greater use of the power to 'call in' applications whereby the application would be determined by the Secretary of State, following a public inquiry, rather than the Development Control Committee. Where permission has already been granted by the Council, powers exist to revoke or modify permissions, or to require discontinuation of the land use, which if exercised would give rise to a liability to compensation by the Council.

12.4 If it appears to District Audit that a Council has been behaving inappropriately, either through a misuse of its powers or in a manner inconsistent with national and development plan guidance, the auditor will examine closely the relevant proceedings. If the auditor feels that the costs have been incurred through the willful misconduct of any member that member may be liable to disqualification from public office.

## **BURNLEY BOROUGH COUNCIL ARRANGEMENTS FOR DEALING WITH COMPLAINTS ABOUT THE CODE OF CONDUCT FOR MEMBERS**

### **Introduction**

1. This procedure applies when a complaint is received that a Member, Co-opted Member or Parish Member has or may have failed to comply with the Code of Conduct for Members.
2. The person making the complaint will be referred to as “the Complainant” and the person against whom the complaint is made will be referred to as the “Subject Member.”
3. No Member or officer will participate in any stage of the arrangements if he or she has, or may have, any personal conflict of interest in the matter.

### **4. Making a complaint**

A complaint must be made in writing by post or email to: –  
The Monitoring Officer  
Burnley Council  
Town Hall  
Manchester Road  
BB11 9SA

OR

[lpatel@burnley.gov.uk](mailto:lpatel@burnley.gov.uk)

The Monitoring Officer will acknowledge receipt of the complaint within 5 working days of receiving it and, at the same time, write to the Subject Member (and in the case of a complaint about a Parish Councillor to the Clerk of the Parish Council as well) with details of the allegations (subject to any representations from the Complainant on confidentiality, which are accepted as valid by the Monitoring Officer).

The Subject Member may, within 5 working days of receipt, make written representations to the Monitoring Officer which must be taken into account when deciding how the complaint will be dealt with. Representations received after this time may be taken into account, at the discretion of the Monitoring Officer, but will in any event not be considered after the Monitoring Officer has issued his Complaint Initial Assessment.

### **5. Complaint Initial Assessment**

The Monitoring Officer will review the complaint and where there is a reasonable belief that an investigation is necessary, and after consultation with the Independent Person, take a decision (a Complaint Initial Assessment) as to whether it merits investigation, or another course of action. This decision will normally be taken within 20 working days of receipt of a complaint. If the complaint fails one or more of the following tests, it will be rejected:

REVIEW DRAFT MARCH 2023

- The complaint is against one or more named Members or co-opted Members of the Council or a Parish Council within its district;
- The Subject Member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time;
- The complaint, if proven, would be a breach of the Code of Conduct under which the subject Member was operating at the time of the alleged misconduct.

If appropriate, the Monitoring Officer will then go on to apply the following criteria in deciding whether a complaint should be accepted for investigation, dealt with informally, or rejected:

- Whether a substantially similar allegation has previously been made by the Complainant to Standards for England, or the Standards Committee, or the complaint has been the subject of an investigation by another regulatory authority;
- Whether the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now;
- Whether the allegation is anonymous;
- Whether the allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and:-

(i) the resources needed to investigate and determine the complaint are wholly disproportionate to the allegations;

(ii) whether, in all the circumstances, there is no overriding public benefit in carrying out an investigation;

- Whether the complaint appears to be malicious, trivial, vexatious, politically motivated or tit-for-tat;
- Whether the complaint suggests that there is a wider problem throughout the authority;
- Whether it is apparent that the subject of the allegation is relatively inexperienced as a Member, or has admitted making an error and the matter would not warrant a more serious sanction;
- Whether training or conciliation would be the appropriate response;



## **6. Additional Information**

The Monitoring Officer may require additional information to come to a decision and may request information from the Subject Member. Where the complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Clerk of the Parish Council of the complaint and seek the views of the Clerk of the Parish Council before deciding whether the complaint merits formal investigation or other action.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for an investigation. Such informal resolution may involve the Subject Member accepting that his/her conduct was unacceptable and offering an apology, or taking other steps. Where the Subject Member or the authority (in appropriate cases) make a reasonable offer of local resolution, but it is rejected by the Complainant, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation. If the complaint identifies criminal conduct or breach of other regulations by any person, the Monitoring Officer is authorised to report this to the Police or other prosecuting or regulatory authorities.

## **7. Confidentiality**

If a Complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer at the Complaint Initial Assessment stage. As a matter of fairness and natural justice, the Subject Member should usually be told who has complained about them and receive details of the complaint.

However, in exceptional circumstances, the Monitoring Officer may withhold the Complainant's identity if on request from the Complainant, or otherwise, they are satisfied that the Complainant has reasonable grounds for believing that they or any witness relevant to the complaint may be at risk of physical harm, or his or her employment may be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the Complainant's identity being disclosed.

If the Monitoring Officer decides to refuse a request by a Complainant for confidentiality, they will offer the Complainant the option to withdraw the complaint, rather than proceed with his or her identity being disclosed. The Monitoring Officer will balance whether the public interest in taking action on a complaint will outweigh the Complainant's wish to have his or her identity withheld from the Subject Member

## **8. Investigation**

The Monitoring Officer will appoint an Investigating Officer where a complaint merits formal investigation. The Investigating Officer may be a Council officer, an officer of another Council, or an external investigator.

The Investigating Officer will follow guidance issued by the Monitoring Officer on the investigation of complaints. The guidance will follow the principles of proportionality and the cost-effective use of Council resources and shall be interpreted in line with these principles.

The Investigating Officer will ensure that the Subject Member receives a copy of the complaint – subject to a Monitoring Officer decision on Confidentiality.

Where practicable an investigation should conclude within a month of the decision to carry out the investigation.

The Subject Member and Complainant should be kept informed on the progress of the investigation, particularly in more complex cases. However, this does not extend to providing details or information as part of the investigation itself; unless relevant to seeking clarification or additional representation.

During the investigation, and at all times, both the Subject Member and Complainant must maintain courteous, respectful and professional relationships with the Investigating Officer, and between themselves and any witnesses; and be cooperative to reasonable requests for information and representation from the Investigating Officer.

At the end of their investigation, the Investigating Officer will produce a draft report and will send copies of that draft report to the Complainant and to the Subject Member, for comments. The Investigating Officer will take such comments into account, before issuing their final report to the Monitoring Officer.

### **9. Investigating Officer finding of insufficient evidence of failure to comply with the Code of Conduct**

The Monitoring Officer will review the Investigating Officer's report and, if they are satisfied that the Investigating Officer's report is satisfactory, will make a Confirmation Decision to confirm the finding of no failure to comply with the Code of Conduct.

The Monitoring Officer will write to the Complainant and the Subject Member (and to the Clerk of the Parish Council, where the complaint relates to a Parish Councillor), with a copy of the Confirmation Decision and the Investigating Officer's final report.

If the Monitoring Officer is not satisfied that the investigation has been conducted a satisfactorily, the Investigating Officer may be asked to reconsider their report and conclusion.

### **10. Investigating Officer finding of sufficient evidence of failure to comply with the Code of Conduct**

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for Local Hearing before the Hearings Panel or, after consulting the Independent Person, seek Local Resolution.

## **11. Local Resolution**

If the Monitoring Officer considers that the matter can reasonably be resolved without the need for a hearing, they will consult with the Independent Person and the Complainant and seek to agree a fair resolution. Such resolution may include the Member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action.

If the Member accepts the suggested resolution, the Monitoring Officer will report the outcome to the Standards Committee and the Clerk to the Parish Council (if appropriate) for information, but will take no further action.

If the Complainant or the Subject Member refuses Local Resolution in principle or to engage with the agreed outcome, the Monitoring Officer will refer the matter for a Local Hearing without further reference to the Complainant or the Subject Member.

## **12. Local Hearing**

Where, in the opinion of the Monitoring Officer, Local Resolution is not appropriate or the Complainant and/or Subject Member refuse to co-operate, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a Local Hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.

The Council has agreed a procedure for local hearings, which are included at Page 8 of this appendix [The Pre Hearing Process and The Hearing]

## **13. Constitution of the Hearings Panel**

The Hearings Panel is a Sub-Committee of the Council's Audit and Standards Committee. The Council has decided that it will comprise at least 1 of the Independent Members co-opted to the Audit and Standards Committee and 5 Members of the Council, drawn from at least 2 different political parties. Where the complaint is about a Parish Member, the Hearings Panel will include at least 1 of the Parish Members co-opted to the Standards Committee.

The Independent Person is invited to attend all meetings of the Hearings Panel and their views must be sought and taken into consideration before the Hearings Panel takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

## **14. The Independent Person**

The Independent Person must be a person who has applied for the post following advertisement of a vacancy for the post, and appointed by a positive vote from a majority of all the Members of Council at a meeting of the Full Council.

REVIEW DRAFT MARCH 2023

A person is not eligible for appointment if they:

14.1 Are, or have been within the past 5 years, a Member, co-opted Member or officer of the Council;

14.2 Are or have been within the past 5 years, a Member, co-opted Member or officer of a parish council within the Borough, or

14.3 Are a relative or close friend, of a person within paragraph 14.1 or 14.2 above. For this purpose, "relative" means –

14.3.1 Spouse or civil partner;

14.3.2 Living with the other person as husband and wife or as if they were civil partners;

14.3.3 Grandparent of the other person;

14.3.4 A lineal descendent of a grandparent of the other person;

14.3.5 A parent, sibling or child of a person within paragraphs 14.3.1 or 14.3.2;

14.3.6 A spouse or civil partner of a person within paragraphs 14.3.3, 14.3.4 or 11.3.5; or

14.3.7 Living with a person within paragraphs 14.3.3, 14.3.4 or 14.3.5 as husband and wife or as if they were civil partners.

## **15. Action the Hearings Panel may take where a Member has failed to comply with the Code of Conduct**

Where a Hearings Panel find that a Member has failed to comply with the Code of Conduct, the Council has delegated to the Hearings Panel such of its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may –

15.1 Publish its findings in respect of the Member's conduct;

15.2 Report its findings to Council (or to the Parish Council) for information;

15.3 Recommend to Council that the Member be censured;

15.4 Recommend to the Member's Group Leader (or in the case of ungrouped Members, recommend to Council) that he/she be removed from any or all Committees or Sub-Committees of the Council;

15.5 Recommend to the Leader of the Council that the Member be removed from the Executive, or removed from their Portfolio responsibilities;

REVIEW DRAFT MARCH 2023

15.6 Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Member;

15.7 Recommend to Council (or recommend to the Parish Council that the Member be removed) from all outside body appointments to which they have been appointed or nominated by the Council (or by the Parish Council);

15.8 Withdraw (or recommend to the Parish Council that it withdraws) facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access; or

15.9 Exclude (or recommend that the Parish Council exclude) the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

## **16. Revision of these arrangements**

The Council may by resolution or delegation to the Monitoring Officer agree to amend these arrangements and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## **17. Appeals**

Subject to Judicial Review, or a decision of the Local Government Ombudsman, there is no right of appeal against a decision of the Monitoring Officer or of the Hearings Panel.

## **The Pre Hearing Process and Hearing**

1.1 In advance of the Hearing the Monitoring Officer (and/or his nominees) will:

- (a) agree a date for the hearing with all the relevant parties;
- (b) provide a timetable for the member to provide details about whether they wish to give evidence (and whether orally or in writing) at the hearing and any witnesses they intend to call, and additional papers they may wish to provide in time for inclusion in the committee papers;
- (c) establish whether the member will be represented or accompanied at the hearing;
- (d) establish whether the member wishes any part of the Investigation Report to be kept confidential or the Hearing itself to be held in private, and the reasons for this;
- (e) provide information about the procedure to be used at the hearing;
- (f) establish whether the member disagrees with any of the findings of fact in the Investigation Report;
- (g) establish whether the Investigating Officer intends to call any witnesses.

1.2 Wherever possible hearings conducted by the Hearing Panel shall take place within three calendar months of the referral to the Hearing Panel.

1.3 At the hearing, the Monitoring Officer/Investigating Officer will present the Investigation Report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Monitoring Officer/Investigating Officer may request the person making the allegation to attend and give evidence to the Hearings Panel.

1.4 The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Members' Code of Conduct.

1.5 If a member fails to attend the hearing, the Hearing Panel may decide to proceed in the member's absence and make a determination, or to adjourn the hearing to a later date

1.6 Full details of the process to be undertaken at the hearing are contained in the Hearing Procedure note comprising the Appendix to these arrangements.

1.7 The Hearing Panel, having sought and taken into account the views of the Independent Person may conclude:

- (a) that the member did not fail to comply with the Members' Code of Conduct, and dismiss the complaint, or
- (b) that the member did fail to comply with the Members' Code of Conduct.

1.8 In the event of a finding under Paragraph 1.7 (b) above, the Chair will inform the member of this finding and the Hearing Panel will then consider what action, if any, it should take as a result of the member's failure to comply with the Members' Code of Conduct. In doing this, the Hearing Panel will give the member an opportunity to make representations to the Panel as to whether any action should be taken and what form any action should take and will seek and take into account the views of the Independent Person. It will then decide what action, if any, to take in respect of the matter.

## **2. Action which may be taken where a member has failed to comply with the Code of Conduct**

2.1 Having determined that a member has failed to comply with the Members' Code of Conduct, the Hearing Panel may:

- (a) Publish its findings in respect of the member's conduct;
- (b) Report its findings to Council (or to the Parish Council) for information;
- (c) Recommend to Council that the member be censured
- (d) Recommend to the member's Group Leader (or in the case of ungrouped members, recommend to Council) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- (e) Recommend to the Leader of the Council that the member be removed from the Executive, or removed from Portfolio responsibilities;
- (f) Instruct the Monitoring Officer to (or recommend to the Parish Council ) arrange training for the Member;
- (g) Recommend to Council (or recommend to the Parish/Town Council that the Member be removed) from all outside

REVIEW DRAFT MARCH 2023

body appointments to which they have been appointed or nominated by the Council (or Parish Council)

- (h) Withdraw (or recommend to the Parish Council that it withdraws) facilities provided to the Member by the Council, such as computer, website and/or email and Internet access; or
- (i) Exclude (or recommend that the Parish Council exclude) the Member from the Council's offices or other premises, with the exception of meeting rooms necessary for attending Council, Committee and Sub-Committee meetings.

2.2 The Hearing Panel has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

2.3 At the end of the hearing, the Chair shall state the decision of the Hearing Panel as to whether the member failed to comply with the Code of Conduct and as to any action which the Panel has resolved to take.

2.4 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice after consultation with the Chair of the Hearing Panel, and send a copy to the person making the allegation; to the member concerned; make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.



## **The Hearing Procedure**

The model procedure which follows comprises good and equitable practice and should be followed closely wherever possible. There may be occasions when circumstances require variations and subject to the maintenance of the principles of natural justice these may be affected at the discretion of the Hearing Panel and advised to the parties

1. The Chair shall facilitate introductions and explain the procedure for the hearing.
2. The Monitoring Officer/Investigating Officer shall be invited to present his/her Investigation Report including any documentary evidence or other material and to call witnesses as required. This report and documentary and witness evidence must be based on the allegation made to the Council; no new or additional matters will be allowed.
3. The Member against whom the allegation has been made or his/her representative may question the Monitoring Officer/Investigating Officer upon the content of the Investigation Report and any witnesses called by the Monitoring Officer/Investigating Officer. This is the Member's opportunity to ask questions arising from the Investigation Report and the direct evidence and not to make a statement.
4. Members of the Panel may question the Monitoring Officer/Investigating Officer upon the content of the Investigation Report and any witnesses called by the Monitoring Officer/Investigating Officer
5. The Member against whom the allegation has been made or his/her representative may present his/her case and call witnesses as required.
6. The Monitoring Officer/Investigating Officer may question the Member and any witnesses
7. Members of the Panel may question the Member and any witnesses.
8. The Monitoring Officer/Investigating Officer may sum up the investigation into the allegation and make a closing speech.
9. The Member or his/her representative may sum up his/her case and make a closing speech.

10. The Chair shall invite the parties to withdraw to enable the Panel to deliberate upon the allegation. Prior to reaching a determination the Panel shall seek and take into account the views of the Independent Person.
11. The parties shall be invited to return and the Chair shall announce the Panel's decision in the following terms:-
  - (a) The Panel has determined that the Member has failed to comply with the Code of Conduct, or
  - (b) The Panel has determined that the Member has not failed to comply with the Code of Conduct and the allegation is dismissed.

The Panel will give reasons for its decision.

12. If the Panel has determined that the Member has failed to comply with the Code of Conduct it shall consider any representations from the Member as to whether any action should be taken and what form any action should take.
13. The Chair shall invite the parties to withdraw to enable the Panel to deliberate upon what action if any should be taken. Prior to reaching a determination the Panel shall seek and take into account the views of the Independent Person.
14. In addition to any action upon the current matter, the Panel shall consider whether in consequence it should make recommendations to the Council with a view to promoting high standards of conduct amongst Members.
15. The parties shall be invited to return and the Chair shall announce the Panel's decision
16. A full written decision shall be issued to the Complainant and the Member within ten clear working days following the hearing and shall be published.



**CORPORATE PERSONNEL POLICY AND GUIDANCE  
PEOPLE AND DEVELOPMENT**

# **Code of Conduct for Employees**

February 2017

## CONTENTS

<b>Section</b>	<b>Page</b>
Introduction and consequences of breaching the Code	3
Scope and status of the code	3
General principles	4
Equality	5
Standards	5
Relationships	6
Disclosure of information and information security	8
Intellectual property	9
Electronic communication	10
Personal interests and outside commitments	10
Political neutrality	11
Employment matters	12
Financial responsibilities	13
Hospitality and gifts	14
Health, safety and wellbeing	16
Whistleblowing/Complaints	16

# CODE OF CONDUCT FOR EMPLOYEES

## 1. INTRODUCTION

- 1.1 The general public including service users are entitled to expect the highest standards of conduct from all employees who work for local government.
- 1.2 The Code of Conduct for Employees sets out how you should respond to issues that commonly arise during your employment and seeks to protect you from accusations of bias, undue influence or impropriety.
- 1.3 The aim of the Code is to enhance and maintain the integrity (real and perceived) of local government and for this purpose the Code demands very high standards of personal conduct.
- 1.4 The Code of Conduct and all related policies and documents referred to are available for information on the sharepoint under Ask HR/Personnel Manual, or through your line manager  
<http://sharepoint/Resources/peopleanddevelopment/PersonnelManual/Forms/AllItems.aspx>
- 1.5 The Code of Conduct for Employees has been agreed between the Council and the relevant trade unions and is incorporated into contracts of employment. The Local Government Act 2000 provided a new statutory framework to govern the conduct of members and employees of relevant authorities. Under the Act, the Secretary of State can issue a statutory Employee Code of Conduct, which will become part of an employee's terms and conditions of employment. Where a provision in a statutory Employee Code of Conduct conflicts with this the statutory provision will prevail.

### Consequences of breaching the code

- 1.6 The Council expects the highest standard of personal conduct from you. If you breach the Code of Conduct the Council's agreed Disciplinary Procedure may be invoked, depending on the circumstances.
- 1.7 Serious breaches of this Code may lead to you being dismissed from the Council.

## 2 SCOPE AND STATUS OF THE CODE

- 2.1 The Code covers all employees under a contract of employment at the Council.
- 2.2 The Code is incorporated into your contract of employment and any breaches will be dealt with under the agreed Disciplinary Procedure where appropriate. For the avoidance of doubt, if unclear about any requirement or obligation under the Code of Conduct for Employees, you should seek advice from your line manager.

- 2.3 The Council is committed to conduct of the highest standard so that public confidence in its integrity is maintained. Therefore, the Council expects all those who provide services on its behalf to follow the Code of Conduct.
- 2.4 It is also expected that those providing services to and on behalf of the Council, for example, contractors, will follow the spirit of this Code in their dealings with the public who use the Council's services. This will be backed by contractual provisions where appropriate. Casual and agency staff must follow the Code as if they were employed by the Council on a permanent basis.

### 3. GENERAL PRINCIPLES

- 3.1 The authority is committed to supporting you by setting out your job role and the expectations on you, as well as ensuring that there is a fair and timely evaluation of performance, including feedback by your line manager.
- 3.2 The aims and values of the Council are at the heart of your contract of employment and all work must be undertaken in accordance with these values. The Council's Core Values can be found on sharepoint in the TEAM Behaviour Framework on the following link  
<http://sharepoint/Resources/peopleanddevelopment/Learninganddevelopment/The Burnley Way Behaviour Framework.pdf>
- 3.3 **You must follow the fundamental principles listed below:**
- **Honesty, Integrity, Impartiality and Objectivity** – You must perform your duties with honesty, integrity, impartiality and objectivity.
  - **Accountability** – You must be accountable to the Council for your actions.
  - **Respect for Others** – You must treat others with dignity and respect, not discriminate unlawfully against any person and treat members and co-opted members of the Council professionally.
  - **Stewardship** – You must use any public funds entrusted to or handled by you in a responsible and lawful manner and not make personal use of property or facilities of the Council unless authorised to do so.
  - **Personal Interests** – You must not in your official or personal capacity allow your personal interests to conflict with the Council's requirements or use your position improperly to confer an advantage or disadvantage on any person.
  - **Declaration of Interests** – you must comply with any requirements of the Council to declare interests and hospitality, benefits or gifts received as a consequence of your employment.

- 3.4 You must not, either in an official capacity or in any other circumstance, conduct yourself in a manner which could reasonably be regarded as bringing the Council into disrepute.
- 3.5 You must declare any personal interests or circumstances which may conflict with the Council's interests and/or undermine public confidence in the integrity of the Council.
- 3.6 The Council positively encourages you to participate in public duties and to be involved in voluntary and community work. You must be mindful of the provisions of this Code and the impact that outside commitments can have on your employment with the Council.
- 3.7 You must co-operate with any checking process where posts are identified as requiring disclosure of criminal convictions, particularly where the position is identified as involving a degree of risk or where there is a legal requirement to do so.
- 3.8 If you have access to Council assets, which includes property, buildings, cash, equipment, information and other assets, you must take responsibility for the security of such assets and ensure assets are managed securely and protected against accidental loss or damage, unnecessary risk, and unauthorised use.

## **4 EQUALITY**

- 4.1 You must ensure that the Council's Equality Policy is followed. The Council seeks to ensure that all members of the local community, customers and colleagues are treated with fairness and equity and receive no less favourable treatment for reasons related to the protected characteristics covered by the Equality Act. These are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation.

You should undertake your duties in a way that promotes these objectives.

- 4.2 You must be professional in your behaviour towards colleagues and treat each other with mutual dignity and respect. You must not through actions, words or behaviour undermine the dignity and respect or cause others to think less or be disrespectful of any individual or group.
- 4.3 If you are subject to discrimination or harassment at work, this should be reported to your line manager at the earliest opportunity.

## **5 STANDARDS**

- 5.1 In carrying out your duties, you must act with professionalism. You must follow the Council's Customer Service Charter at all times.

- 5.2 You have a duty to ensure that these standards are applied in relation to the following issues:
- dealing with telephone enquiries;
  - dealing with written and electronic enquiries;
  - dealing with face to face enquiries;
  - name badges and identification;
  - customer complaints.

More information on the Council's Customer Service Charter standards is available on sharepoint

<http://sharepoint/communityservices/performanceandpolicy/ServiceImprovement>

### 5.3 Standard of Dress and Appearance

- 5.3.1 First impressions count and if you are inappropriately dressed, then at best it presents an obstacle to be overcome in the minds of members of the public. At worst it can create the view that the Council is inefficient. There is therefore a general expectation that dress will be appropriate to the nature of your duties and responsibilities.
- 5.3.2 The Council values and welcomes the ethnic diversity of its workforce and therefore ethnic or religious dress requirements must be viewed with sensitivity to ensuring that you are free to observe them.
- 5.3.3 Where there are clear business, service or health and safety reasons, individual service specific requirements will enable service units to introduce an appropriate dress code to suit the services they provide and to meet the expectations of the public. Where such local codes are established and communicated, you will be expected to meet the service standards set. Personal Protective Equipment must be worn where it is appropriate to do so, or if directed by the line manager or the strategic health and safety consultant. Uniforms must be worn where required and provided.

## 6 **RELATIONSHIPS**

### 6.1 Members of the Council

- 6.1.1 Members have a key role to play in the governance and management of the Council. They decide which policies the Council should pursue, ensure that they are carried out and monitor services provided to ensure that they are delivered in the most efficient and effective way. As ward members, they are able to offer their expertise on how decisions may affect their wards and provide their constituents' views, concerns and aspirations relating to the work of the Council. In carrying out their role, Members must maintain the highest standards of conduct and ethics. Both elected Members and co-opted Members of the Council are subject to rules set out in the *Code of Conduct for Members* which governs the standards of behaviour expected of them. The *Code of Conduct for Members* can be found in part 5 of the Council's Constitution published on the Council's website.



6.1.2 Members and Officers are servants of the public and indispensable to one another. It is important therefore that your relationship is conducted with mutual respect and courtesy and that neither party seeks to take unfair advantage of their position or seeks to exert undue influence on the other party. The Council has adopted Protocols that govern the Member/Officer relationship. These can be found in Part 5 of the Council's Constitution published on the Council's website.

6.1.3 Close personal familiarity between you and individual Members should therefore be avoided as this can damage the working relationship and cause embarrassment for your colleagues, other Members and the public.

6.1.4 Where either you or Members feel that they have not been treated with courtesy or respect by the other party, they are entitled to raise the matter with either the Monitoring Officer, Chief Operating Officer or the Chief Executive.

## 6.2 Customers

6.2.1 Your responsibility is to the community you serve and you should at all times ensure courteous, respectful, efficient and impartial service delivery to all groups and individuals within that community, as defined by the policies of the Council.

6.2.2 You should avoid unnecessary personal familiarity with customers that you come in contact with in the course of your work and should not use your position to either take unfair advantage of members of the public who use Council's services or allow yourself to be unduly influenced by customers. Your professional integrity must be maintained at all times.

## 6.3 Managers and You

6.3.1 If you have a managerial or supervisory role you have a responsibility for the performance of your staff. Employees at all levels can expect to be directed in their work and held accountable for their performance, by their manager.

## 6.4 Contractors

6.4.1 All Council orders and contracts must be awarded to deliver value for money for the Council through a fair and transparent procurement process.

6.4.2 In connection with the procurement of works, goods or services, you must not seek or receive any gift or personal inducement.

6.4.3 If you are involved in the engagement or supervision of a contractor or potential contractor with whom you have/have had a relationship, either of a business, domestic or private nature, you must declare this to the appropriate manager.

6.4.4 You must not invite bids from any individual or organisation with whom you have a family, personal or financial relationship.

## 6.5 Other employees

6.5.1 You must treat each other with mutual respect and dignity in the workplace. Additionally, you must take care to ensure that you do not through actions, words or behaviour do anything to undermine the respect and dignity or cause others to think less or be disrespectful of any individual/group.

6.5.2 Through the Dignity at Work Policy and Procedure, you must strive to create a working environment where harassment and bullying are eradicated and diversity is embraced.

## 6.6 The Press and the Media

6.6.1 Subject to paragraph 6.6.2, you should not, in the normal course of events, deal direct with the Press or the Media. Certain posts have specific duties which relate to the Press or Media.

6.6.2 If canvassed by the Press in the course of your work, you must seek advice and express authorisation from your Head of Service and the communications team before providing any article, publication or interview on matters connected with Council business.

6.6.3 Heads of Service have specific responsibilities in relation to dealing with the Media and Press. Any decisions on press releases, quotes, or photo opportunities regarding your service area must be made by them in consultation with the communications team and, as appropriate, one or more of the Chief Executive, Chief Operating Officer, Leader and Executive Member. Special arrangements apply during pre-election periods and specific guidance is issued each year before elections to Heads of Service.

6.6.4 You should not, in the ordinary course of events, submit articles or comments to publications, websites or blogs where the purpose is to pass comment on a Council policy or operations without express authorisation from your Head of Service.

6.6.5 In your personal use of social media, you should act in line with the current social media policy. Your online / social media activity should be consistent with the code of conduct for employees. You should ensure that your posts are consistent with your professional duties and contractual obligations. If reposting information about the council, it is important always to keep to the key purposes of our communications work: to promote our good reputation and to promote our services.

## **7 DISCLOSURE OF INFORMATION AND INFORMATION SECURITY**

- 7.1 The Council is committed to the principle of open government and recognises the role of information rights legislation in promoting increased transparency and participation in the Council's decision making processes.
- 7.2 The Council proactively publishes a considerable amount of information and makes other information publicly available under the provisions of information rights legislation.
- 7.3 You must ensure the Council's information assets are managed securely and protected against accidental loss, damage and unauthorised disclosure.
- 7.4 People-related, confidential and other commercially sensitive information must only be disclosed lawfully and with appropriate authorisation.
- 7.5 You must not prevent another person from gaining access to information to which that person is entitled by law.
- 7.6 You must not disclose any of the following information:
- (a) personal data about an individual, including employees, protected by the Data Protection Act 1998.
  - (b) information given in confidence where there is a legitimate expectation that confidentiality will be respected.
  - (c) commercially sensitive information about the Council and/or any third party, or
  - (d) confidential or exempt proceedings in Council, Executive or Committee meetings and any reports or other documents connected with them.
- 7.7 Paragraph 7.6 does not limit your rights under the Council's Whistleblowing Policy.
- <http://sharepoint/CEO/Democracy/Constitution/Part%205.2%20Code%20of%20Conduct%20Appendix%20Whistleblowing%20Policy%20Feb%202017.doc>
- 7.8 You must not use any information obtained in the course of your employment for personal gain or benefit; nor should you share it with others who might use it in such a way.

## **8 INTELLECTUAL PROPERTY**

- 8.1 The Council owns and will retain its rights to ownership of all intellectual property (in materials such as literature, artwork, computer programs, inventions) created by you:

- in the course of your normal duties of employment with the Council, and/or
  - in the course of duties specially assigned to the employee, and/or
  - using Council resources without special payment or arrangement with the Council - unless a written agreement to the contrary has been made between the Council and you.
- 8.2 You are not entitled to use, sell or otherwise exploit the rights to any such intellectual property without written permission from the Council. Any such infringement may also be a criminal offence.
- 8.3 The Council's ownership of intellectual property rights made during your employment shall continue after termination of your contract of employment.

## **9 ELECTRONIC COMMUNICATIONS**

- 9.1 You must ensure that you follow the Council's Information Security Policy in relation to the use and storage of computers and the proper management of electronic information.  
<http://sharepoint/communityservices/customerandIT/IT/Policy/Forms/AllItems.aspx>
- 9.2 Electronic communication systems such as "iPhones" or "iPads" (any portable communication device), telephones, e-mail and the internet must be used in compliance with existing policies and procedures governing their use.  
<http://sharepoint/communityservices/customerandIT/IT/Policy/Forms/AllItems.aspx>
- 9.3 The use of the Internet and e-mail is governed by the Internet Acceptable Use Policy and the E-mail Policy. Access to e-mail facilities is provided to you in order to facilitate Council business. Personal external e-mail use is only permitted through Internet based e-mail providers. Access for personal use must be conducted in your own time.  
<http://sharepoint/communityservices/customerandIT/IT/Policy/Forms/AllItems.aspx>
- 9.4 All electronic communication must comply with the Council's Equality and Dignity at Work policies and objectives which are available in the Personnel Manual <http://sharepoint/Resources/peopleanddevelopment/PersonnelManual>

## **10 PERSONAL INTERESTS AND OUTSIDE COMMITMENTS**

- 10.1 You should not subordinate your duty to your private interests or put yourself in a position where duty and private interests conflict.
- 10.2 In particular, if it comes to your knowledge that a contract in which you have a financial interest has been or is proposed to be, entered into by the Council it is a statutory requirement that you give notice, in writing, to the Chief Operating Officer of the fact of that interest. Such financial interests will include the interests of your spouse or civil partner (Local Government Act 1972). The Council will expect you to follow these

requirements in respect of all immediate family members and in relation to non-financial interests.

- 10.3 Accordingly, you must declare, in writing, to your line manager any financial or non-financial interests which could conflict with the Council's interests at the point the conflict of interest becomes apparent. This could include membership of outside bodies in a personal capacity and in such cases, you must be mindful not to place yourself in a situation where your involvement or contribution could directly or indirectly compromise your continuing professional duty to the interests and values of the Council.
- 10.4 If you hold a politically restricted post or are graded at SCP 31 or above, you must complete the Register of Officers' Interests on appointment. Your Register entry must be renewed and updated annually or updated within 28 days of a change in circumstances. The Register is maintained by the Monitoring Officer in accordance with the Council's Constitution. Whilst home address details must be recorded if that property is in the Borough, a home address will not be disclosed in response to an inspection request, without the consent of the employee.
- 10.5 If you have been appointed by the Council to another body, you must comply with this Code of Conduct except where it conflicts with any other legal obligation to which that other body may be subject.
- 10.6 You have a duty to ensure that any outside work undertaken does not impact adversely on your employment with the Council and that all work undertaken, when aggregated, does not exceed the limits on maximum number of hours to be worked per week as set out in the EU Working Time Directive, unless you have opted out. You should seek the advice of your line manager in these cases.
- 10.7 The use of Council tools, equipment, premises and facilities e.g. telephones, photocopying materials, computers (both hardware/software) etc. is forbidden for the carrying out of private work or general personal use, unless expressly permitted by written policy of the Council.
- 10.8 Where you are a consumer of Council services, for example, as a claimant of benefits, user of leisure services, etc. the Council expects you to conduct yourself with the highest standard of probity and behaviour.

## **11 POLITICAL NEUTRALITY**

- 11.1 You serve the whole of the Council and not just the political group in power. The only exception to this are Political Assistants appointed in accordance with s9 of the Local Government and Housing Act 1989.

- 11.2 The individual rights of all Members must be respected. On occasions senior officers may be requested to advise or brief political groups. You must make the Chief Executive or the Chief Operating Officer aware of that fact, through your Head of Service, and seek advice to ensure that you do this in ways which do not compromise your political neutrality. Further guidance is available on sharepoint in the Constitution of the Council, Part 5, paragraph 5.3  
<http://sharepoint/CEO/Democracy/SitePages/Home.aspx>
- 11.3 If you hold a politically restricted post, certain restrictions on political activity are incorporated by statute into your contract of employment and must be complied with.
- 11.4 Irrespective of whether or not you hold a politically restricted post, you must follow every lawfully expressed policy of the Council.
- 11.5 Political, Professional and Trade Union Activity
- 11.5.1 Subject to the rules on politically restricted posts, you should ensure that your right to engage in political or professional activities does not result in an actual or perceived conflict of interest with your official duties with the Council. You should ensure that you are able, and are seen to be able, to remain unbiased in the performance of those duties.
- 11.5.2 You serve the Council as a whole and in carrying out your work you must be politically neutral, ensuring that individual rights of all elected Members are respected. You should not attend meetings of political groups unless specifically authorised by the Chief Executive or Chief Operation Officer. Such neutrality does not mean that you cannot be a member of a political party.
- 11.5.3 However, political activity is discouraged e.g. canvassing, because it undermines the ethos of the political neutrality of local government officers and confidence in the service.
- 11.5.4 If you are a member of a profession, you are expected to uphold the standards of performance and conduct set by the relevant professional association and this Code of Conduct. However, it is noted that there can be exceptions to this where there is legislative authority to do so. If you believe a conflict exists between your official role and the standards of your profession, you must raise your concerns with your line manager.
- 11.5.5 Branch officials and workplace representatives of a trade union should ensure that when they make public comment, it is clear that comment is made on behalf of the union they represent and not the Council.

## **12 EMPLOYMENT MATTERS**

- 12.1 If you are involved in the recruitment process, you must ensure that all appointments are made on merit. It is unlawful for an employee to make

an appointment which is based upon anything other than the ability of the candidate to undertake the duties of the post.

12.2 To avoid any possible accusation of bias, you must not be involved in the recruitment process where you are related to an applicant or have a close personal relationship with that person, outside the workplace. In all such circumstances, a declaration of interest must be made to the Head of People and Development.

12.3 Similarly, you must not be involved in decisions relating to promotion or terms and conditions including pay for any other employee who is a relative, partner, or close personal friend, etc. In those cases, a declaration of interest must be made to the Head of People and Development.

### **13 FINANCIAL RESPONSIBILITIES**

13.1 The Council's Financial Procedure Rules and Standing Orders for Contracts safeguard the Council's assets and use of resources. You must ensure that you are familiar with these Rules and comply with them when using financial resources, e.g. when placing orders for goods and services. The Financial Procedure Rules and Standing Orders for Contracts are available in the Councils constitution document and can be viewed at <http://sharepoint/CEO/Democracy/sitepages/Constitution>

13.2 You have a duty to use public funds in a responsible and lawful manner and in undertaking your duties you should strive for value for money for the local community and should try to avoid legal challenge to the Council.

#### **13.3 Procurement**

13.3.1 The tendering process must be a fair and transparent procurement process. If you are involved in this process you must understand your role. If you have both a client and a contractor responsibility, you must demonstrate openness in your work and be accountable under each responsibility.

13.3.2 If you are in a contractor or client unit, you must exercise fairness and impartiality when dealing with all customers, suppliers, contractors and sub-contractors. If you are privy to confidential information on tenders or costs for either internal or external contractors, you should not disclose that information to any unauthorised party or organisation.

13.3.3 When awarding contracts, you must have no involvement with external contractors or potential contractors, who employ, in a senior or relevant managerial capacity, your partner, close relatives or associates.

#### **13.4 Corruption**

- 13.4.1 The procedures by which the Council selects developers or consultants for schemes and for the supply of goods and services is set out in the Council's Financial Procedure Rules and Contract Standing Orders. These are available on sharepoint and can be viewed at <http://sharepoint/CEO/Democracy/sitepages/Constitution>
- 13.4.2 You must follow these procedures and should be aware that it is a serious criminal offence if you receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in your official capacity.
- 13.4.3 If you have a financial interest in a contract you must register that interest (see paras 10.2 and 10.3).

### 13.5 Financial Propriety

- 13.5.1 Whilst your personal finances should remain private, you must ensure that where you have a financial relationship with the Council, outside your contract of employment that these affairs are conducted with honesty and integrity.
- 13.5.2 In all personal financial dealings with the Council, you must not deliberately evade any debts owed to the Council or seek to obtain monies from the Council to which you are not legally entitled. Financial dealings may include payments relating to Council Tax, benefits, fines, compensation, etc.
- 13.5.3 If you breach these requirements, you may be subject to disciplinary action, which may include summary dismissal where appropriate.

## 14 **HOSPITALITY AND GIFTS**

- 14.1 As a general rule, offers of hospitality and/or gifts should be declined. However, it is acknowledged that you may, as part of your duties and responsibilities, be called upon to represent the Council for example at:
- functions within the community;
  - meetings/visits with outside bodies;
  - meetings/negotiations with contractors;
  - conferences/courses where hospitality or gifts may be offered.

Before attending any of the above, you should establish the purpose of the event, be able to justify your attendance and identify an outcome/benefit to the Council.

### 14.2 Hospitality

- 14.2.1 You should only accept offers of hospitality if there is a genuine need to represent the Council. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community, where the Council should be seen to be represented or it is necessary to promote the interests of the Council, its citizens or the local economy. You may also accompany members of the Executive, or the



Mayor to functions or events to provide necessary support and expertise, provided always that the Member's attendance is consistent with their obligations under the Code of Conduct for Members.

14.2.2 If you attend such functions, you must obtain prior authority to do so. Authorisation for staff at Grade 14 and below must be obtained from a Head of Service, a Head of Service from the Chief Operating Officer or Chief Executive and the Chief Operating Officer from the Chief Executive. The Chief Executive is permitted to self-certify acceptance, although must seek the advice of either the Section 151 Officer or the Monitoring Officer before doing so. In all cases the Register of Gifts and Hospitality must be completed and signed off (by authorisation or certification in accordance with the above) on each occasion and **before** the hospitality event takes place. Refusals of gifts or hospitality must also be recorded in the Register.

14.2.3 When hospitality is declined, the offer should be courteously but firmly refused and the organiser informed of the procedures and standards operating within the Council.

14.2.4 When receiving authorised hospitality, you should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.

14.2.5 Hospitality, where it is incidental, is acceptable in the following circumstances:

- through attendance at relevant conferences and courses:
- where it is clear that it is corporate rather than personal:
- where the Council is satisfied that any procurement decisions are not compromised

### 14.3 Gifts

14.3.1 You must not accept gifts from customers, contractors or outside suppliers. Generally though, you may accept insignificant items of token value such as pens, diaries, mouse mats, badges, scarves, ties etc. but you should seek the consent of your line manager before accepting any gift. Acceptance or refusal must be recorded in the Gifts & Hospitality Register. Additionally, you must not accept any money or financial benefit offered by customers under any circumstances.

### 14.4 Sponsorship

14.4.1 The standards relating to hospitality and gifts apply equally to situations where an organisation sponsors or wishes to sponsor a Council activity.

14.4.2 In circumstances where the Council wishes to sponsor an event or service, you must be aware that neither you, nor your partner, spouse, friend or relative must directly benefit from such sponsorship without there being full disclosure to an appropriate manager of any such interest.

14.4.3 Similarly, where the Council, through sponsorship, grant aid, financial or other means, gives support in the community, you should ensure that impartial advice is given and that there is no conflict of interests involved.

#### 14.5 Managers' (Specific) Responsibilities

14.5.1 Heads of Service and the Management Team, must maintain a Register of gifts and hospitality.

14.5.2 Attendance at any of the above events should be authorised and recorded. In order to avoid jeopardising the integrity of any subsequent purchasing decisions, managers should ensure that the costs involved in such visits are met by the Council.

14.5.3 Acceptance of any gifts (other than items of token value such as pens, diaries, mouse mats, badges, scarves, ties etc. which are distributed to all attendees at conferences/courses) should be authorised and recorded in the Register by a Head of Service, Chief Operating Officer or the Chief Executive.

14.5.4 Where you are given permission to attend functions as outlined above, the line manager must keep a written record in the Register of the authorisation together with the reason(s) for allowing it.

### **15 Health Safety & Wellbeing**

15.1 You have a personal and legal responsibility under the Health and Safety at Work Act 1974 for yourself, colleagues and visitors to the Council's buildings and premises. You are required to comply with the Council's Health & Safety Policy (available on the sharepoint).

15.2 Working Safely - Any activity that presents a significant risk to the health, safety or well-being to you or other person must have been subject to a written risk assessment.

### **16 WHISTLEBLOWING/COMPLAINTS**

16.1 Where you become aware of any deficiency in service provision, impropriety, fraud, customer abuse, breach of procedure or maladministration, you have a duty to report this to the appropriate level of management.

16.2 If you become aware of activities that you believe to be illegal, improper, unethical or inconsistent with this Code, you must report the matter in accordance with the Council's Whistleblowing Policy. This is available on sharepoint and can be viewed at

<http://sharepoint/CEO/Democracy/Constitution/Part%205.2%20Code%20of%20Conduct%20Appendix%20Whistleblowing%20Policy%20Feb%202017.doc>

16.3 Complaints from non-employees or members of the public who use Council services in relation to the Code of Conduct for Employees will be dealt with through the Council's Complaints Procedure.

Personnel Manual/Section 1/Code of Conduct/February 2017  
DW/HB

## WHY YOU MUST READ OUR CODE OF CONDUCT

Burnley Council expects every employee to behave in a highly professional manner. That's why you need to read and understand the Code of Conduct, because it outlines the standards we expect from you while you are in work.

Once you have read the Code of Conduct you need to confirm that you have done so. Please complete the details below. If there are parts of the Code that you do not understand, ask your line manager to explain it.

I have read and understood the Burnley Council Code of Conduct for employees

*Name:* \_\_\_\_\_

*Service Unit:* \_\_\_\_\_

*Signature:* \_\_\_\_\_

*Date:* \_\_\_\_\_

*Once you have completed and signed this sheet, please pass it to People & Development.*

*Thank you*



**CORPORATE PERSONNEL POLICY AND GUIDANCE  
PEOPLE AND DEVELOPMENT**

# **Whistleblowing Policy**

Issue 6 October 2021

## Whistleblowing Policy

### 1. Introduction

- 1.1 Council staff, contractors or partners, members of the public and Councillors can often be the first to spot something that is seriously wrong in connection with the Council and its activities. They might not say anything, however, because:
- they may feel that speaking up would be disloyal to their colleagues or to the Council or
  - they may be worried that their suspicions might not be justified or
  - they may be worried that they or someone else might be victimised.
- 1.2 This is why the Council has this Whistleblowing Policy to help the public, contractors or partners, Council colleagues and Councillors to contact us with their concerns. The Council is committed to the highest possible standards of openness, honesty and accountability and therefore wishes to be alerted to any problems at the earliest opportunity. This policy makes it clear that colleagues and others can do so without fear of reprisals. This Whistleblowing policy is intended to encourage and enable concerns to be raised **within** the Council rather than overlooking a problem or 'blowing the whistle' outside. This will enable the Council to take action, as appropriate to:
- pre-empt crime or other wrong doings, where possible;
  - where a crime or something suspicious has taken place, to instigate an appropriate investigation;
  - bring to account the perpetrators;
  - minimise and contain any adverse impact;
  - take corrective action to eliminate or significantly reduce the scope for repeat occurrences.
- 1.3 This policy has been discussed with the relevant stakeholders and has their support.

### 2. Aims and Scope of this Policy

- 2.1 This policy aims to:
- encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice;
  - provide avenues for you to raise concerns and receive feedback on any action taken ;
  - ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied;
  - reassure you that you will be protected from possible disadvantage if you have a reasonable belief and that you have made any disclosure in good faith;
  - allow you to take the matter further if you are dissatisfied with the Council's response.

2.2 There are existing procedures in place to enable you to lodge a grievance if you are employed by the Council. This Whistleblowing policy is intended to cover major concerns that fall outside the scope of that procedure, for example:

- Corruption;
- Fraud (including unauthorised use of Council money, for example);
- Theft;
- An unlawful act;
- Any danger to health and safety of any individual;
- A person abusing their position in connection with unauthorised activity for personal gain;
- Miscarriage of justice;
- Damage being caused to the environment (by pollution for example);
- Misuse of Council property.

2.3 Any serious concerns that you have about any aspect of service provision or the conduct of officers or members of the Council or others acting on behalf of the Council can be reported under either the Confidential Reporting Procedure, or the Anonymous Reporting Procedure.

2.4 All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness.

### **3. Confidential reporting procedure**

3.1 Any suspicion of fraud or other wrongdoing will be treated seriously and will be reviewed in accordance with the Public Interest Disclosure Act 1998 (PIDA) and the Human Rights Act 1998. Council and agency staff should be aware that they have statutory protection against victimisation and dismissal under PIDA, if they speak out genuinely against corruption and malpractice at work. **"Malpractice" includes any kind of improper practice or conduct which falls short of what is reasonably expected whether it relates to a positive act or omission and also includes any form of harassment.** The Council will not tolerate harassment or victimisation.

3.2 It is essential for all concerned that disclosures of wrongdoing or irregularity are dealt with properly, quickly and discreetly. This is in the interests of the Council, its employees, any persons who are the subject of such allegations, as well as the person making the disclosure.

3.3 The Council expects all organisations that deal with us who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.

3.4 The Council will do its best to protect your identity when you raise a concern and do not want your name to be disclosed. It must be appreciated that the investigation process may reveal the source of the information and a statement by you may be required as part of the

evidence. **It may be possible to establish the truth about allegations from another independent source and the Council will seek to do this where possible.**

- 3.5 The Confidential Reporting Procedure applies to members of the public, employees, contractors and partners and Councillors.

#### **4. Anonymous Reporting Procedure**

- 4.1 This procedure encourages you to put your name to your allegation whenever possible. Where an individual chooses to report their concerns anonymously, such anonymity will be respected. However, it should be noted that concerns expressed anonymously are much less powerful and will only be considered at the discretion of the Council.

- 4.2 In exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

- 4.3 It should be noted that, if the report suggests criminal activity, and the case is to be pursued by police, the identity of the person reporting the details may be important at a later date if criminal proceedings are to be pursued effectively. Identification is preferred and will assist the investigation.

- 4.4 The Anonymous Reporting Procedure applies to members of the public, employees, contractors and partners and Councillors.

#### **5. Untrue allegations**

- 5.1 If you make an allegation in good faith and you have a reasonable belief in the truth of the allegation but it is not confirmed by the investigation, no action will be taken against you.

- 5.2 If, however, you make an allegation frivolously, in bad faith, maliciously or for personal gain, disciplinary action may be taken against you if you are a member of Council staff. If you are a Councillor, you may breach the Code of Conduct for Members. If you are a contractor or partner, such allegations may put you in breach of your contractual responsibilities to the Council.

- 5.3 Malicious or vexatious allegations include those which are trivial and do not have substance and are made persistently and annoyingly for the wrong reasons, e.g. simply to make trouble.

#### **6. How to raise a concern**

- 6.1 Members of the public, employees and contractors may raise their concerns orally or in writing, by letter or e-mail. Those who wish to make a written report, which is encouraged, are invited to use the following format:



- the background and history of the concern (giving names, relevant dates and places wherever possible);
  - the reason why you are particularly concerned about the situation
- 6.2 If you are an employee of the Council, as a first step, you should normally raise concerns with your immediate manager or their superior. This depends, however, on the seriousness or sensitivity of the issues involved and who is thought to be involved in the malpractice. For example, if you believe that management is involved, you should approach the Chief Executive, Monitoring Officer, Section 151 Officer or Internal Audit. You may invite your trade union or professional association to raise a matter on your behalf.
- 6.3 If you are a member of the public, a contractor or partner or a Councillor, you should raise your concerns with the Monitoring Officer by telephone on 01282 477140, by e-mail to [lpatel@burnley.gov.uk](mailto:lpatel@burnley.gov.uk) or by post to Town Hall, Manchester Road, Burnley, BB11 9SA marking your envelope 'Private and Confidential'.
- 6.4 The earlier you express the concern the easier it is to take definitive action. Although you are not expected to prove beyond reasonable doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- 6.5 Advice and guidance on how matters of concern may be pursued can be obtained from:
- |   |               |
|---|---------------|
| • Chief Executive                             | Tel Ext: 7101 |
| • Section 151 Officer – Howard Hamilton-Smith | Tel Ext: 7173 |
| • Monitoring Officer – Lukman Patel           | Tel Ext: 7140 |
| • Internal Audit Manager – Ian Evenett        | Tel Ext: 7175 |
| • Strategic HR Manager – Vicky White          | Tel Ext: 7124 |

## 7. What not to do

- 7.1 You must **not** do any of the following:
- contact the suspected perpetrator in an effort to determine facts or demand restitution;
  - if you are an employee of the Council, discuss the case facts, suspicions, or allegations with anyone within or outside the Council (including the Press), unless specifically asked to do so by the Monitoring Officer or one of the other officers referred to at paragraph 6.5 (above);
  - attempt to personally conduct investigations or interviews or question anyone, unless asked to do so by the Monitoring Officer.

## **8. How the Council will respond**

- 8.1 The Council will respond to your concerns, and where appropriate, the matters raised may:
- be investigated by management, internal audit, or through the disciplinary process;
  - be referred to the police;
  - be referred to the external auditor;
  - form the subject of an independent inquiry;
  - be dealt with under the Council's Corporate Complaints Procedure.
- 8.2 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures will normally be referred for consideration under those procedures.
- 8.3 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this may be taken before any investigation is conducted.
- 8.4 Within 10 working days of a concern being raised, the responsible person from the Council will write to you:
- acknowledging that the concern has been received;
  - indicating how we propose to deal with the matter;
  - giving an estimate of how long it will take to provide a final response;
  - telling you whether any initial enquiries have been made; and
  - telling you whether further investigations will take place and if not, the reason.
- 8.5 The amount of contact between the Council officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you. If you are a Council employee, when any meeting is arranged, you have the right to be accompanied by a Union or professional association representative, or a friend who is not involved in the area of work to which the concern relates.
- 8.6 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will advise you about the procedure.
- 8.7 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation. The Council, where

possible and subject to legal constraints, will also keep you informed about how the matter is progressing.

## **9. How the Matter can be Taken Further**

9.1 This policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied. If you are not, and you feel it is right to take the matter outside the Council, the following are possible contact points:

- your local Councillor (if you live in the area of the Council);
- the Council's external Auditor;
- relevant professional bodies or regulatory organisations;
- your solicitor;
- the police;
- Local Government Ombudsman;
- The Protect helpline (see paragraph 10 below).
- The Comptroller and Auditor General (see paragraph 12 below)

9.2 If you do take the matter outside the Council, you need to ensure that you do not disclose confidential or legally restricted information.

## **10. Confidential advice**

10.1 If you are an employee of the Council, you could also make use of a confidential helpline service operated by an independent charity, Protect. This organisation has practical experience of 'Whistleblowing' and can explain your protections under the Public Interest Disclosure Act. Its work in this field has been endorsed by the Committee on Standards in Public Life. Its helpline is staffed by qualified lawyers who can give advice, in strict confidence about whether and how to raise or pursue concerns that you may have about malpractice within the organisation.

10.2 The helpline number is **020 3117 2520** or you can visit their website at: [www.protect-advice.org.uk](http://www.protect-advice.org.uk)

## **11. The Responsible Officer**

11.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this policy, subject to oversight by the Audit and Standards Committee. That officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report statistical activity under the policy on an annual basis to the Standards Committee.

## **12. The Comptroller and Auditor General**

12.1 They can be contacted about the proper conduct of public business, value for money, fraud and corruption in relation the Council.

The Comptroller and Auditor General  
National Audit Office  
157-197 Buckingham Palace Road

London  
SW1W 9SP

Tel: 020 7798 7999

Website: [www.nao.org.uk/contact-us/whistleblowing-disclosures/](http://www.nao.org.uk/contact-us/whistleblowing-disclosures/)

**13. Commissioners nominated under section 15(6) of the Local Government Act 1999**

13.1 If the Secretary of State has appointed commissioners to the authority then they are prescribed person for disclosure, while they are appointed.

13.2 Contact them about matters relating to the exercise of specified functions of a best value authority as directed by the Secretary of State in relation only to the local authority they are intervening in.

NB. Further guidance for Councillors and employees can also be found in the Council's Anti-Fraud, Bribery and Corruption Policy

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5.3-Dec 09 v2/091215

## **Protocol: Chief Executive/Chief Operating Officer and Political Groups**

### **1. General**

The Chief Executive and Chief Operating Officer are employees of the Council as a whole and their overriding responsibility is to the Council and not to any party political group or other grouping of Members ( i.e. "Group"). Their political neutrality should be respected.

All Members of the Council have an equal right of access to the Chief Executive and the Chief Operating Officer .

The Chief Executive and Chief Operating Officer are expected to work closely with the political administration to give them information, assistance and advice. It is inevitable there will be more contact and more dialogue between the officers and the Leader, Deputy Leader, other Members of the Executive and Chairs and Vice-Chairs of Committees than with other Members but the officers will maintain political neutrality.

The Chief Executive and Chief Operating Officer need to develop good working relationships with minority groups. The Chief Executive and Chief Operating Officer will not reveal to other Members the content of the discussion with any Group, unless consent has been specifically given by the Leader of the Group concerned.

### **2. Briefings**

2.1 It is a basic requirement of Officers that information, other than of a routine or trivial nature, given to one Group is offered to all Groups. It is also important for the effective conduct of Council business if the Chief Executive and Chief Operating Officer keep in regular contact with all Groups to provide information, give advice and answer questions on items of corporate importance. Accordingly, regular liaison meetings can be very valuable, offering a regular and confidential forum for dialogue and discussion.

2.2 The Chief Executive has a weekly meeting with the Leader and Deputy Leader of the Council , at his invitation, the notes of which are confidential.

2.3 All Group Leaders may be invited to a liaison meeting, at least once a cycle, which may be chaired by the Mayor. The Chief Executive and Chief Operating Officer attend. The liaison meetings cover items of briefings suggested by the Management Team, together with any other items requested by Group Leaders or the Mayor.

2.4 The Chief Executive will also offer a briefing once a cycle to Group Leaders on an individual basis if they wish to take this up. Notes from any such meetings would be confidential and would not be shared with any other Members or officers (outside the Management Team). This regular briefing will be in addition to any ad hoc briefings or meetings on specific issues.

2.5 In addition, a Group Leader may request the Chief Executive or Chief Operating Officer to arrange a confidential briefing for the Party Group on any matter of

relevance to the Council. In such cases, a similar briefing will be offered to other Groups. The role of Officers at such briefings will be to provide information and answer questions; any debate within the Party Group should take place after the Officer has left. Normally, only the Chief Executive and Chief Operating Officer or Heads of Service will attend briefings, although they may ask a colleague for 'technical' information to accompany them if required. Group Leaders should refer their requests for officer attendance to the Chief Operating Officer in the first instance. (Note: Officers will not attend Party Group meetings at which there are persons present who are neither elected Members of the Council, nor in the service of the Council).

2.6 All Council media (Press) Releases will be accessible to all Members at the relevant time through the Council website.

2.7 The Chief Executive will consider whether it is appropriate to ensure that all Ministerial/VIP visits have cross-party involvement.

### **3. Information**

3.1 There is a long-standing arrangement that a copy of any information supplied by an officer to a Member is sent to the appropriate Executive Member or Committee Chair. If this information is requested on a confidential basis, however, officers will not pass this information to any other Member.

### **4. Member attendance at Conference, Courses, etc.**

4.1 Members' attendance at unscheduled meetings, conferences, seminars or courses will be dealt with by referring them to the Executive or appropriate Committee for a decision on whether the Council should attend and, if so, who should be the Council's representatives.

4.2 If the event is to be held before a decision can be obtained from the appropriate meeting, the Head of Legal and Democratic Services will consult Group Leaders before considering the issue under delegated powers.

4.3 The Scrutiny Committees Co-ordinating Panel no longer exists. Agreement will be sought by other methods for the attendance of Scrutiny Members at relevant conferences, seminars, workshops etc within the budget set by the Council.

4.4 Executive Members may agree their own attendance at conferences but must give the Head of Legal and Democratic Services advance notice to allow him to confirm that there is sufficient budget provision.

1st March 2016 v3



## **Burnley Borough Council Petition Scheme:**

### **How to petition Burnley Council: an overview**

Burnley Council welcomes petitions. They are an important way by which people can let us know their concerns. Anyone who lives, works or studies in the Borough, including under 18's, can sign or organise a petition and trigger a response.

Petitions can be created, signed and submitted online, via the Council's website.

Paper petitions can be delivered to:

**Democracy Team  
Burnley Borough Council  
Town Hall  
Manchester Road  
Burnley BB11 1JA**

All petitions sent or presented to the Council will receive an acknowledgement from the Council within 5 working days of receipt. This acknowledgement will set out what we plan to do with the petition.

When we receive correspondence that is not explicitly described as a petition by the sender, we will nevertheless treat it as such if it seems to us that that the intention of the sender is to petition the Council.

Petitions can also be presented to a meeting of the Full Council, the Council's Executive or an appropriate committee as part of your "right to speak."

For further information on the right to speak at a council meeting please visit our website (<http://www.burnley.gov.uk/righttospeak>) or contact the Democracy Manager/Democracy Team (01282 477256) for more guidance.

A petition is one of many ways in which you can tell us about a concern. Depending on the circumstances it might be more appropriate, and more straightforward, for you to raise the issue either through your local councillor, or by making a complaint to us, or by making a simple phone call to Customer Services on 01282 425011.

Chis Gay, Democracy Manager or Eric Dickinson, Democracy Officer would welcome being able to advise you in advance of you organising a petition. Please call 01282 425011 for assistance.

The rest of this document gives more detailed advice on creating petitions and our process for handling them.

## **How to create an e-petition**

The Council welcomes e-petitions which are created and submitted through our website at: <https://your.burnley.gov.uk/Petitions/>

Alternatively, visit [www.burnley.gov.uk](http://www.burnley.gov.uk) then click “Log in/register” to access the petitions section.

The petition organiser will need to register with our website before being able to create a petition online.

It may take 5 working days before your e-petition is published online. This is because we have to check that the content is suitable before it is made available for signature.

If we feel we cannot publish your petition for some reason, we will contact you within 5 working days to explain. You will be able to change and resubmit your petition if you wish. Once an e-petition is made available for signatures, your name will appear on the website as the creator of the petition.

When we contact you to tell you that your petition is available for signatures, we will give you advice on how to promote your online petition.

Our response to your petition will be emailed to everyone who has signed it, and will also be published on the [feedbackonline.org.uk](http://feedbackonline.org.uk) website.

## **How do I ‘sign’ an e-petition?**

You can see all the e-petitions currently available for signature here:

<https://your.burnley.gov.uk/Petitions/>

When you sign an e-petition you will be asked to provide your name and a valid email address. When you have submitted this information you will then be sent a message to the email address you have provided. This email will include a link which you must click in order to confirm the email address is valid. Once this step is complete your ‘signature’ will be added to the petition. Visitors to the e-petitions’ page on the website will be able to see your name in the list of those who have signed it. Your email address will not be visible.



## **How do I submit a paper petition?**

Paper petitions submitted to the Council must include the following.

- A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take.
- The name, address and signature of any person supporting the petition.
- The contact details, including an address, of the petition organiser. This is the person we will contact to explain how we will respond to the petition. If no petition organiser is identified, we will explain how we deal with the petition via the [feedbackonline.org.uk](http://feedbackonline.org.uk) website.

Please deliver your petition to the reception at the Town Hall on Manchester Road. If sending by post, please write to:

**Democracy Team  
Burnley Borough Council  
Town Hall  
Manchester Road  
Burnley BB11 1JA**

We will acknowledge receipt of your petition within 5 working days. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons within the timeframe above.

## **What will the Council do when it receives my petition?**

For both completed paper petitions and e-petitions, an acknowledgement will be sent to the petition organiser within 5 working days of receipt. It will let the organiser know what we plan to do with the petition and when they can expect to hear from us again. The Council will endeavour to assist petitioners by providing details of Council policy and procedure, and the reasons behind decisions, so that petitioners are fully informed of the Council's position in creating their petition.

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested. The petition will then be closed. If the petition has enough signatures to trigger a Full Council debate or a senior officer giving evidence (for further details please see below), then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

Other procedures apply if the petition relates to either:

- a planning or licensing application;
- an issue for which there is a petitioning process set out in law (for example requesting a referendum on having an elected mayor);
- a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates; or
- a matter which is part of ongoing legal proceedings.

**Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply.**

## **How will the Council respond to petitions?**

This depends on the circumstances in each case, but your petition could lead to us:

- taking the action requested in the petition
- considering the petition at a meeting of the Full Council or the Council's Executive
- referring the petition to the Council's Scrutiny Committee<sup>1</sup> for consideration
- holding an inquiry into the matter
- undertaking research into the matter, including consulting more widely with the community
- holding a public meeting
- holding a meeting with the petitioners
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition

## **Full Council debates**

If a petition contains more than 1,500 signatures it will be debated by the Full Council. This means that the issue raised in the petition will be discussed at a meeting at which all councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible. Under the "right to speak" the petition organiser, or another representative, can take 5 minutes to present the petition at the meeting and the petition will then be discussed by councillors. The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter. Where the issue is one on which the Council Executive are required to make the final decision, the Full Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. The outcome will also be published on our website.

## **Requesting that a Council officer gives evidence**

Your petition may ask for a senior council officer to give evidence at an open public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision. If your petition contains at least 750 signatures, the relevant senior officer will be required to give

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<sup>1</sup>The Scrutiny Committee is a meeting of councillors who are responsible for scrutinising the work of the Council. The committee has the power to hold the Council's decision makers to account.

1st March 2016 v3

evidence at Scrutiny Committee. Depending on the circumstances, the request to hear evidence from an officer may still be satisfied even if fewer than 750 signatures are received.

You should be aware that the Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition—for instance if the named officer has changed jobs. The committee may also decide to call the relevant Executive Member to attend the meeting. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the committee by contacting the Committees Team up to 3 working days before the meeting.

## **What can I do if I feel my petition has not been dealt with properly?**

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that a Council overview and scrutiny committee review the steps that the Council has taken in response to the petition.

It is helpful to everyone, and can improve the prospects for a review, if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.

If you would like a committee to reconsider your petition please contact the Democracy Team. The relevant committee will usually hear the petition at its next meeting, although on some occasions this may not be possible. Should the committee determine that the Council did not deal with your petition adequately, it may use any of its powers to deal with the matter. These powers include doing an investigation, making recommendations to the Council Executive and arranging for the matter to be considered at a meeting of the Full Council.

Once the appeal has been considered the petition organiser will be informed of the outcome within 5 working days.

## **Need help?**

Please contact:

**Democracy Team**

**Burnley Borough Council**

**Town Hall**

**Manchester Road**

**Burnley BB11 1JA**

[democracy@burnley.gov.uk](mailto:democracy@burnley.gov.uk)

**01282 477256**

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## PROTOCOL – APPOINTMENT OF MAYOR/DEPUTY MAYOR ELECT

- i) The Office of Deputy Mayor and Vice - Chair of the Council/Mayor elect shall be offered each year to the Member of the Council having the longest continuous service as defined below who has not previously held the Office. In the event of that Member declining it will be offered to the next longest serving Member willing and able to accept the Office, provided that a Member who declines an invitation to serve in the Office of Deputy Mayor and the Chairman of the Council shall be invited to serve in the following year and, in the event of that person again declining, shall be invited for a third time in the next following year, after which for the purposes of determining longest service they shall be deemed to have served.
- ii) “Continuous Service” shall relate to service with the Borough Council, subject to the provision that broken periods of service separated by a break not exceeding four years and one month shall be aggregated for the purposes of calculating “continuous service”;
- iii) Where two or more Members have identical service, precedence shall be given to the Member having no or the least number of years break in service;
- iv) Where the matter is not determinable under paragraphs ii) or iii), regard shall be had to previous service, if any, discounted by reason of paragraph ii) and otherwise to alphabetical order by surname.
- v) “Any Member who is appointed as the Deputy Mayor for the remainder of the municipal year 2020/2021 who has not previously held the office of Mayor or Deputy Mayor shall not be prohibited from being offered the Office of Deputy Mayor for the municipal year 2021/2022 or any subsequent municipal year. The relevant Member’s service as Deputy Mayor for the remainder of the 2020/21 municipal year shall be disregarded on the application of paragraph (i) and service as Deputy Mayor for the said municipal year shall not be deemed to have taken place when applying the criteria at paragraph (i).

The Head of Legal and Democratic Services shall have delegated authority to deal with invitations for the appointment of the Deputy Mayor/Mayor elect each year in accordance with the Council’s normal policy and report the outcome at a future meeting of the Council.

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## **Protocol for Scrutiny Call-in procedure**

For the Scrutiny process to be effective and a satisfactory outcome achieved, it requires the active participation of all parties to the Call-in, throughout the process.

### **Pre Call-in Committee Meeting**

- A Call-In form must be completed, signed and returned to the Head of Chief Executive's Office, by 5 non-Executive Members, within 5 working days from the date a decision has been published. Advice should be sought from the Democracy Office in relation to the completion of the form, prior to its submission.
- The Call-In form shall include sufficient space for a full description of the reasons for the call-in and any particular questions or issues that the Call-In Members would like to be addressed. This of course is at the discretion of the Committee, but will be given consideration as part of the review process.
- Ideally, at least 1 Member of the relevant Scrutiny Committee should sign the call-in form.
- The relevant Scrutiny Committee shall hold a pre-meeting to determine questions for the Call-in review and the format of that Committee meeting. Whilst Call-in Members may sit on the Committee, an invitation should, at the discretion of the Committee, be extended to at least one of the 5 Call-in Councillors to attend this session, in order to clarify the reasons for the call-in and specific points which might inform the setting of appropriate questions.

### **Call-in Committee Meeting**

The over-riding principle is that the Chair and Members of the Committee involved in Call-In ultimately decide how the meeting is run, and subject to that the following protocol be adhered to;

The Committee should retain a degree of formality.

All parties to the call-in may attend all or part of the meeting, unless otherwise agreed by the Committee.

Following the Chair's welcome, the lead call-in Member should be given the opportunity to outline the reason(s) for the call-in, any background information and key points which they feel should be addressed as part of the review. This should be a period of no longer than 5 minutes, however it may be extended at the discretion of the Committee and this to be pro-actively raised at the meeting by the Chair

#### 5.6-Sept 2010/091215

- The lead Call-In Member has the choice whether they speak before or after the public right to speak
- The lead Call-In Member to be able to submit their case in writing before or at the meeting, i.e. in addition to the opportunity to present their case at a pre-meeting
- Witnesses to be encouraged to provide a written answer to the questions which Members of the Committee had agreed at the pre-meeting
- The Chair to be pro-actively supported by Officers in the application of the protocol

Questioning of parties to the call-in should consist of:

1. Specific question allocated to a Committee Member
2. Opportunity for a supplementary question from that Member
3. Opportunity for further supplementary questions from the Committee

At the end of the process, Members of the Committee will be given the opportunity to express their individual views, the Chair will then summarise the discussion and the Committee proceed towards an outcome via consensus view or vote.



5.7 Feb 2018

## **GUIDANCE FOR MEMBERS AND OFFICERS INVOLVED IN OUTSIDE ORGANISATIONS**

<b>Contents</b>	<b>Page</b>
1. Introduction .....	2-3
2. General Advice .....	4-8
3. Companies .....	8-14
4. Charities .....	15-17
5. Management Committees .....	17-19
6. Registration and Disclosure of Interests for Members .....	19-22
7. Registration and Disclosure of Interests for Officers .....	22-23
8. Gifts and Hospitality .....	23-26
9. Data Protection .....	26
Appendix 1 – Responsibilities of Management Committees.....	27-33
Appendix 2 – Liabilities of Organisations & Members .....	34-38

## 1. Introduction

- 1.1 Members are often appointed or nominated by the Council to represent it on the management committees of outside bodies, or they will be involved in such bodies in their own personal capacity either as ordinary members or as members of the management committee, board of trustees, executive committee etc.
- 1.2 The Council generally encourages Members and officers to be active citizens and to participate in the wider community, where that organisation's objectives support the delivery of the Council's Strategic Objectives. It is recognised though that these appointments also enable the Council to participate in partner organisations, and also serve as a means for Members and officers to bring back to the Council additional knowledge and experience which are of value to the Council. However, if Members or officers are to take on such additional roles, it is important that they appreciate the responsibilities which they are taking on, understand how these responsibilities interact with their existing responsibilities to the Council, and recognise and deal with any conflicts of interest which may arise.

**If you are appointed or nominated by the Council it is vital that you read this guide and follow its guidance when carrying out your duties.**

### General responsibilities and liabilities of members of managing bodies

- 1.3 Any member of a managing body has a responsibility to take the task seriously, attend meetings and carry out work for the organisation. Some organisations have rules about attendance (e.g. missing a number of consecutive meetings may lead to loss of the place on the committee). In view of the very considerable demands on members' time and energy, it is

prudent to check out what is expected before accepting a place and to be clear what commitment can be made right from the start so that the organisation does not have unrealistic expectations of you.

1.4 In participating in outside bodies, Members and officers act both as individuals and, in some instances, as representatives of the Council. What does that mean?

- acting according to the rules, constitution and framework set by the outside body;
  - making independent and personal judgments in line with the duty of care to the outside body;
  - reporting back to the Council, where you have been appointed by the Council;
  - behaving ethically, in particular following the Nolan principals contained in the the Council's Code of Conduct for Members (5.1 of the Constitution pages 162/163 ) or, for officers, the Code of Conduct for Officers(5.2 of the Constituion page 2/8);
  - taking an active and informed role in the management of the outside body's affairs.
- 
- you should not follow instructions from any political party to which you owe your political loyalty;
  - Do not look at things simply from the Council's perspective;
  - Do not be there in name only and merely turn up to meetings;

1.5 The role of Members or officers on outside bodies may give rise to occasional conflicts of interest. The Council's Code of Conduct for Members addresses some of the issues in respect of conflicts and interests. In essence, if any matter relating to the outside body comes up in the course of the Member's work as a Member, or in the officer's work for the Council, it is likely that the Member or officer will have an interest

which they will have to disclose. Where the conflict is such that it might be considered likely to affect the way that the Member would vote or act as a Member, he/she may have not only to disclose the outside interest but to take no part in the consideration of the matter. The Code of Conduct for Officers includes similar provisions, requiring an officer to refer the matter to another officer to deal with.

- 1.6 In a very few and extreme cases, if there is a major dispute between the Council and the outside body, the Member or officer could be placed in an untenable situation. It is possible that the Member or officer may find he/she is unable adequately to carry out their responsibilities properly, both as a Member or officer and as a member or director of the outside body. In such cases resignation from the outside body might be appropriate. Such circumstances would be rare and should not deflect Members or officers generally from being prepared to participate in the management and running of outside organisations.
- 1.7 Because there is always a potential for conflict between the interests of the Council and the outside body, Members and officers who are thinking of taking on such an outside interest should consider how that interest will affect their ability to continue to act as a Member or as an officer. Members and officers are asked to read this guide and if there are issues arising from their particular situation at any time, to contact the Monitoring Officer or their staff for advice.

## **2. GENERAL ADVICE**

- 2.1 Local authorities are often asked to nominate Members and officers to take part in outside bodies. The range of such external activities is very wide.

- 2.2 If you are asked to allow the Council to put your name forward, you should ask the Council for a clear statement of what will be expected of you. Any organisation which asks the Council for such a nomination should be able to provide this information. The organisation will also be asked to explain how its operations help the Council to deliver its Strategic Objectives. If it is unable to provide such information, you should consider whether you want to be a member of such an organisation.
- 2.3 You will probably be agreeing to be a member of that outside body because it is active in an area which is of particular interest to you. But you should be aware that the rules on such outside interests may limit your ability to continue to take an active part in this topic within the Council. You will have to disclose membership of the outside body in your dealings with the Council. Where any conflict of interest arises between the outside body and the Council, it is likely that you will have to withdraw from any consideration by the Council of any matter affecting the outside body, unless the outside body is another public authority, or you are appointed strictly as the representative of the Council. This aspect is dealt with in more detail below.
- 2.4 As a member of an outside body, you will be expected to participate fully in that organisation. If other commitments mean that you will regularly have to miss meetings of the organisation, or that you have to withdraw from meetings because of conflicts of interest, you will be doing that organisation no favours, and this may reflect badly on the Council which put your name forward. If you neglect your responsibilities to that outside body it is even possible that you will incur a personal liability. Therefore do not allow your name to be put forward unless you are satisfied that you can participate fully in that organisation.

5.7 Feb 2018

- 2.5 In almost all circumstances you will owe a duty to act in the best interests of the outside body. You will have to exercise your own best judgement and you cannot just take instructions from the Council. It is permissible to take account of the Council's wishes, but in any conflict, you must act in the best interests of the outside body. The Council recognises this in appointing or nominating you.
- 2.6 Your responsibilities as a member of an outside body depend on the legal form of that body. The outside body will through its own constitution specify the formal role and responsibilities of the local authority member
- 2.7 Members and officers serving on outside bodies could have personal liability as a direct consequence of their actions in serving on outside bodies. This is particularly so they act in an executive capacity as opposed to a 'non decision making ' role.
- 2.8 Indemnity Insurance – legally the Council cannot insure the liability of another body or organisation. Therefore you need to be satisfied that there is sufficient indemnity insurance cover to protect your position, particularly when serving in an executive capacity on an outside organisation.
- 2.9 There is a need for you to be assured on an annual basis of the existence of insurance, covering public liability, employees' liability; defamation; and Directors and Trustee liability.
- 2.10 The Borough Council indemnity insurance solely covers the following situations
- a. where the terms of reference are laid down in pursuance of the authority's statutory powers.

5.7 Feb 2018

- b. where an individual acts in an advisory capacity only in connection with the Council's functions.
- c. where the Member occupies an observational role only on an outside body, representing the Council, and not in any decision making capacity.
- d. where a Member acts on behalf of a joint committee established by two or more local authorities.

2.11 In all cases which are outside the scope of the previous paragraph , indemnity cover should be obtained from the outside organisation concerned.

The principal forms of outside bodies are:

(a) Statutory corporations

These are bodies which are set up under statute. There are a wide range of such statutory corporations, including school governing bodies, Universities, combined Police and Fire Authorities and many non-departmental public bodies. The members of the statutory corporation, such as the governors of a school, and how they are appointed is set out in the statute, as are the powers of the statutory corporation. That statute will also set out the responsibilities and liabilities of members of the corporation.

(b) Companies

See paragraph 3 below.

(c) Unincorporated Associations

Unincorporated associations are more or less informal organisations, in which the members regulate their relationship by a contract, such as a membership agreement or the rules of the club or association. Because

the association has no legal existence separate from its members, there can be no limited liability. Each member incurs full personal liability for his/her own actions, and relies on the membership contract to be able to recover his/her costs from the other members.

(d) Charities

Some companies and unincorporated associations are also charities. To be a charity, the body or organisation must satisfy the Charity Commissioners that it is directed to charitable objectives. As a charity, it gains relief from corporation tax, VAT and business rates, but is subject to stricter regulation by the Charity Commissioners, to ensure that it is properly managed and that it is spending its money properly on the charitable objects.

### **3. COMPANIES**

- 3.1 On incorporation a company becomes a separate legal entity which can hold property in its own right, enter into contracts, employ staff and sue and be sued in its own name. The company is distinct from its members, who may be either shareholders or guarantors.
  
- 3.2 Companies limited by shares are those which have a share capital (e.g. 1000 shares of £1 each). Each Member holds shares and receives a share in the profits made by the company according to the value of the shares held. Shares can be sold, although there may be restrictions requiring the shares to be offered to existing shareholders. In the case of a limited liability company, the liability of members of the company is limited to the amount they paid or agreed to pay when they joined the company, or the amount of their guarantee. This can be as little as £1.



5.7 Feb 2018

- 3.3 Companies limited by guarantee are those where there is no shareholding. Instead each Member agrees that in the event of the company being wound up they will agree to pay a certain amount. This may also be as little as £1.
- 3.4 Where a company is a trust, it is not permitted to distribute any profit to its shareholders, but must ensure that any such profit is ploughed back into the business. Trust companies are normally limited by guarantee, and this form of company is the most usual form in the public and voluntary sector, particularly where charitable status is sought.
- 3.5 The management of a company is generally the responsibility of a board of directors, elected by the Members of the company. The powers of the directors are usually set out in the company's Articles of Association (the rules each company has to govern its internal management). Sometimes even though the company has been incorporated, the directors may be referred to as members of the committee of management, governors or even trustees. However this does not change their status as directors. Conversely, sometimes officials are called directors but they are not members of the board. Again their status will not be affected.
- 3.6 Directors' Duties  
A director is an agent of the company. His/her prime duties are as follows:-
- 3.6.1 A fiduciary duty to the company (not to individual shareholders) to act honestly and in good faith and in the best interests of the company as a whole. Directors are therefore in the position of "quasi trustees" who must take proper care of the assets of the company. The fiduciary duty of the director towards the company is very similar to the fiduciary duty of Members to the Council Tax payers of the Borough.

3.6.2 A general duty of care and skill to the company. So long as the Company remains solvent, a director requires no greater skill than might reasonably be expected of someone of that individual's particular knowledge and experience. A director is not deemed to be an expert, but is expected to use due diligence and to obtain expert advice if necessary.

3.6.3 Like a Member in respect of Council decisions, the director is under a duty to exercise independent judgement, though it is permissible for him/her to take account of the interests of a third party which he/she represents. In such a case the director must disclose that position and treads a fine line between the interests of the company and the party represented (in this case the Council). The director cannot vote simply in accordance with the Council's instructions. To do so would be a breach of duty.

3.6.4 No conflict. There may be actual or potential conflicts between the interests of the company and those of the Council. The Member or officer cannot waive their statutory responsibilities as a director. So they may have to cease to act as a Member or officer in relation to the particular matter.

3.6.5 Directors are not allowed to make a private profit from their position. They must therefore disclose any interests they or their family may have in relation to the company's contracts. Whether they are then allowed to vote will depend on the Articles of Association. Equally, officers are not allowed under cover of their office to take any more than their proper remuneration. They must obtain the consent of their employing Council if they are to receive any remuneration from a company to which they have been appointed by their employing Council.

5.7 Feb 2018

3.6.6 Directors must ensure compliance with the Companies Acts in relation to the keeping of accounts, and that the relevant returns are made to the Registrar of Companies. Directors of charities have similar responsibilities to ensure compliance with charities law. Failure to do so may incur fines and persistent default can lead to disqualification as a director.

### 3.7 Directors' Liabilities

3.7.1 The company's identity must clearly be shown on its stationery. The company number, place of registration, registered office address and if any of the directors' names are shown then they must all appear. Non-compliance is an offence and the directors and company officers can be fined.

3.7.2 A company can only act within the scope set out in its Memorandum of Association (the document which sets out the objects of the company). A director who knowingly causes the company to act beyond the activities set out in the Memorandum can be liable personally. In very limited circumstances it is possible for the actions of the directors to be ratified by the Members of the company after the event.

3.7.3 A director may also be liable for breach of trust, if he/she misapplies the money or property of the company. Directors may also be liable if they fail to take action to prevent the breach of a co-director of which they are aware.

3.7.4 In the event of failure to act in accordance with the best interests of the company, or if a director uses his/her powers improperly or makes personal profit from his/her position as director, then the director may be personally liable for loss to the company and may be required to give the company the personal profit made.

- 3.7.5 If the level of skill and care shown by a director falls below that which could be reasonably expected and the company suffers loss, the director will be liable for the loss incurred. However if it believes the director acted honestly and reasonably, a Court may excuse the director liability.
- 3.7.6 If a company continues to trade despite the fact that the directors know or ought to know that there is no reasonable prospect of the company meeting its liabilities, this is "wrongful trading". Where a director participates in wrongful trading, a Court may require that director to meet any creditor's additional losses resulting from the failure of the company to cease trading as soon as it knew that it could not remain solvent. No such order will be made if the Court is satisfied that the director took all reasonable steps to minimise the loss to the creditors. If a director has concerns about the company's financial position he/she could be well advised to inform the other directors and seek advice from the company auditors.
- 3.7.7 A director will also be liable if to his/her knowledge the company carries on business with intent to defraud creditors or any other person, or for any other fraudulent purpose. Fraudulent trading can also lead to disqualification from acting as a director.
- 3.7.8 All cheques and similar documents which purport to be signed on behalf of the company must bear the company name. Where they do not, the director signing on behalf of the company may be liable to a fine and may also be liable to the payee if the company fails to honour the cheque. It is therefore wise for directors to make sure that all documents they sign on behalf of the company state very clearly that they act as agent for the company, (e.g. Director, for and on behalf of XCo Ltd)

5.7 Feb 2018

3.7.9 A third party who enters into a contract on the assumption that a director has power to bind the company, may be liable to claim damages against the director if it subsequently transpires that the director had no such power. Directors would be well advised to ensure that contracts are approved by the board and that the authority to enter into any contract has been properly delegated before signing it.

3.7.10 Though company liability ceases on dissolution, the liability of the directors (if any) may still be enforced after dissolution.

### 3.8 Indemnities

Members who are directors cannot be indemnified by the company against liability arising out of negligence, default, or breach of duty or trust. However the company's Articles of Association may allow for directors to be indemnified by the company in respect of the cost of defending such proceedings if the director is granted relief by the Court or acquitted. It is lawful for companies to purchase insurance to protect its directors against claims of negligence, breach of duty, trust, default etc. Directors would be well advised to ensure that such a policy of insurance is maintained at all times.

### 3.9 Local Authorities (Companies) Order 1995

3.9.1 This Order, made under the Secretary of State's powers contained in Part Five of the Local Government and Housing Act 1989, sets out rules concerning local authorities' involvement in "regulated companies" which are subject to extensive controls, and their involvement in other companies where a number of rules apply.

3.9.2 "Regulated companies" are so defined if they are controlled or influenced by the local Council. "Influenced companies", under the effective control of the local Council, will be subject to the capital finance

5.7 Feb 2018

regime and special property controls. In broad terms, the test as to whether companies are Council influenced is whether the Council has the right to, or in fact does, exercise a dominant influence over the company in question.

3.9.3 The original concept of controlled influenced and minority interests in companies were introduced by the 1989 Act. "Influenced" means at least 20% local Council interest plus a business relationship with the company accounting for over 50% of the company's turnover and/or the company was located on Council land leased or sold for less than best consideration. "Controlled" means over 50% Council interest. "Minority" less than 20% interest. The concept in the 1989 Act stands, but the Order introduces the term "regulated".

3.9.4 A local Council influenced or controlled company must state this on all business documents.

3.9.5 Members or officers who are directors of outside companies to which they have been nominated by the Council are under the following obligations:-

- (a) (Members only) that the remuneration they receive from the company should not exceed that received from a local Council and should be declared.
- (b) to give information to Members about their activities required by the local Council (save for confidential information) and
- (c) to cease to be a director immediately upon disqualification or retirement as a Member or termination of their employment by the Council.

**You will be notified by Democratic Services if you are appointed to a regulated local Council company.**

## 4. CHARITIES

4.1 To be a charity an organisation must operate for a charitable purpose.

There are four such charitable purposes:

- the relief of poverty and human suffering;
- the advancement of education;
- the advancement of religion;
- another purpose for the benefit of the community.

It must operate for the public benefit and have exclusively charitable purposes. An organisation which operates for political purposes will not qualify for charitable status.

4.2 To register as a charity the organisation must submit its completed constitution (usually Certificate of Incorporation and the Memorandum and Articles of Association of a company limited by guarantee) to the Charity Commissioners for approval. If they are satisfied that the organisation is charitable it will be registered as such.

4.3 Those who are responsible for the control and administration of a charity are referred to as its trustees, even where the organisation is a company limited by guarantee and even though they are not strictly trustees. Trustees of a charity retain personal liability, and can only delegate to the extent that the constitution authorises them so to do

### 4.4 Trustees' Duties

4.4.1 Trustees must take care to act in accordance with the constitution and to protect the charity's assets. They are also responsible for compliance with the Charities Acts, and should note the particular requirements of the Acts in respect of land transactions.

4.4.2 Trustees must not make a private profit from their position. They cannot receive remuneration without the sanction of the Charity Commission. They must also perform their duty with the standard of care which an ordinary, prudent business person would show. Higher standards are required of professionals, and in relation to investment matters.

4.4.3 Charitable trustees must ensure that the information relating to the charity and trustees is registered with the Charity Commissioners and that annual accounts, reports and returns are completed and sent.

4.4.4 If charitable income exceed £10,000, the letters, adverts, cheques etc must bear a statement that the organisation is a registered charity.

4.4.5 Trustees are under a duty to ensure compliance with all relevant legislation (e.g. in relation to tax and land matters).

#### 4.5 Trustees' Personal Liability

4.5.1 Generally a trustee incurs personal liability if he/she:

- acts outside the scope of the trust deed;
- falls below the required standard of care;
- acts otherwise than in the best interests of the charity, in a way which causes loss to the charity fund;
- makes a personal profit from the trust assets.

In such circumstances the trustee will incur personal liability for losses incurred.

4.5.2 If in doubt, always consult the Charity Commissioners. A trustee who does so can avoid personal liability for breach of trust if he/she acts in accordance with the advice given.



5.7 Feb 2018

4.5.3 Trustees of a trust can be liable personally to third parties unless the trust is also a company, and therefore has a separate legal identity from the trustees. The constitution will normally provide for trustees to be given an indemnity from the trust assets, provided they act properly in incurring the liability. Trustees remain personally liable for their own acts and defaults once they have retired. If they have entered into any ongoing contracts on behalf of the trust they should seek an indemnity from their successors. If the charity is a company, the trustees will be protected from liabilities incurred in the day-to-day running of the charity in the normal course, but will be personally liable if they commit a breach of trust (see (1) above).

4.5.4 Trustees may be liable to fines if they do not comply with the duty to make returns etc.

#### 4.6 Indemnities

An indemnity can be given from the trust fund provided the trustee has acted properly and within his/her powers. Trustees may take out insurance to protect themselves against personal liability but not for criminal acts, fraud etc. There will be no problem if the trustees themselves pay the premiums but if they are paid out of the charitable funds the trustees will need the consent of the Charity Commissioners first, unless the trust deed allows it.

## **5. MANAGEMENT COMMITTEES**

### 5.1 Unincorporated Associations

Groups which are not charitable trusts or companies are "unincorporated associations" and have no separate legal identity from their members. The

5.7 Feb 2018

rules governing the members' duties and liability will be set out in a constitution which is simply an agreement between the members as to how the organisation will operate. Usually the constitution will provide for a management committee to be responsible for the everyday running of the organisation. An unincorporated organisation may be charitable and may register as a charity

5.2 Property will have to be held by individuals as the association has no legal existence of its own.

### 5.3 Duties

Broadly, Management Committee members must act within the constitution, and must take reasonable care in exercising their powers.

### 5.4 Liabilities

5.4.1 Generally, the Management Committee members are liable for the acts of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the Committee members are personally liable for the shortfall.

5.4.2 If one person is appointed by the constitution to act as the agent of the organisation for certain purposes, then that person acts as the agent for all the members, who have joint liability for the agent's actions.

5.4.3 Members of the Committee of Management will have personal liability if they act outside the authority given to them or if they do not comply with statute e.g. the payment over of employees' tax deductions etc.

5.7 Feb 2018

5.5 Indemnities

Members will be entitled to an indemnity if they act in accordance with the constitution and are not at fault. It is possible to obtain insurance but if the organisation is to pay the premium it must be permitted by the constitution.

**6. REGISTRATION AND DISCLOSURE OF OUTSIDE INTERESTS FOR MEMBERS**

6.1 The Council's Code of Conduct is based on and is consistent with the principle of public life set out in Section 28 of the Localism Act 2011 which are selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

6.2 Under Section 30 of the Localism Act 2011 and The Relevant Authorities (Disclosable Pecuniary Interests) Regulation 2012 requires every member to notify the Monitoring Officer of any registerable interests which he/she holds, within one month of election or appointment. Members' declarations or registerable interests are then held in a public register of interests. The member may not act as a member until he/she has completed that declaration. In addition, the member must notify the Monitoring Officer of any change in his/her registerable interests within 28 days of becoming aware of that change. The information will then be included in a public register of interests;

6.3 Also a member must disclose on the prescribed form any disclosable pecuniary interests or other interests they may have arising as a result of his/her appointment to an outside body. For example a Member who is appointed as a Director of an outside body may have a disclosable pecuniary interest (DPI) if that outside body has a contract with the Council. The Members should register his/her DPI in accordance with the

5.7 Feb 2018

Code of Conduct and observe the statutory requirements about participation and voting at meeting of the Council in relation to any discussions about that contract.

- 6.4 In addition, the Council's Code of Conduct requires a member to register and disclose non-pecuniary (other) interests that arise from a Member's membership of or his/her occupation of a position of general control or management in bodies to which the Member has been appointed or nominated by the Council.
- 6.5 Membership of an outside body can be a registerable interest under any of the following headings in the prescribed form:
- (a) any employment , office, trade, profession or vocation carried out for profit or gain
  - (b) Sponsorship  
Any payment or provision of any other financial benefit (other than from the Council) made or provided within the last 12 months in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.  
This included any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992
  - (c) Contracts-  
Any contract which is made between the **relevant person** (or body in which the relevant person has a beneficial interest) and the council –  
(a) under which goods or services are to be provided or works are to be executed; and  
  
(b) Which has not been fully discharged.

(A **relevant person** is you, your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners)

(d ) Land

Any beneficial interest in land which is within the area of the Council.  
This includes your home address or any other property.

(e ) Licences

Any licence (alone or jointly with others) to occupy land in the Borough of Burnley for a month or longer.

(f ) Corporate tenancies

Any tenancy where (to your knowledge) –

(a) the landlord is the Council; and

(b) the tenant is a body in which the **relevant person** has a beneficial interest.

A **relevant person** is you, your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners)

(g) Securities

Any beneficial interest in securities (shares, debentures debenture stock, local stock, bonds, units of a collective investment scheme and other securities of any description, other than money deposited with is building society) of a body where –

(a) that body (to your knowledge) has a place of business or land in the borough of Burnley; 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 class in which the **relevant person** has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Other interests

**(a) Membership, general control or management of certain bodies**

Details of any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council.

**(b) Membership, general control or management of bodies exercising public functions, charitable purposes or influencing public opinion or policy** Details of any body exercising functions of a public nature, any body directed to charitable purposes or any body one of which principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management.

## **7. Registration and Disclosure of Outside Interest for Officers**

### **7.1 Declaration of Interests**

Section 117(1) of the Local Government Act 1972 requires that, if it comes to the knowledge of any officer of a Council, that the Council has entered or proposes to enter into any contract in which he/she has a pecuniary interest, whether or not he/she would actually be a party to the contract, he/she must give notice in writing to the Council. There is a difficulty with this provision as the definition of a pecuniary interest has now been repealed, but it must be taken as any circumstance in which he/she or a member of his/her immediate family stand to gain or lose financially as a result of the contract.

### **7.2 Registration of Interests**

The Council requires officers graded at SCP 33 and above to declare any interests which they have, both upon appointment and as those interests change, and enter those declarations in a register maintained by the Monitoring Officer. The Register is updated annually, but Officers should notify promptly the Monitoring Officer of any change in circumstances.

## **8. Gifts and Hospitality - General Principles**

- 8.1 Members and officers must never accept any gift or consideration as an inducement for doing or forbearing to do anything in their roles as members or officers of the Council. Indeed, where officers accept any such gift or consideration from anyone who has or is seeking a contract with the Council, the gift or consideration is deemed to have been accepted corruptly unless the officer can prove to the contrary. It is

therefore very important to be completely open about any significant gift or hospitality, to avoid the suspicion of misconduct.

8.2 As a general rule, offers of hospitality and/or gifts should be declined. However, it is acknowledged that Members and officers may, as part of their duties and responsibilities be called upon to represent the Council, for example at:

- functions within the community;
- meetings/visits with outside bodies;
- meetings/visits with contractors;
- conferences/courses where hospitality of gifts may be offered.

Before attending such an event, Members and officers should establish the purpose of the event, be able to justify their attendance and identify the outcome/benefit to the Council.

8.3 **Officers:** Detailed guidance for officers on Gifts and Hospitality is contained in the *Code of Conduct for Employees*.

8.4 **Members:** Guidance on Gifts and Hospitality

Hospitality

8.4.1 Members should only accept offers of hospitality if there is a genuine need to represent the Council. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community, where the Council should be seen to be represented or it is necessary to promote the interests of the Council, its citizens or the local economy, provided always that the Member's attendance is consistent with their obligations under the Code of Conduct for Members.



**8.4.2 If Members attend such functions, in line with the Council's Code of Conduct for Members the Register of Gifts and Hospitality must be completed on each occasion hospitality with a value of more than £25 is accepted or refused. The Register must be completed before the hospitality event takes place. It is good practice to register acceptance or refusal of all offers of hospitality in the Register, regardless of their value.**

8.4.3 When hospitality is declined, the offer should be courteously but firmly refused and the organiser informed of the procedures and standards operating within the Council.

8.4.4 When receiving hospitality, Members should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.

8.4.5 Hospitality, where it is incidental, is acceptable in the following circumstances:

- through attendance at relevant conferences and courses;
- where it is clear that it is corporate rather than personal;
- where the Council (acting through the Monitoring Officer) is satisfied that any procurement decisions are not compromised.

## **Gifts**

8.4.6 Generally, Members may accept insignificant items of token value such as pens, diaries, mouse mats, badges, scarves, ties etc. It is good practice to register acceptance or refusal of these items in the Register.

5.7 Feb 2018

**8.4.7 In line with the Council's Code of Conduct for Members, the Register of Gifts and Hospitality must be completed on each occasion a gift with a value of more than £25 is accepted or refused. It is good practice to donate gifts with more than a token value to the Mayor of Burnley's Charity.**

Sponsorship -

8.4.8 The standards relating to hospitality and gifts apply equally to situations where an organisation sponsors or wishes to sponsor a Council activity.

8.4.9 In circumstances where the Council wishes to sponsor an event or service, you must be aware that neither you nor your partner, spouse, friend or relative must directly benefit from such sponsorship without there being full disclosure to an appropriate manager of any such interest.

## 9. **Data Protection**

It is possible that through representation on an outside body, a Member will process personal data that belongs to that body. If the Members does this then he/she will need to ensure with the outside body whether he/she needs to be part of the outside body's notified arrangements to the Information Commissioner for processing data.

## **Appendix I**

### **Responsibilities of Management Committees etc**

The main responsibilities of the management committee or other governing body are:

- to maintain a long term overview of the organisation and all its work;
- to make strategic and major decisions about the organisation's objectives, policies and procedures;
- to ensure the needs and interests of relevant people and bodies are taken into account when making decisions;
- to ensure adequate resources (especially people and money) to carry out the organisation's activities;
- to monitor progress towards objectives, and other work;
- to take legal responsibility for the organisation and all its actions (or inaction). If the organisation gets into legal or financial trouble, members of the management committee or other governing body can in many cases be held personally liable.

#### Legal responsibilities

The legal responsibilities of the management committee or other governing body can be divided into 10 main areas:

Constitutional objects and powers - The management committee or other governing body is responsible for ensuring the organisation carries out its objects (aims or purposes) and operates within its powers according to the constitution, so committee members must know what the objects and powers are and understand what they mean. A good committee will always consult users, managers, staff and volunteers before making major decisions.

5.7 Feb 2018

If an organisation with charitable status operates outside its objects or powers, the Charity Commission can require the charity trustees personally to pay back to the charity any money used for these activities.

Procedures and Accountability - The management committee or other governing body is responsible for ensuring the organisation carries out its business according to its constitution and good practice. Part of the constitution relates to why the organisation exists and the type of activities it is supposed to carry out; a constitution also defines how the organisation is supposed to conduct its business. It is the committee's responsibility to ensure these rules are followed. Specific responsibilities include:

- serving as a well-informed, interested, supportive committee;
- maintaining democratic procedures and accountability:
- holding meetings regularly, and ensuring members have the information needed to make decisions;
- calling the annual general meeting and ensuring elections and other essential items are dealt with as required;
- ensuring adequate communication between the committee, subgroups, managers, staff, volunteers, and the organisation's users, members, clients, residents or other people served by the organisation.

Further legal obligations - Statutory obligations exist in law and must be met: for example having to register under the Data Protection Act if the organisation keeps information about recognisable living individuals, or having to give contracts of employment to staff who normally work 8 or more hours per week. It is the responsibility of the management committee or other governing body to ensure the organisation meets these obligations.

Contracts - are legally binding commitments which the organisation chooses to enter into: for example renting premises, hiring staff, leasing a photocopier or

5.7 Feb 2018

entering into a contract to provide services. It is the responsibility of the committee or other governing body to ensure the organisation can and does meet the terms of any such undertaking. If the organisation is incorporated as a company limited by guarantee or is registered as an industrial and provident society (IPS) it can enter into contracts in its own name. If it is not a company or an IPS it cannot enter into a legally binding agreement in its own name, so this will have to be done by individuals, usually the organisation's elected officers, acting on behalf of the organisation. Anyone who signs a legal document must be authorised to do so, by a proper decision made by the committee, and must clearly indicate she or he is signing on behalf of the organisation.

To protect themselves as well as the organisation, members of the management committee or other governing body should be satisfied the organisation is meeting its legal obligations with respect to:

- contracts of employment and employment legislation;
- equal opportunities legislation (Race Relations Acts, Sex Discrimination Act, Disability Discrimination Act);
- lease, licence or tenancy agreements;
- Health and Safety at Work Act, Offices, Shops and Railways Premises Act and other health and safety legislation;
- insurance requirements,
- financial record-keeping and information, income tax, national insurance, other taxes, VAT;
- bank accounts, loans, overdrafts;
- fund-raising and grants;
- work done by the organisation under a service agreement or contract;
- Data Protection Act;

Financial responsibility and accountability - The management committee or other governing body is responsible for ensuring the organisation has enough money

5.7 Feb 2018

to carry out its work, meets its financial obligations when they are due, accounts for all its financial dealings and does not get into financial trouble. This includes not only the payment of bills but also ensuring proper records are kept and the organisation's money is spent in the correct way. This means the management committee or other governing body has ultimate responsibility for:

- wages, tax, national insurance, statutory sick pay and maternity pay, pensions, redundancy pay, and any other pay or benefits due to workers under legislation or the terms of their contracts;
- mortgages, rent, rates;
- insurances; -.
- all other bills; -
- ensuring the organisation will have enough money to meet any financial obligations when they come due;
- ensuring all grants or other funds received for specific purposes are spent as specified;
- ensuring the organisation is being paid enough for any services it is providing under a service agreement or contract;
- ensuring the organisation's funds are wisely invested;
- ensuring the organisation keeps accurate and comprehensible financial records, accessible to management committee members and authorised members of staff;
- receiving regular financial reports in a form which committee members can understand;
- ensuring annual accounts are drawn up and audited in accordance with the constitution and, where relevant, funders' requirements and/or legislation.

Employment and volunteers - In most voluntary organisations the management committee or other governing body is legally the employer, with responsibility for hiring, supporting and if necessary firing staff. Even if some aspects of employment are delegated to staff or a personnel sub-committee, the committee as a whole is responsible for ensuring the organisation has appropriate

5.7 Feb 2018

procedures to draw up and regularly update job descriptions; ensure adequate funding to pay staff; advertise appropriately, shortlist, interview and select staff; issue and abide by contracts of employment; ensure there is appropriate induction, training, supervision, support, and ideally a regular review and assessment procedure for staff; deal with complaints and grievances; undertake disciplinary and redundancy proceedings.

If some or all of the organisation's work is carried out by volunteers the committee has legal responsibility for them and their work. The committee should ensure they are adequately inducted and supported and there are appropriate disciplinary and grievance procedures

If a staff member or volunteer acts negligently, for example by giving incorrect advice to a client or not looking after a child properly, members of the governing body could be found negligent if the organisation does not have and enforce proper procedures for recruiting and training staff and volunteers, setting standards, monitoring work and maintaining a safe environment.

Equal opportunities -

It is the responsibility of the management committee or other governing body to ensure the organisation complies with equal opportunities legislation (Race Relations Act, Sex Discrimination Acts, Equal Pay Act, Disability Discrimination Acts). But good practice goes far beyond the legislation. If the organisation is concerned about equal opportunities (and the Council believes that all voluntary organisations should be) it is the committee's responsibility to ensure the organisation has a clear statement of intent on equal opportunities and a workable code of practice setting out how it will make its statement a reality, and to ensure the code of practice is implemented and monitored.

Premises and equipment - A management committee or other governing body generally has overall responsibility for the use, safety and security of premises

5.7 Feb 2018

used by the organisation and must ensure they are properly and legally managed and used. This includes:

- making decisions about major change of premises use. Day to day decisions about use (for example bookings) might be delegated to staff or volunteers but are still the ultimate responsibility of the committee;
- ensuring adequate finance and insurance;
- setting conditions for bookings, hire of premises, licences and similar requirements;
- developing and implementing a health and safety policy covering all aspects of the organisation's work; - ensuring the organisation meets public health and fire regulations and precautions;
- ensuring adequate security for premises, equipment and people;
- approving alterations, repairs and renovations;
- ensuring planning and building regulations are met.

Insurance - The management committee or other governing body is responsible for ensuring all insurances are taken out and paid. Some insurances are compulsory:

- employer's liability insurance must be held by any organisation with paid staff, and the certificate of insurance must be prominently displayed at the organisation's office; - public liability insurance covers injury, loss or damage caused to any person (including volunteers and management committee members) as a result of the organisation's negligence;
- if an organisation has vehicles it must have third party insurance, which covers injury or death caused to other people;
- buildings insurance and/or plate glass windows insurance are not required by law but might be required by the terms of a lease or mortgage.

Legal status - The management committee or other governing body must ensure the organisation meets its legal obligations if it is a company limited by guarantee, an industrial and provident society, a friendly society and/or a



5.7 Feb 2018

registered charity. Any organisation registered under the Companies Acts, the Friendly Societies Act or the Industrial and Provident Societies Act must meet the requirements of the relevant Act. Organisations which fail to do so can face heavy fines, as can individual members of the management committee or other governing body. Responsibilities include:

- preparing annual accounts and balance sheets, having them audited and submitting them to the Registrar of Companies or Registrar of Friendly Societies;
- holding the annual general meeting as required by the constitution, electing directors (management committee) and submitting annual returns to the Registrar;
- notifying all changes of director to the Registrar;

In charities the charity trustees (usually the same as the management committee, but not necessarily) have responsibility for:

- preparing annual accounts, having them audited as required and submitting them to the Charity Commission and Inland Revenue;
- filing an annual report and annual return, as specified in regulations under the Charities Act 1993, with the Charity Commission;
- ensuring all the organisation's activities fall within the charity's objects and are charitable as defined by law;
- indicating on all the charity's documents, invoices, cheques and publications that it is a registered charity.

Everything else - Last but not least, the management committee or other governing body is responsible for any other legal responsibilities which might apply. This could include, for example:

- conditions imposed by funders.
- legislation applicable to certain types of work, such as housing associations, work with children or people considered vulnerable, work with dangerous machinery or equipment, food handling, lotteries or public events.

## **Appendix 2**

### **Liabilities of Organisations & Members**

#### Liabilities

Members of the management committee or other governing body are generally legally responsible for what the organisation does only if they have the right to vote on the committee. So co-opted members or representatives of other bodies without voting rights would not usually have any liability for what the organisation does. If an individual who represents another body has voting rights on the committee any legal liability rests with the individual, not the organisation which she or he is representing.

The legal liability of members of the management committee or other governing body is determined by the legal status of the organisation. This depends on whether the organisation is unincorporated or incorporated.

#### Unincorporated organisations

An unincorporated organisation does not have a legal identity of its own. In law, it is simply a collection of individuals. Unincorporated organisations cannot enter into contracts or other legal agreements in their own name. If they want to rent property, employ people, borrow money or take legal action, this has to be done (or will legally be assumed to have been done) by individuals acting on behalf of the organisation. If they want to own property, the property will be legally held by individuals (holding trustees) on behalf of the organisation.

Some unincorporated organisations are registered as friendly societies or trusts, but most are unregistered associations. An unregistered association is not accountable to anyone except its own members and funders.

5.7 Feb 2018

If an unincorporated organisation gets into debt or has other legal problems, the people who have responsibility for the organisation (the management committee, if there is one, or all the members) can be held personally responsible for the difficulties. They have legal liability for whatever mess the organisation gets itself into.

#### Ways to limit individual liability

There are several ways to reduce the risk to individual members of the management committee or other governing body:

- Members of the governing body must always act sensibly and responsibly in making decisions about the organisation. This means getting proper information from staff or professional advisers, discussing issues fully; and not taking on obligations they know the organisation might not be able to fulfil.
- Individuals who sign legal or financial undertakings should make it clear, in writing, they are signing on behalf of the organisation rather than as individuals. If possible, they should indicate that their liability is 'limited to the extent of the assets of the organisations'.
- If an individual committee member thinks a decision is irresponsible, she or he can be publicly disassociated from it. If this disassociation is properly minuted, the individual may not be held responsible for any liability arising from the decision.
- The organisation should have all legally required insurances and sufficient other insurance to cover possible claims.
- It is possible to get insurance to indemnify (repay) committee members for any personal liability they incur on behalf of the organisation.
- If the organisation hires several staff, owns premises, or has other long term financial commitments, it should consider incorporation.

### Incorporated organisations

An incorporated organisation has an existence of its own, as a legal body separate from its individual members. The organisation can, in its own name, rent or buy property, hire workers, borrow money or take legal action. This is sometimes referred to as having legal personality.

- In a company limited by shares members (shareholders) invest money in the company in order to make a profit. This structure is not appropriate for voluntary organisations but is sometimes used for trading subsidiaries.
- An industrial and-provident society (IPS) is a genuine co-operative, or a business or industry 'acting for the benefit of the community'. A community business, housing association or voluntary organisation involved in producing and selling goods or other training activities can become an IPS.
- A company limited by guarantee is an appropriate structure for a voluntary group which exists for a social or political reason and puts any profits back into the group. Most voluntary or community groups which incorporate become companies limited by guarantee.

### Extent of individual liability

The members of a company limited by guarantee will guarantee (promise) to pay a small amount, usually £1 or £5, if the organisation gets into financial trouble. Their liability is normally limited to this amount. However, if the Company becomes insolvent and is wound up following wrongful trading (where directors knew or ought to have known before the Company went into liquidation that there was no reasonable prospect that the Company would avoid liquidation) or, fraudulent trading (where the Company business was carried on to defraud creditors), directors and other members of the Company may be ordered to contribute to the Company assets.

5.7 Feb 2018

Members of the company might be all the current members of the organisation, the founding members, or some or all of the members of the management committee or other governing body. This will be set out in the constitution, which is called the memorandum and articles of association. The memorandum sets out the organisation's objects and what it can do (its powers); the articles set out its rules and procedures.

The liability of company directors (usually the same as the management committee) is limited in the same way. However company directors can lose this protection if it can be shown that they have acted negligently (irresponsibly) or fraudulently (dishonestly). And under the Insolvency Act 1986 company directors can be held personally liable in cases of wrongful trading. This is where a company continues to operate when the directors know, or could reasonably have been expected to know, that it does not have a reasonable hope of being able to meet its financial obligations when they come due.

If the company is also a charity, the company directors will also be charity trustees. As trustees they can be held personally liable (even though the organisation is incorporated) if the charity's funds are used for purposes which are outside its objects or powers.

To a large extent incorporation reduces the risk of members of the management committee (or separate board of directors, if there is one) being held personally liable if the organisation gets into debt or gets into other trouble. But there is still considerable risk if the committee operates irresponsibly.

All registered charities must have charity trustees (sometimes called managing trustees) who have ultimate responsibility for the organisation. In some charities the trustees delegate some management responsibilities to another body, which might be called a management committee but does not have ultimate responsibility. In this situation the relationship between the two groups must be clearly set out in terms of reference.

Charity trustees cannot 'profit' from the charity. This means they cannot be employed by the organisation, even for part-time or temporary work. Conversely, employees of a charity cannot be trustees and cannot be voting members of the

5.7 Feb 2018

committee if the committee is also the trustee body. (Employees can, of course, attend meetings and participate if the trustees so wish).

Most charities must submit their accounts each year to the Charity Commission and to the Inland Revenue if they want to claim the tax benefits which charities enjoy.

The Charity Commission can advise on any aspect of charity registration or charity law, and should be contacted if there is any doubt about what a charity can and cannot do.

#### Incorporation of charity trustees

It is possible for a charity to incorporate its trustee body, while not incorporating the organisation as a whole. This enables the organisation to own property and enter into contracts or other legal arrangements in its own name, rather than through individuals acting on behalf of the organisation. This type of incorporation does not, however, limit the personal liability of the trustees in any way. Further information is available from the Charity Commission.

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## **Burnley Borough Council**

### **Local Code for Corporate Governance**

#### **1. Introduction**

Corporate Governance is the system by which Local Authorities direct and control their functions and relate to their communities. The basic principles of good Corporate Governance require the Council to carry out its functions in a way that demonstrates accountability, effectiveness, integrity, inclusivity and is up to date.

This code is a public statement of the Council's commitment to these principles and sets out the way in which it will meet that commitment. The main body of the code is divided into five sections, each of which covers a particular dimension of the Council's responsibilities for corporate governance. Under each section the means by which the Council will meet and demonstrate its commitment to good Corporate Governance in relation to that particular dimension is exemplified.

#### **2. Community Focus**

The Council is committed to working with and for the local community to ensure that the objectives set out in the Strategic Plan respond to the needs of the community. In order to achieve this the Council will:

- 2.1 Publish annually a strategic plan which sets out the Council's objectives for three years.
- 2.2 Publish on or before 30<sup>th</sup> September each year, the Statement of Accounts presenting an objective and audited description of its financial position and performance in the preceding year.
- 2.3 Actively co-operate with external auditors & inspectors to ensure that there is independent scrutiny of its financial and operational reporting processes.
- 2.4 Put in place arrangements designed to ensure that individuals and groups from all sections of the community are encouraged to contribute to and participate in, the Council's activities.
- 2.5 Conduct its business on an open basis wherever possible and in compliance with all statutory requirements.
- 2.6 Establish clear channels of communication with all sections of the community and put in place proper monitoring arrangements to ensure that they are operating effectively.
- 2.7 Work with community partners and residents to ensure that the vision and strategies for local communities are incorporated into the Community Plan.
- 2.8 Promote citizenship by active involvement with young people.

#### **3. Service Delivery Arrangements**

The Council is committed to securing to continuing improvement in the delivery of its services. To meet this commitment the Council will:

- 3.1 Seek to provide elected members & officer structures that deliver value for money services to the public and that the members and officers have appropriate training to competently deliver their respective roles.
- 3.2 Ensure good stewardship of public funds and will allocate these funds according to its stated objectives.
- 3.3 Seek to provide its services in a way that ensures equality of opportunity for both residents and staff. It will carry out regular Equality Impact Assessments to ensure that sufficient focus is maintained on these issues.
- 3.4 Maintain its commitment to improving performance and will have comprehensive performance plans in place to ensure that this is achieved.
- 3.5 Using balance scorecards monitor performance on a quarterly basis against performance indicators and agreed service standards
- 3.6 Seek to develop partnerships with other organisations including public, private and third sector service providers where these can reduce costs without compromising the quality of service provided.
- 3.7 Ensure that significant partnerships have appropriate governance arrangements to support the delivery of services and stewardship of public funds.

#### **4. Structures and Processes**

The Council is committed to establishing and maintaining appropriate structures and procedures to govern its decision-making. In order to meet this commitment, the Council will:

- 4.1 Ensure that the roles and responsibilities of individual elected members, Council committees and officers are clearly set out in the published constitution.
- 4.2 Ensure that the Council, the Executive, and Committees and Sub-Committees meet as set out in a published timetable. Meetings will be open to the public unless there are confidential matters to be discussed and for which there is a statutory reasons that justifies the exclusion of the public, and where appropriate allow members of the public to address the meeting on matters that are relevant to items that are included on the agenda.
- 4.4 Ensure that the Council sets out a clear direction that it will follow through the annual publication of the Strategic Plan. Other supporting documents and strategies including the Revenue & Capital Budgets will also be publicly available.
- 4.5 Ensure that the Council acts lawfully and that its decisions are appropriately authorised, and its activities are carried out in accordance with these decisions and statutory requirements.
- 4.6 Ensure that the Chief Executive has overall responsibility for the operational management of the Council.
- 4.7 Ensure that a properly skilled and qualified senior manager (The "Section 151 Officer") is appointed to ensure that proper advice can be given on financial matters and that sound financial management is maintained throughout the authority.
- 4.8 Ensure that a properly skilled senior manager (The "Monitoring Officer") is appointed to ensure that proper advice can be given on legality and standards of conduct issues and that high ethical standards are promoted and maintained throughout the authority.
- 4.9 Maintain an effective and comprehensive training programme for elected members.
- 4.10 Maintain an effective Complaints Procedure that enables members of the public to complain about poor standards of service.
- 4.11 Ensure that effective processes are in place to enable the Council to comply with all statutory requirements.



- 4.12 Ensure that elected members and employees of the Council are not influenced by prejudice, bias or conflicts of interest when contracting or procuring by maintaining and keeping up to date Council Financial Regulations and Contract Procedure Rules.

## **5. Risk Management and Internal Control**

The Council is committed to the highest standards of care and control over the assets and resources at its disposal and to ensure that these are protected as far as possible from the risk of loss, damage or misuse. In order to meet this commitment, the Council will:

- 5.1 Maintain robust systems for identifying and evaluating all significant risks. There will be an assessment of risk in each service plan, and in all decisions taken by the Council and the Executive.
- 5.2 Maintain an effective risk management system and systems of internal control. These will include an effective internal audit function and the Council will be mindful of any advice given by the external auditors as to the adequacy of resources devoted to the internal audit function.
- 5.3 Ensure that all systems of risk management and internal control are subject to regular review.
- 5.4 Ensure that the Annual Statement of Accounts is accompanied by objective Annual Governance Statement, including a Statement of Internal Control.

## **6. Standards of Conduct**

The Council believes that good corporate governance is based on the highest levels of integrity and professionalism being applied when conducting the affairs of the authority. The Council is committed to ensuring that these high standards are maintained and that elected members and officers demonstrate a high level of leadership and public service commitment. In order to meet this commitment, the Council will:

- 6.1 Maintain and regularly review formal codes of conduct for elected members and officers that regulate the standards of behaviour and integrity to which these individuals must adhere.
- 6.2 Encourage elected members and senior officers of the Council to exercise leadership by conducting themselves in a manner that acts as a role model for others within the Council to follow.
- 6.3 Maintain and support a Standards Committee to promote high ethical standards of conduct.
- 6.4 Maintain a grievance and disciplinary procedure to ensure that the highest standards of conduct are maintained by its officers and to investigate allegations that behaviour has fallen by these standards.
- 6.5 Ensure that all its procedures and processes are designed to reinforce integrity and selflessness and resist bias, prejudice, discrimination and conflicts of interest.
- 6.6 Have a "Whistle Blowing" procedure in place that enables elected members, officers, and members of the public to report any incidence of behaviour that falls short of the required standards.

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5.9 –28.09.22

## **Protocol for Awards to Recognise Service to the Community or the Council**

The Council can make the following awards:

### **Awards to Organisations and Individuals**

#### **Honorary Freedom**

This is the highest Honour that the Council can award and the right to give it is contained in S.249 of the Local Government Act 1972. It confers no rights. The nomination criteria and an established protocol are set out in Appendix 1. To maintain its special status it should not be given lightly or too often.

#### **Certificate of Honour**

An award to any member of the community.

The nomination criteria and a protocol are set out in Appendix 1.

#### **Business Awards**

This is a long-standing scheme well supported by the business community. It is held biennially.

#### **National Honours**

All councils are invited from time to time by the Ceremonial Secretariat of the Cabinet Office to consider any nominations they may wish to make. The process is also open to other organisations and to the public to make nominations.

### **Awards for Councillors or former Councillors**

#### **Honorary Alderman**

This can only be awarded to past members of the Council. The right to appoint them is contained in S.249 of the Local Government Act 1972. They do not become members of the council but can attend civic ceremonies and support the Mayor

The nomination criteria and a protocol are set out in Appendix 1.

### **Long Service Award**

The long service award scheme recognises the commitment and dedication of councillors who have served as elected members of Burnley Borough Council and its antecedents for eight years or more and 20 years or more, whether or not they have been given an award in the past.

Long Service Awards are presented annually, at the last meeting before the Appointments Council, in the form of a framed certificate.

For the purposes of determining which Members should be granted Long Service Awards, the same criterion is applied to determine service as that which is applied for the calculation of service for appointment of Mayor as outlined in part 5.5 of the Council's Constitution and states that:

"Continuous Service" shall relate to service with the Borough Council and its antecedent Councils, subject:

a) to the provision that broken periods of service separated by a break not exceeding four years and one month shall be aggregated for the purposes of calculating "continuous service"

### **Office of Mayor**

Whilst not strictly speaking an award, appointment to the Office of Mayor is given on the basis of length of service. Being appointed as the Borough's first citizen and Chair of the Council is a position of responsibility and status

### **Process**

Apart from the Business Awards, annually the Member Structures Working Group will determine which of these award schemes should be initiated and then invite nominations from all members. The Member Structures Working Group will agree any additional publicity arrangements

The Business Awards will be made biennially using the Panel established for that purpose.

## **Appendix 1**

### **Nomination criteria – Freeman of the Borough**

1. Nominations must show by example that the nominee is a 'person of distinction and/or a person who has rendered eminent services to the Borough'.
2. In keeping with special nature of the award conferment should be strictly limited to those who have made a very significant contribution to the locality. It should be noted that the Council can award a Certificate of Honour which is intended to recognise those who have made an important contribution to the community especially in a voluntary capacity.
3. Serving Councillors cannot be considered as these is a separate statutory provision for conferring the title of 'Honorary Alderman' on former Councillors.
4. No more than one nomination each year will be considered unless there are exceptional circumstances
5. Honours of this kind will normally be restricted to residents who have made a significant contribution to the Borough over a period of more than 15 years
6. The recipient should be of good character and be widely known for their contribution to the Borough throughout the Borough area.
7. Self Nomination or lobbying may result in the nomination being rejected

The Member Structures Working Group will consult all political group leaders and the Mayor on receipt of a nomination prior to its consideration by the Full Council. The Council can confer the title Freeman or Freewoman

### **Definition**

There is no definition of "eminent service" to the Borough but it would include service over and above that provided by members of the general public or by people in paid office. e.g. voluntary charitable work.

### **Nomination criteria – Honorary Alderman**

1. Nominations must show by example that the nominee is a 'person of distinction and/or a person who has rendered eminent services to the Borough'. whilst being a Member of Burnley Borough Council.
2. In keeping with the special nature of the award conferment should be strictly limited to those who have made a very significant contribution to the locality. It should be noted that the Council already has a Civic Awards Ceremony which sets out to award those who have made an important contribution to the community especially in a voluntary capacity.
3. Serving Councillors cannot be considered.

4. No more than one nomination each year will be considered unless there are exceptional circumstances
5. Honours of this kind will normally be restricted to residents who have made a significant contribution to the Borough over a period of more than 15 years
6. The recipient should be of good character and be widely known for their contribution to the Borough throughout the borough area
7. Self-nomination or lobbying may result in the nomination being rejected

The Member Structures Working Group will consult all political group leaders and the Mayor on receipt of a nomination prior to its consideration by the Full Council. The Council can confer the title Alderman or Alderwoman.

**Definition**

There is no definition of “eminent service” to the Council. The Council is free to determine what would constitute eminent service in line with the set criteria.

**Nomination criteria - Certificate of Honour**

1. The award can be made to an individual or organisation.
2. It is to recognise significant service to the community where that contribution has made a difference especially, but not exclusively, in a voluntary capacity.
3. There is no limit on the number of nominations that can be made each year
4. Self-nomination or lobbying may result in the nomination being rejected

5.10 August 2015

## **Protocol – Members of the Audit and Standards Committee and any Sub-Committee**

### **Main Role**

- To promote and maintain high standards of conduct by Members and Co-opted Members of the Authority.
- As a member of the Audit and Standards Committee, to advise the Council on the adoption or revision of its Code of Conduct.
- As a member of the Audit and Standards Committee/Sub-Committees, to monitor and advise the Council about the operation of its Code of Conduct in light of best practice, changes in the law, and guidance from the relevant statutory bodies .
- As a member of the Audit and Standards Committee, to actively promote and engage with the Borough, Parish and Town Councils to ensure access to appropriate training in all aspects of the relevant Code of Conduct, and to ensure that members are aware of the standards expected of them under the Code.
- As a member of the Audit and Standards Committee/Sub-Committees, to ensure that judgments are impartial.

### **Duties and Main Responsibilities**

- Promoting and maintaining high standards of conduct by Members and Co-opted Members of the Authority.
- Assisting Members and Co-opted Members to observe the Authority's Code of Conduct
- Monitoring and advising on the adoption, revision and operation of the Authority's Code of Conduct
- To carry out the functions relating to standards of conduct of members under any relevant provision of or regulations made under the Local Government Act 2000.
- Considering reports in relation to alleged breaches of the Code of Conduct.
- As a member of the Audit and Standards Committee, to consider and determine appropriate action on either breaches or alleged breaches by members of the relevant Codes of Conduct and protocols, in accordance with the relevant adopted procedures.
- As a member of the Audit and Standards Committee, to advise the Council on the adoption of protocols relating to conduct of Members and their relationship with officers.
- To undertake appropriate training in order to fulfil the role of a member of the Audit and Standards Committee.

5.10 August 2015

- Engaging with Borough, Parish and Town Councils to ensure that appropriate training on the Code of Conduct is available and undertaken.
- To maintain a working knowledge of any relevant provisions of or regulations made under the Local Government Acts in relation to Code of Conduct issues and any advice and guidance received from relevant statutory bodies.
- To develop and maintain a working knowledge of the Council's policies, services and activities so far as they relate to the role and remit of the Audit and Standards Committee.
- As a member of the Audit and Standards Committee or Sub-Committees to be involved in alleged breaches of the Code of Conduct or the Council's protocols solely as part of the Audit and Standards Committee hearing procedures
- To retain confidentiality when involved in investigations.
- To exercise the above in relation to Town and Parish Council members.

Breach of this Protocol could result in a complaint to the Audit and Standards Committee.

If in doubt seek advice from Lukman Patel, Monitoring Officer  
Tel: 01282 425011 ext 7140 Email: lpatel@burnley.gov.uk



## **Protocol for Independent Members of the Audit and Standards Committee**

This Protocol applies to you as an independent member of the Audit and Standards Committee. In addition, the Protocols for Members of the Audit and Standards Committee and Sub-Committee and Chair of the Audit and Standards Committee (where relevant) also apply to you.

For the purposes of this document, a 'relevant authority' is defined in section 49(6) of the Local Government Act 2000. It includes all local authorities and other public bodies e.g. fire authorities and police authorities.

1. You are expected to demonstrate a high degree of personal integrity and to have an appreciation of the ethical standards required of people holding public office.
2. You should not engage in any behaviour which a member of the public with knowledge of the relevant facts would reasonably regard as compromising your position.
3. Whilst membership of a political party (including a branch of such a party) is not prohibited (but see paragraph 5 below), you may not:
  - (a) be an officer of the party or participate in the general management thereof;
  - (b) be a member of any committee or sub-committee of the party;
  - (c) stand for election to public office, either on behalf of a political party or as an independent;
  - (d) nominate, second or assent to the nomination of any candidate for election to public office;
  - (e) canvass on behalf of a political party or on behalf of a person who is, or who proposes to be, a candidate for election to public office; or
  - (f) be a member or an officer of the Council or of any other relevant authority (see paragraph 7 below).

For the avoidance of doubt, you will need to cease such activities or involvement when appointed to the Audit and Standards Committee.

6. In accordance with its Council's Equality Policy, the Council has a duty as a public authority under the Race Relations Amendment Act 2000 to:
  - eliminate unlawful discrimination;
  - promote equality of opportunity; and
  - promote good relations between persons of different groups

and this precludes you from being a member of any political party whose constitution, aims, objectives or pronouncements are inconsistent with this duty.

7. Membership on the Council's Audit and Standards Committee does not preclude you from being an independent member of another relevant authority's Standards Committee.

Breach of this Protocol could result in a complaint to the Audit and Standards Committee.

5.10 August 2015

## **Protocol – Audit and Standards Committee Chair**

### **Role Purpose**

Under the direction of the Council and the Audit and Standards Committee:-

- To act as the spokesperson of the Audit and Standards Committee to the Borough, Town and Parish Councils.
- To contribute fully as a member of the Audit and Standards Committee.

### **Key Responsibilities**

- Ensure that you are sufficiently and effectively briefed on the issues within the Committee's terms of reference.
- Ensure that members of the Committee adhere to the relevant Rules of Procedure and Codes of Conduct contained in the Council's Constitution.
- Ensure the effective and orderly operation of the Committee.
- Ensure that the Committee has proper regard to the advice of the Monitoring Officer and his/her deputy.
- Ensure meetings of the Committee are regulated in accordance with the Rules of Procedure and are conducted in an orderly structured manner enabling effective debate.
- Ensure that all judgements made by the Committee and its Sub-Committees are impartial and in reaching a judgement, all relevant facts are considered.
- Ensure that the Committee follows approved procedures, codes and protocols.
- As a member of the Audit and Standards Committee, to report back to the Council on the work of the Audit and Standards Committee.
- Meet with the Monitoring Officer or his/her nominee to ensure the receipt of appropriate advice to inform effective functioning of the Committee.

If in doubt seek advice from Lukman Patel, Monitoring Officer  
Tel: 01282 425011 ext 7140 Email: lpatel@burnley.gov.uk

**Protocol for Town/Parish Councillors serving on the Audit and Standards Committee**

This Protocol applies to you as a Town/Parish Councillor serving on the Audit and Standards Committee. In addition, the Protocol for Members of the Audit and Standards Committee and Sub Committee also applies to you.

1. As a member of the Audit and Standards Committee, to have the respect of the Town/Parish Council by ensuring that you make judgments impartially.
2. As a member of the Audit and Standards Committee, to monitor and advise the Town/Parish Council about the operation of its Code of Conduct in light of best practice, changes in the law and guidance from relevant statutory bodies and the Monitoring Officer.
3. As a member of the Audit and Standards Committee, to actively promote and engage with the Council/Parish and Town Councils to ensure access to appropriate training in all aspects of the relevant Code of Conduct, and to ensure that members are aware of the standards expected of them under the Code.
4. For the avoidance of doubt, Parish/Town Council members are permitted to be members of a political party and otherwise engage in such political activities as set out in paragraph 3 of the Protocol for Independent Members.

Breach of this code could result in a complaint to the Audit and Standards Committee.

If in doubt seek advice from Lukman Patel, Monitoring Officer  
Tel: 01282 425011 ext 7140 Email: lpatel@burnley.gov.uk

## Protocol for the Monitoring Officer

### A. Statutory Responsibilities

The Monitoring Officer is a statutory appointment under Section 5 of the Local Government and Housing Act 1989 as amended by paragraph 24 of Schedule 5 Local Government Act 2000. This Protocol sets out how those statutory requirements will be discharged at Burnley Council.

The current responsibilities of the Monitoring Officer role rest with the relevant Officer appointed by Full Council who undertakes to discharge his/her statutory responsibilities in a manner that enhances the overall reputation of the Council. In doing so s/he will also safeguard, so far as is possible, Members and Officers whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.

#### **(a) The main functions of the Monitoring Officer are:-**

To report to the Council and to the Executive in any case where s/he is of the opinion that any proposal or decision of the Council has given rise to or is likely to or would give rise to any illegality, maladministration or breach of statutory code under Sections 5 and 5A of the Local Government and Housing Act 1989 (LGHA 89);

1. To investigate any matter which s/he has reason to believe may constitute, or where s/he has received an allegation that a matter may constitute, a reportable incident under Sections 5 and 5A of the LGHA 89;
2. To act as the principal adviser to the Council's Audit and Standards Committee and Sub Committees;
3. To maintain the register of Members' interests;
4. To maintain the register of Officers' interests; and
5. To undertake, with others, investigations in accordance with the Council's Whistleblowing procedures;

#### **(b) In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:-**

1. Complying with the law (including any relevant Codes of Conduct);
2. Complying with any General Guidance issued, from time to time, by the Audit and Standards Committee and/or the Monitoring Officer;
3. Making lawful and proportionate decisions;
4. Complying with the Council's Constitution and standing orders;
5. Generally, not taking action that would bring the Council, their offices or professions into disrepute; and
6. Communicating effectively with the Monitoring Officer and seeking advice on any issues relating to constitutional or ethical matters.

The main statutory references for the Monitoring Officer's functions are set out in Appendix 1.

## **B. Working Arrangements**

It is important that Members and Officers work together to promote the corporate health of the Council. The Monitoring Officer plays a key role in this and it is vital therefore, that Members and Officers work with the Monitoring Officer (and his/her staff) to enable him/her to discharge his/her statutory responsibilities and other duties.

**(a) The following arrangements and understandings between the Monitoring Officer, Members and Chief Officers are designed to ensure the effective discharge of the Council's business and functions.**

The Monitoring Officer must:-

1. Be alerted by Members and Officers to any issue(s) that may become of concern to the Council, including, in particular issues around legal powers to act or fail to act, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
2. Have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Council at which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken) at or before the Council, the Executive, committee meetings and/or Executive Team (or equivalent arrangements);
3. Have the right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the Council, the Executive, Committee meetings and/or Executive Team (or equivalent arrangements);
4. In carrying out any investigation(s) have unqualified access to any information held by the Council and to any Member or Officer who can assist in the discharge of his/her functions;
5. Ensure the other statutory Officers (Head of Paid Service and the Chief Financial Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
6. Meet regularly with the Head of Paid Service and the Chief Financial Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
7. Report to the Council, from time to time, on the Constitution and any necessary or desirable changes following consultation, in particular, with the Executive Leader, the Head of Paid Service and Chief Financial Officer;
8. In accordance with statutory requirements, make a report to the Council as necessary, on the staff, accommodation and resources s/he requires to discharge his/her statutory functions;
9. Have an effective working liaison and relationship with the Leader of the Council, Deputy Leader, Audit and Standards Committee and

- Scrutiny Committee with a view to ensuring the effective and efficient discharge of Council business;
10. Develop effective working liaison and relationship with the relevant statutory bodies regarding Standards , the Audit Commission and the Local Government Ombudsman;
  11. Maintain and keep up-to-date relevant statutory registers for the declaration and registration of Members' interests, gifts and hospitality;
  12. Maintain and keep up-to-date a register for the registration of Officers' interests;
  13. Give informal advice and undertake relevant enquiries into allegations of misconduct (in the absence of a written complaint being received by the Audit and Standards Committee) and, if appropriate, make a written report to the Audit and Standards Committee (unless the Chair of the Audit and Standards Committee agrees a report is not necessary);
  14. Undertake all statutory Monitoring Officer functions in respect of the Town and Parish Councils of the Borough and make arrangements to ensure effective communication between his/her office and the respective Clerks on
  15. Monitoring Officer and Audit and Standards Committee issues;
  16. Subject to the approval of the Audit and Standards Committee, be responsible for preparing any training programmes for Members, staff and partners on ethical standards and Code of Conduct issues;
  17. Support the implementation and operational effectiveness of the Code of Corporate Governance;
  18. Advise on all applications from Council employees (or prospective employees) for exemption from political restriction in respect of their posts;and
  19. Appoint a deputy and keep him/her briefed on any relevant issues that s/he may be required to deal with in the absence of the Monitoring Officer. The Deputy will only act in the absence of the Monitoring Officer if urgent action is required which cannot await the return of the Monitoring Officer.

To ensure the effective and efficient discharge of the arrangements set out above, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other vires or constitutional concerns to the Monitoring Officer, as soon as practicable.

The Monitoring Officer will seek to resolve potential reportable incidents by avoiding the illegality or otherwise, or by identifying alternative and legitimate means of achieving the objective of the proposal.

Where the Monitoring Officer receives a complaint of a potential reportable incident, s/he shall in appropriate cases seek to resolve the matter amicably, by securing that any illegality, failure of process or breach of code is rectified, that the complainant is informed of the rectification, with or without a compensation payment and/or apology. However, it is recognised that the Monitoring Officer may determine that the matter is of such importance that a statutory report is the only appropriate response.

In appropriate cases, the Monitoring Officer may rely upon existing processes within the Council (such as internal appeals procedures or insurance arrangements) to resolve any potential reportable incident, but may intervene

in such processes to identify that the particular matter is a potential reportable incident and to ensure the satisfactory resolution of the issue.

In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer shall be entitled to add his/her written advice to the report of any other Officer of the Council.

Notwithstanding the above, the Monitoring Officer retains the right in all cases to make a statutory report where, after consultation with the Chief Executive and the Chief Finance Officer, s/he is of the opinion that this is necessary in order to respond properly to a reportable incident. In addition, in appropriate cases, the Monitoring Officer may refer matters to the Police for investigation.

The Monitoring Officer is available for Members and Officers to consult on any issues of the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (eg Standing Orders, policy framework, terms of reference, scheme of delegations etc).

To ensure the effective and efficient discharge of this Protocol, the Council will ensure adequate insurance and indemnity arrangements are in place to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role.

### **C. Sanctions for breach of Burnley Council's Code of Conduct for Members and this protocol**

Complaints about a breach of the Council's Code of Conduct for Members may be referred to the Audit and Standards Committee.

Complaints about a breach of this Protocol by a Member may be referred to the Audit and Standards Committee and to the relevant Leader and/or Chief Whip of the Political Party Group. Complaints about any breach of this Protocol by an Officer may be referred to the Chief Operating Officer and/or the Chief Executive.



Appendix 1 - Monitoring Officer Protocol  
Summary of Main Monitoring Officer Functions

	<b>Description</b>	<b>Source</b>
1	Report on contraventions or likely contraventions of any enactment or rule of law	Section 5 Local Government and Housing Act 1989
2	Report on any maladministration or injustice where Ombudsman has carried out an investigation	Section 5 Local Government and Housing Act 1989
3	Appointment of Deputy	Section 5 Local Government and Housing Act 1989
4	Report on resources	Section 5 Local Government and Housing Act 1989
5	Receive copies of whistleblowing and allegations of misconduct	Code of Conduct for Members and Co-opted Members of Burnley Council
6	Investigate allegation of misconduct/take alternative action in accordance with a direction of the Audit and Standards Committee	Local Government Act 2000
7	Establish and maintain registers of Members interests and gifts and hospitality	Section 81 LGA 2000 and Code of Conduct for Members and Co-opted Members of Burnley Council
8	Advice to Members on interpretation of Code	Code of Conduct for Members and Co-opted Members
9	Key role in promoting and maintaining high standards of conduct through support to the Audit and Standards Committee	Relevant statutory bodies regarding Standards Guidance and notable practice
10	Liaison with relevant statutory bodies regarding Standards	New ethical framework, practical implications
11	Ethical framework functions in relation to Parish Councils	Section 83(12) LGA 2000
12	Advice on vires, maladministration, financial impropriety, probity and policy framework to all Members	Constitution, law and CLG guidance

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## **Burnley Borough Council**

### **Policy on Recording and use of Social Media at Council and other meetings open to the Public**

#### **Introduction**

1. This protocol provides guidance to members of the public, press and Councillors on the use of mobile phones, social media and filming and recording at formal meetings of Burnley Council, Executive and Committees.
2. Social media refers to the use of web-based technologies to share information and to interact with online communities, e.g. blogs, Twitter, Facebook.

#### **Filming or Recording meetings**

3. The filming, videoing, photographing or recording of Council meetings or other meetings which are open to the public is allowed provided it does not disrupt the meeting. The Council will provide reasonable facilities to enable this to happen, so far as it practicable
4. Individuals or organisations who wish to record by any means are advised to contact the Council's Democracy team at least one day before a meeting to discuss and agree arrangements for recording. (e-mail [democracy@burnley.gov.uk](mailto:democracy@burnley.gov.uk)) or at the very least inform the Democracy Officer and/or Chair before the start of the meeting that they intend to record.
5. The Chair of the meeting will have absolute discretion to stop or prevent any filming, videoing; photographing or recording of meetings if, in the opinion of the Chair, it is disruptive or otherwise disturbs the conduct of the meeting or is likely to do so.
6. At the beginning of any meeting, where it is known that filming, recording or photography will be taking place the Chair will make an announcement to that effect.
7. Anyone filming or photographing meetings should only focus on recording councillors, officers and any speakers i.e. those directly involved in the conduct of the meeting.
8. Any person can provide oral commentary outside or after the meeting. Oral commentary on a meeting as it takes place is not allowed as this would be disruptive to the meeting.

9. If a meeting passes a motion to exclude the press and public then, in conjunction with this, all previous rights to record the meeting by any means are immediately cancelled. Filming or recording equipment must not be left in the meeting room during private sessions.
10. Those intending to bring large equipment, or wishing to discuss any special requirements are advised to contact the Council's Communications Team (e-mail [communications@burnley.gov.uk](mailto:communications@burnley.gov.uk)) or the Democracy Team (email [democracy@burnley.gov.uk](mailto:democracy@burnley.gov.uk)) in advance of the meeting to agree arrangements. The use of flash photography or additional lighting will not be allowed unless this has been discussed in advance of the meeting and agreement reached on how it can be done without disrupting proceedings.
11. Unless otherwise agreed in advance of the meeting, recording and reporting must take place from the public seating area or press desk and should be overt. If a person with known learning difficulties or mental health issues is expected to be speaking at the meeting then there will be a need to ensure they have given informed consent to be filmed. If a young person under 18 years of age is expected to be speaking at the meeting then parental consent should be sought for them to be filmed. The Chair will decide if this has been achieved and if not satisfied that it has been achieved will request that recording does not take place while they are speaking.
12. Those recording proceedings should not edit the film, recording or photographs in a way that could lead to misinterpretation of the proceedings, or infringe the core values of the Council. This includes not editing an image or views expressed in a way that may misrepresent, ridicule, or show a lack of respect towards those being photographed, filmed or recorded.
13. The use of images or recordings that arise from recording is not under the Council's control. The Council only allows such reporting and recording to take place in accordance with its legal obligations and takes no responsibility for, nor will accept any liabilities for, any filmed, recorded or photographed material made by any person or its subsequent use or publication.

### **Use of Mobile Devices**

14. During meetings all phones or other mobile devices must be set to silent mode whether or not they are being used to record, or switched off.
15. No Councillor or Officer in attendance, whether as a member of the meeting or as an observer, is permitted to use social media or mobile devices during a

private session (when the press and the public are excluded), or to disclose in any way the content of the items under discussion.

16. The Members' Code of Conduct will apply when using social media. Inappropriate comments made during a meeting could open Councillors to potential complaints or investigation under the Code of Conduct.

### **Disturbance by Recording etc.**

17. If recording is considered to be disruptive or otherwise disturbs the conduct of the meeting the Chair will apply the provisions of Council Procedure Rule 21 set out below:

#### **21. DISTURBANCE BY PUBLIC**

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

If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the chair will order their removal from the meeting room. The Chair may adjourn the meeting to allow the member of the public to be removed, either by officers or the police.

##### **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 Chair may call for that part to be cleared.

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## **Protocol for the Section 151 Officer (also known as the Chief Finance Officer)**

### **Introduction**

The Chief Finance Officer occupies a critical position in the Council. The issues set out in this protocol reflect the core principles identified in the statement of the role of the Chief Financial Officer in Local Government published by the Chartered Institute of Public Finance & Accountancy.

### **A. Statutory Responsibilities**

The responsibilities of the Chief Finance Officer role rest with the Head of Finance and Property who is the Council's Section 151 Officer. The overriding duty of the Chief Finance Officer is to fulfil the statutory responsibilities attached to the position in a manner that enhances the overall reputation of the Council.

The Chief Financial Officer's statutory duties derive from the 6 principle sources of law as set out below:

- **Case law** - In *Attorney General -v- De Winton (1906)*. It was established that the Treasurer is not merely a servant of the Council but holds a fiduciary relationship to the local taxpayers;
- **Responsible Finance Officer - Section 151 of the Local Government Act 1972** requires every Council in England and Wales to "... *make arrangements for the proper administration of their Finance affairs and shall secure that one of their Officers has responsibility for the administration of those affairs*". Legal opinion taken states that the term "*administration*" means responsibility for managing the totality of the Finance affairs of a local Council in all of its dealings.
- The Officer appointed as the responsible Chief Finance Officer must, by **section 113 of the Local Government Finance Act 1988**, be a Member of a specified accountancy body. The statutory role must be performed by an "Officer" of the Council. **Unlawful Expenditure and an Unbalanced Budget - the Chief Finance Officer's duties are significantly extended by section 114 of the 1988 Act** which requires a report to all Members to be made by that Officer in consultation with the Monitoring Officer and Head of Paid Service if there is, or is likely to be, unlawful expenditure or an unbalanced budget. Section 114 also requires the Council to provide its Chief Finance Officer with such staff, accommodation and other resources as are in his opinion sufficient to allow his duties under that section to be performed. When a decision may involve unlawful expenditure or a loss or deficiency or an unlawful item of account as a result of the exercise of executive functions then the Chief Finance Officer must submit his/her report to the Executive. He or she must also send copies of the report to every Member of the Council and the External Auditor.

The Executive must consider the report within 21 days and all action in

respect of the report must be suspended until it has been considered by the Executive. This is referred to as the "prohibition period". After considering the report the Executive must provide a report to the Council, the Chief Finance Officer and the External Auditor explaining what action if any is to be taken and the reasons for that action or for not taking action.

- **Local Government Act 2000** - the Chief Finance Officer and the Monitoring Officer have a role in advising whether particular decisions are likely to be contrary to the policy framework or budget of the Council. The Council must ensure that the Chief Finance Officer and the Monitoring Officer have access as necessary to meetings and papers and that Members must consult with him/her regularly. The model Code of Conduct for Members requires Members to have regard to advice provided by the Chief Finance Officer in any formal report that s/he submits under section 114 of the Local Government Finance Act 1988.

The Chief Finance Officer (like the Head of Paid Service & the Monitoring Officer) may not be suspended for more than 2 months for the purpose of investigating misconduct unless it is in accordance with the recommendation in a report made by an independent person.

The Section 151 role is categorised under the 2000 Act as a non-executive function and the Chief Finance Officer is designated as a "Statutory Chief Officer". This means that his/her appointment is the responsibility of the Council and not the Executive. The appointment cannot be delegated to the Head of Paid Service or his/her nominee.

- **Accounts and Audit Regulations 2015** emphasise the need for effective Finance management and sound systems of internal control. They require that the Council should maintain an adequate and effective system of internal audit for their accounting records and control systems. It is a function of the Chief Finance Officer to direct Internal Audit and ensure that it is adequate for the Council's purposes.

- **Local Government Act 2003** - the Chief Finance Officer is required to: Report to the Council at the time that the budget is considered and the Council Tax set on both the robustness of the budget estimates and the adequacy of Finance reserves. He/she must ensure that the guidelines and ratios set down for the purposes of Prudential Capital regime are adhered to once fixed and report to Council if they are going to be infringed.

## **B. The Position and Influence of the Head of Finance and Property**

At Burnley Council, there is a single Chief Finance Officer designated as the Head of Finance and Property who is a qualified member of a specified accountancy body and who is vested with the statutory responsibilities for maintaining Finance administration and stewardship including the responsible Finance Officer duties and with strategic and corporate roles.

The Head of Finance and Property is a member of the The Council's Management Team with specific responsibility of ensuring that finance and



funding implications are factored into discussions from the outset. The Head of Finance and Property has rights of access to all meetings of the Executive, Council and its committee and panel meetings. This right shall include the right to address all those bodies.

In order to ensure that there is an appropriate and clearly defined division of responsibilities for the corporate management of the Council such that no one individual has unfettered powers of decision, the role of Head of Finance and Property /Chief Finance Officer(s151) should not be combined with the role of Chief Executive.

In order to ensure that the statutory duties are discharged effectively the Head of Finance and Property should be able to control and influence both the work programme of Internal Audit in relation to those duties and the quantity and quality of staff made available to undertake the relevant internal audit projects.

### **C. Key Roles and Activities of the Head of Finance and Property**

**Maintaining strong Finance management underpinned by effective Finance controls** - the key activities that the Head of Finance and Property is responsible for in this area are:

Advising on corporate risk management including safeguarding assets, risk avoidance and insurance - this will encompass having a systematic risk management strategy;

Advising on effective systems of internal control and putting these in place. These will include Finance controls;

Providing a formal assurance or commentary as to the effectiveness or otherwise of the internal control environment;

Ensuring that Finance management arrangements are sound and effective;

Ensuring a prudential Finance framework is in place so that the Council keeps its commitments in balance with available resources and monitors these;

Ensuring that budget calculations are robust and reserves adequate (his/her view of adequacy expressed to the budget making Council meeting) and that a sound medium term Finance strategy exists for both revenue and capital spending;

Securing effective arrangements for prudential borrowing and treasury management including compliance with CIPFA Codes on Capital Finance and Treasury Management;

Ensuring that there is an effective Internal Audit function including the right of independent access to Officers and Members;

Securing effective systems of Finance administration;

Ensuring that statutory and other accounts and associated claims and returns in respect of grant are prepared - this would include certifying that the annual Statement of Accounts presents fairly the Finance position and transactions of the Council;

**Contributing to Corporate Management and Leadership** - the key activities in this area are:

Playing a full part in the Council's policy and strategy development, ensuring that resourcing issues are taken into account;

Providing input to key policies which contribute to the demonstration of effective corporate governance arrangements (Anti-Fraud and Corruption Strategy, Code of Corporate Governance, Risk Management Policy and Strategy, Whistle-blowing etc.);

Maintaining strong working relationships with leading Members, Executive Members, Senior Management Team Officers and the Council's partners;

Ensuring that the Council's Finance resources are well managed giving timely, accurate and impartial Finance advice and ensuring that there are rigorous processes for constructing and monitoring budgets.

**Supporting and advising democratically elected representatives** - the key activities in this area are:

Providing advice to Members on developing an overall Finance strategy that serves policy and service objectives;

Advising Members in identifying priorities setting the budget and identifying how resources will be used;

Helping Members to monitor Finance performance against budgets including the provision of Finance monitoring information and regular reports;

Providing training for Members so that they will be able to undertake their duties with regard to finance;

Ensuring that all Members of the Council, not just Executive Members, receive advice and information.

**Supporting and advising Officers in their operational roles** - the key activities in this area are:

Ensuring that there is an effective approach to Finance management including widespread understanding of the role of finance and the importance of sound Finance management;

Advising Officers of the Finance consequences of development proposals and partnership opportunities and risks to support strategy development;

Ensuring that the Council's resources are well managed including the provision of Finance information to facilitate the efficient and effective use of resources;

Ensuring that budgets are properly managed by making clear Officers' roles and responsibilities and ensuring that budget managers have access to Finance skills and information;

Ensuring that Finance advice and information is provided in an appropriate, complete and timely fashion;

**Leading and Managing an effective and responsive Finance service** - the key activities in this area are:

Demonstrating accountability to Members of the Public by providing robust Finance and performance information including at Council Tax consultation and during the inspection of the accounts;

Establishing good professional working relationships with External Auditors, Inspectors and other statutory agencies;

Ensuring that the services provided by Finance are in line with the expectation and needs of internal stakeholders;

Ensuring that high standards of performance are in place throughout the function;

Exercising leadership of the function by conducting him/herself in accordance with highest standards of personal and professional behaviour;  
Acting as Head of Profession for all finance staff in the Council.

#### **D. Working Arrangements**

It is important that Members and Officers work together to promote the Finance health of the Council. The Head of Finance and Property plays a key role in this and it is vital that Members and Officers work with the Chief Finance Officer (and his/her staff) to enable him/her to discharge his/her statutory responsibilities and other duties. The following arrangements and understandings between the Chief Finance Officer, Members and Chief Officers are designed to ensure the effective discharge of the Council's business and functions.

##### **The Head of Finance and Property must:-**

Be alerted by Members and Officers to any issue(s) that may become of concern to the Council, including in particular, issues around the Finance affairs of the Council and probity that are likely to (or do) arise;

Have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Council at which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken) at or before the Council, the Executive, committee meetings and/or Executive Team (or equivalent arrangements);  
Have formal input into all reports to Council, the Executive, committees and/or Executive Team, which have Finance implications;

Have the right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the Council, Executive, Committee meetings and/or Executive Team (or equivalent arrangements);  
In carrying out any investigation(s), have unqualified access (subject to overriding legal constraints) to any information held by the Council and to any Member or Officer who can assist in the discharge of his/her functions;

Ensure the other statutory Officers (Head of Paid Service and the Monitoring Officer) are kept up-to-date with relevant information regarding any Finance or probity issues that are likely to (or do) arise;

Meet regularly with the Head of Paid Service and the Monitoring Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;

In accordance with statutory requirements, make a report to the Council as necessary, on the staff, accommodation and resources s/he requires to discharge his/her statutory functions;

Have an effective working liaison and relationship with the Leader of the Council, Deputy Leader and the Chairs of Audit & Standards Committee and Scrutiny Committee with a view to ensuring the effective and efficient discharge of Council business;

Have an effective working liaison and relationship with the External Auditor;

Oversee the implementation and monitor the operation of the Code of Corporate Governance and report annually to the Audit & Standards Committee on compliance with the Code, in conjunction with the Monitoring Officer;

Appoint a deputy or deputies and keep them briefed on any relevant issues that they may be required to deal with in the absence of the Chief Finance Officer. The Deputy will only act in the absence of the Chief Finance Officer if urgent action is required which cannot await his/her return.

To ensure the effective and efficient discharge of the arrangements set out above, Members and Officers will report any breaches of Council Finance policies or procedures to the Chief Finance Officer, as soon as practicable. Where the Chief Finance Officer receives information of a potential Finance irregularity s/he shall authorise the investigation of it by Internal Audit and shall report regularly to the Audit and Standards Committee on the progress in dealing with that matter. S/he will have power to insist on the carrying out of any action points in the final audit report's recommendation in consultation with the Audit and Standards Panel.

To ensure the effective and efficient discharge of this Protocol, the Council will ensure adequate insurance and indemnity arrangements are in place to protect and safeguard the interests of the Council and the proper discharge of the Head of Finance and Property role.

## THE INDEPENDENT REMUNERATION PANEL MEMBERS ALLOWANCE SCHEME 2022-25

1. **Basic Allowance** -The level of basic allowance paid to all members be linked to the National Joint Council (Administrative, Professional, Technical and Clerical) pay structure for three years from April 2022.
  
2. **Special Responsibility Allowances** -That there be no change to the definition of roles that attract special responsibility allowances and that the multipliers be as shown in brackets below
  - The Leader (basic allowance x 3.50)
  - The Deputy Leader (basic allowance x 1.00)
  
  - Executive portfolios (basic allowance x 1.25 x 5 and shared between the size of executive)
  - Chair of Scrutiny Committees (basic allowance x 1.25)
  - Chair of Development Control Committee (basic allowance x 0.80)
  - Chair of Licensing Committee (basic allowance x 0.50)
  - Chair of Audit and Standards Committee (basic allowance x 0.50)
  - Vice Chair of Scrutiny Committee (basic allowance x 0.40)
  - Vice Chair of Development Control Committee (basic allowance x 0.40)
  - Group Leaders (shared basic allowance x 1.00)

The following table shows the current levels of basic and special responsibility allowances for 2022/23 and will be subject in future years to an uplift linked to the agreed percentage pay award, if any, in NJC staff pay structure.

	SRA Multiplier (x basic Member Allowance)		<b>2022/23</b>
Basic Member			3,883.15
Basic Member * 45			<b>174,741.75</b>
<b>The Executive</b>			
Leader	3.5		13,591.03
Deputy Leader	1		3,883.15
			<b>17,474.18</b>

	SRA Multiplier (x basic Member Allowance)		<b>2022/23</b>
Single Exec Member Allowance	1.25		4,853.93
6 Exec Members all share pot of 5 x allowance	5		<b>24,269.65</b>
Leader			4,044.95
Exec Member Resources			4,044.95
Exec Member Health & Wellbeing			4,044.95
Exec Member Housing & Development Control			4,044.95
Exec Member Community & Environment			4,044.95
Exec Member Economy & Growth			4,044.95
<b>Chairs and Vice-Chairs</b>			
Chair Scrutiny	1.25		4,853.94
Chair Audit & Standards	0.5		1,941.58
Chair Development Control	0.8		3,106.52
Chair Licencing	0.5		1,941.58

	SRA Multiplier (x basic Member Allowance)		<b>2022/23</b>
			<b>11,843.62</b>
Vice Chair Scrutiny	0.4		1,553.26
Vice Chair Planning & Development Control	0.4		1,553.26
Vice Chair Licensing	0		-
Vice Chair Audit & Standards	0		-
			<b>3,106.52</b>
Opposition Group Leaders (share one pot)	1		<b>3,883.15</b>
Opposition Group Leader Conservative			1,294.38
Opposition Group Leader Green			1,294.38
Opposition Group Leader Burnley & Padiham Independent			1,294.38
<b>Total Cost to Council</b>			<b>235,318.87</b>

3. **Dependent Carers and Childcare Allowances** - That the dependent carers' allowance and childcare allowance be paid at the current rate of the adult minimum wage and be paid under the following criteria.

Limitations

Costs necessarily incurred for:

- A child or children under the age of 16
- An elderly relative requiring full-time care
- A relative with a physical disability requiring full-time care
- A relative with learning disabilities requiring full-time care

Safeguards

The person for whom care has been arranged must live in the same household as the member

The care in respect of which the allowance is claimed must not be provided by a person living in the member's household, or by another parent of a child in the household;

Disabled dependents are excluded where the member is already in receipt of a carer's allowance;

The member must notify the Council of the identity of the carer in respect of whose costs the allowance is claimed and the cared for;

Child(ren) or dependent must be registered with the Council in advance of any claim being made .

4. **Travel and subsistence allowance** –

The following travel and subsistence allowances shall be paid for attendance at approved events.

Car allowance - This be the same rate as that paid to officers determined locally.

Motor cycle allowance - This be the same rates as that set by HMRC

Other travel allowances

That the payment of travelling allowances by taxicab be provided for Disabled and Vulnerable Members not to exceed; a) in cases of urgency or where no public transport was reasonably available, the amount of the actual fare and any reasonable gratuity paid; and b) in any other case the amount of travel by appropriate public transport.



Subsistence allowance be the same as that paid to officers, currently this is

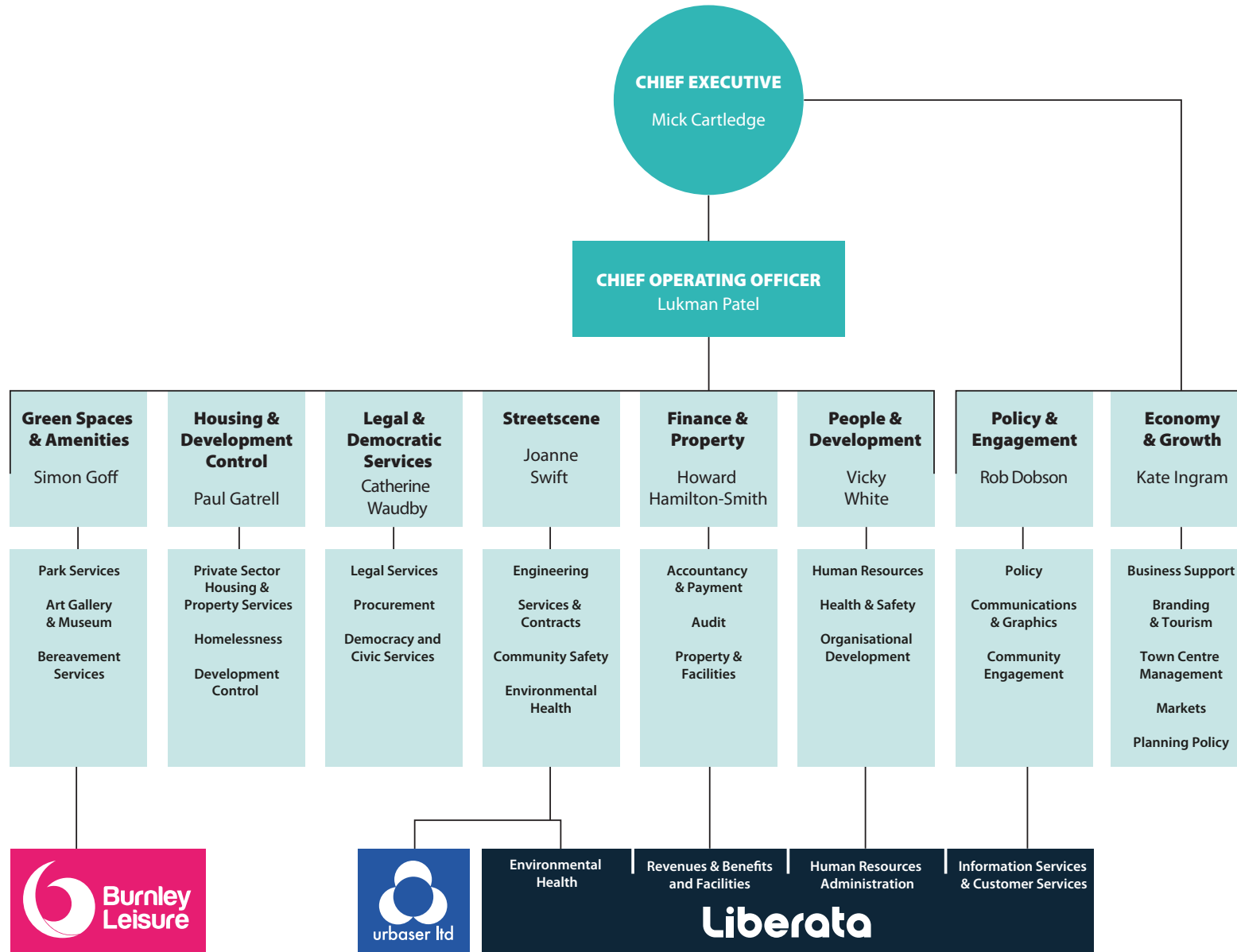
<b>Meal</b>	<b>Maximum Allowance</b>	<b>Criteria</b>
Breakfast	£8.36	before 8.00am
Lunch	£11.54	between 12 noon – 2pm
Tea	£4.53	after 6.30pm
Evening Meal	£14.27	after 8.30pm

If a member is away from their home on official Council business for a continuous period of 24 hours or more, and as a result is required by the Council to stay in accommodation overnight, they will be reimbursed with the actual costs incurred.

5. **Co-optees Allowance** - That no additional co-optees allowances be paid.
6. **Annual Adjustment of Allowances** - That there be an annual adjustment of allowances in line with the percentage increase in employee's pay under the National Joint Council (Administrative, Professional, Technical and Clerical) Pay Award
7. **Backdating** - That there be no backdating of allowances.
8. **Repayment/suspension of allowances** - That there be repayment of allowances should a councillor be suspended, cease to be a councillor due to a relevant conviction or non-attendance or resigns.
9. **Pensions** - That no member allowances be classified as pensionable under the Regulations.
10. **Foregoing allowances** – Any person may forego all or part of any allowances to which they are entitled. To do this they must give notice in writing to the proper officer of the Council.

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# Management Team Structure 2020



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## PROPER OFFICER PROVISIONS

Any Proper Officer may appoint an alternative officer for all or any of their functions. For transparency it is recommended that such authorisation is forwarded to the Head of Legal and Democratic Services.

The Chief Executive or the Chief Operating Officer may exercise delegations provided to a designated Proper Officer in their absence unless precluded by law.

The Chief Executive shall be the Proper Officer for the purposes of any legislation not covered by these provisions.

Any reference in these provisions to an Act of Parliament includes reference to subordinate legislation made under it and to any modification and/or replacement thereof.

<u>Reference</u>	<u>Proper Officer</u>
<b><u>Data Protection Act 1988</u></b>	
Officer appointed to exercise responsibilities to the Council under the Act.	Internal Audit Manager
<b><u>Housing Act 1985</u></b>	
Part xi	Head of Housing and Development Control
<u>Section 351</u>	
Registration schemes of houses in multiple occupation.	Head of Housing and Development Control
<u>Section 606 (i)</u>	
This part of the Act is concerned with housing clearance and an officer is required to represent unfit property to the Council.	Head of Housing and Development Control
This part of the Act is concerned with housing clearance and an officer is required to represent unfit property to the Council.	Head of Housing and Development Control
<u>Section 606 (ii)</u>	
This section deals with receipt of a letter of complaint from a Justice of the Peace or parish council that a dwellinghouse or house in multiple occupation is unfit.	Head of Housing and Development Control

**Local Authorities (Stocks and Bonds) Regulations 1974**

Register of stocks and bonds

Head of Finance and Property

**Local Authorities (Contracts) Regulations 1987 (No. 2862) Regulation 7 (2)**

To sign on behalf of the Council certificates in respect of PFI Contracts.

Head of Finance and Property

**Local Elections (Principal Areas) (England and Wales) Rules 2006/3304**

Head of Legal and Democratic Services

**Local Elections (Parishes and Communities) Rules 1986- and**

Head of Legal and Democratic Services  
Head of Legal and Democratic Services

**Local Elections (Parishes and Communities) (England and Wales) Rules 2006/3305**

Local Elections (Parishes and Communities) (England and Wales) Rules 2006/

**Section 13 (3)**

This section provides that where a parish does not have a parish council, the Chairman of the parish meeting and the proper officer of the District Council shall be a body corporate by the name of the "Parish Trustees of – "(the name of the parish).

Head of Legal and Democratic Services

**Local Government Act 1972**

**Section 83 (1) to (4)**

This section provides that a person elected to the office of Mayor, Councillor or elected Mayor shall not take up such office until he has made a declaration of acceptance of office to the proper officer of the Council.

Chief Executive or Head of Legal and Democratic Services

**Section 84**

A person elected to any office or elected as an elected Mayor may resign such office by written notice delivered to the proper officer of the Council.

Chief Executive or Head of Legal and Democratic Services

**Section 86**

Duty to declare vacancy in office in certain circumstances.

Chief Executive or  
Head of Legal and  
Democratic Services

Section 87

Duty to give public notice of a casual vacancy.

Chief Executive or  
Head of Legal and  
Democratic Services

Section 88 (2)

This section concerns the filling of a casual vacancy in the office of Mayor and empowers the proper officer of the Council to convene a meeting of the Council to elect a successor.

Chief Executive

Section 89 (1) (b)

Where a casual vacancy occurs in the office of Councillor, notice may be given in writing of the vacancy to the proper officer of the authority by two local government elections for the area.

Chief Executive

Sections 100 A to K

These sections concern access to information.

Head of Legal and  
Democratic Services

Section 100 b (2)

The exclusion from inspection by the public and press of reports on terms during which in the opinion of the Proper Officer meeting is likely not to be open to the public.

Head of Legal and  
Democratic Services

Section 100 b (7) (C)

The supply to the press of additional material supplied to Members of the Council with items of business to be discussed.

Head of Legal and  
Democratic Services

Section 100 C (2)

Where parts of the minutes which disclose exempt information are excluded from inspection, the preparation where necessary of a written summary of those parts of the proceedings so as to provide the public with a reasonably fair and coherent record.

Head of Legal and  
Democratic Services

Section 100 D (1) (a) and 100 (5) (a)

The identification of background papers which have been relied upon in preparing the report and compiling the list of such papers for inspection by the public in accordance with Section 100 D of the Act.

All Reporting Officers

Section 100 F (2)

The making of decisions as to documents which are not required to be open to inspection by Council Members where it appears to the Proper Officer that a document discloses exempt information of a description falling within any of the paragraphs of Schedule 12A to the Act.

Head of Legal and Democratic Services

Section 115 (2)

This section requires officers to account for all monies and property coming into their hands in the course of their employment. The money due from such officers must be paid to the Proper Officer of the Council.

Head of Finance and Property

Section 146 (l) (a) and (b)

This section provides for the situation where securities stand in the books of a company in the name of a local authority and deals with the transfer of those securities on the alteration of local authority areas. If the name of the authority is changed the Proper Officer of the Council is required to make a statutory declaration to that effect in order that the new name may be entered in the company's books. Where securities are transferred to another authority, the certificate of the Proper Officer of the Council is sufficient authority for the new name to be entered in the company's books.

Head of Finance and Property

Section 151-Statutory Officer

Every local authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs.

Head of Finance and Property

Section 191 (2) & (4) (b)

Where an application is made by the Ordnance Survey under Section 1 of the Ordnance Survey Act 1841 to

Head of Finance and Property



examine, ascertain and mark out the reputed boundaries of local authority areas, the application shall be sent to the Proper Officer of the County Council or District Council.

Section 210 (6) and (7)

Where an officer of an existing authority has, by virtue of his office, powers relating to a charity, those powers will transfer to the officer holding the equivalent post with the appropriate new authority. If there is no equivalent post the powers will vest in the Proper officers of the new authority.

Head of Legal and Democratic Services

Section 212 (1) and (2)

With respect to local land charges, the Proper Officer to act as local registrar shall be the Proper Officer of the Council of the district in which the land is situated. There is also a duty on the Proper Officer to register any notice, order, scheme, agreement, restriction, etc., in the register of land charges.

Head of Legal and Democratic Services

Section 225 (1)

This section provides that documents to be deposited with the Council should be received by the Proper Officer on the council and retained by him/her according to the directions accompanying such documents.

Head of Legal and Democratic Services

Section 229 (5)

A photocopy of a document in the custody of the Council shall be admissible in evidence in legal proceedings. A certificate purporting to have been signed by the Proper Officer of the council shall be sufficient authentication of the photocopy.

Head of Legal and Democratic Services

Section 234 (1) and (2)

This section provides that any notice, order or other document which the Council are authorised to give, make or issue may be signed on their behalf by the Proper Officer of the Council.

Chief Executive or any other Officer upon whom the Council has delegated its powers and duties under specific legislation.

Section 236 (9)

The Proper Officer of the District Council shall send a copy of every byelaw made by the Council to the Proper Officer of every parish or community to which such byelaws apply.

Head of Legal and Democratic Services

Section 238

This section sets out the requirements for evidencing byelaws. It provides that a certificate purporting to be signed by the Proper Officer of the Council shall be prima facie evidence of the facts stated in the certificate.

Head of Legal and Democratic Services

Section 248

The Roll of Freeman of Burnley is to be kept by the Proper Officer of the district council.

Head of Legal and Democratic Services

Schedule 12 Paragraph 4 (2)(1A)(b) and 2(b)

A Summons to attend a meeting of the Council shall be signed by the Proper Officer of the Council.

Head of Legal and Democratic Services

Schedule 12 paragraph 4 (3)

If a member of the Council wishes his Summons to be addressed to an address other than his residence, he should inform the Proper Officer of the Council in writing.

Head of Legal and Democratic Services

Schedule 14 Paragraph 25 (7)

Certification of resolutions passed by the Council applying or disapplying certain sections of the Public Health Acts 1875 to 1925 to the area of the new district.

Head of Legal and Democratic Services

**Local Government Act 1974**

S.30 (5) Publication of reports of Local Commissioner

Monitoring Officer-Chief Operating Officer

**Local Government Act 2000**

Part I and IV

To exercise Proper Officers powers under Parts I and IV of the Act and Regulations.	Chief Executive or Head of Legal and Democratic Services
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Parts II and III

To exercise Proper Officer power under Parts II and III of the Act and Regulations.	Head of Legal and Democratic Services
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Part III, Chapters I, II, IV and V

To exercise the powers of Monitoring Officer under the Act and Regulations pursuant to that Act.	Head of Legal and Democratic Services
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**Local Government (Contracts) Act 1997**

Section 3 (2)(e)

To sign, on behalf of the Council, certificates in respect of PFI Contracts.	Head of Finance and Property
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**Local Government and Housing Act 1989**

Section 2

To maintain a list of politically restricted posts	Head of Legal and Democratic Services
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Section 4- Statutory Officer

Head of Paid Service	Chief Executive
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Section 6- Statutory Officer

Monitoring Officer	Chief Operating Officer
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Deputy Monitoring Officer	Head of Legal and Democratic Services
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Section 46 (1)

Registrar of Loans	Head of Finance and Property
Registrar of Bonds	Head of Legal and Democratic Services

**Local Government (Miscellaneous provisions) Act 1976 (as amended by the Local Government Act 2000)**

Section 41

Certificate of copies of resolutions, minutes and other documents.

Head of Legal and Democratic Services

Part II

Authorisation of officers to enforce the provisions of the Act relating to private hire vehicles, their drivers and operators and to hackney carriage vehicles and their drivers.

Head of Legal and Democratic Services

**Local Government and Rating Act 1997**

(Part II) and Sub-ordinate legislation under that part

Functions in relation to review of parishes.

Head of Legal and Democratic Services

**Representation of the People Act 1983**

Section 8

Registration Officer of Parliamentary and local electors.

Chief Executive

Section 35

Returning Officer for the election of District and Parish Councillors.

Chief Executive

Section 35

Acting Returning Officer for the election of County Councillors.

Chief Executive

Section 39 (4)

Powers in respect of holding elections.

Chief Executive or Head of Legal and Democratic Services

## **Representation of the People Act 1985**

### **Section 21**

Power to fill vacancies in the event of insufficient nominations.

Chief Executive or Head of Legal and Democratic Services

## **Party Walls Act 1996**

### **Section 10 (8)**

To serve as the Appointing Officer for the purposes of the Act.

Head of Finance and Property

## **Town and Country Planning Act 1971 Act replaced by the Planning (Listed Buildings and Conservation Areas) Act 1990**

Maintaining the list of listed buildings (Section 54)

Strategic Head of Economy and Growth

## **Local Government (Committees and Political Groups) Regulations 1990**

Sections 8,9,13 and 14  
Notifications to and by the Proper Officer

Head of Legal and Democratic Services

## **Regulation of Investigatory Powers Act 2000**

To act as Senior Responsible Officer

Head of Legal and Democratic Services

To issue authorisations under the Regulation of Investigatory Powers Act 2000.

Chief Executive, Chief Operating Officer, Head of Finance & Property and Head of Streetscene

## **Freedom of Information Act 2000**

### **Section 36**

Qualified person to confirm or deny whether disclosure of information is likely to prejudice the effective conduct of public affairs

Head of Legal and Democratic Services

## **The Local Authorities (Standing Orders ) (England) Regulations 2001**

Schedule 1 Part II

Functions in relation to notifying Executive of appointments and dismissals

Monitoring Officer or  
Strategic Human  
Resources Consultant

**Local Government Act 2000 section 34**  
**Local Authorities (Referendums) (Petitions and**  
**Directions) Regulations 2000**

Publish the verification number of electors being 5% of local government electors for the purpose of petitions

Head of Legal and  
Democratic Services

**Local Authorities (Executive Arrangements)**  
**(Access to Information) (England) Regulations**  
**2012 (was Local Government Act 2000 section 22)**

Section 7 and 10

Access to agenda and connected reports for public meetings and general exception

Head of Legal and  
Democratic Services

Section 12 and 13

Produce a written statement of Executive decisions made at meetings and of Individual Members

Head of Legal and  
Democratic Services

Section 14

Make a copy of written statements of Executive decisions and associated reports available for inspection by the public

Head of Legal and  
Democratic Services

Section 15

Make available for inspection a list of background papers

Head of Legal and  
Democratic Services

**Other Enactments**

**Proper Officer-**

**Reference**

The Public Health (Control of Disease) Act 1984 and regulations made thereunder

UK Health Security  
Agency

The Health Protection (Notification) Regulations 2010, for the purposes of regulations 2, 3 and 6

UK Health Security  
Agency

## **Appointment of Inspectors**

Head of Streetscene

Health and Safety at Work Act 1974 Section 19  
appointment of inspectors.

## **Miscellaneous Legislation**

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Animal Boarding Establishment Act 1963  
Breeding of Dogs Act 1973  
Clean Air Act 1993  
Food Safety Act 1990  
Control of Pollution Act 1974  
Pet Animals Act 1951  
Public Health Acts 1936, 1961 and 1968  
Riding Establishments Acts 1964 and 1970  
Sunday Trading Act 1994  
Animal Health and Welfare Act 1984  
Dangerous Wild Animals Act 1976  
Zoo Licensing Act 1981  
Public Order Act 1986

Prevention of Damage by Pests Act 1949  
Public Health Acts 1936, 1961 and 1968  
Highways Act 1980  
Environmental Protection Act 1990  
Town and Country Planning Act 1990  
Environment Act 1995  
Anti- Social Behaviour Act 2003  
Clean Neighbourhoods and Environment Act 2005  
Childrens Act 2004

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Housing Act 1985 (Housing Conditions)  
And Housing Act 2004  
Town and Country Planning Act 1990  
Environmental Act 1995  
Planning and Compulsory Purchase Act 2004

Head of Housing and  
Development Control

Wildlife and Countryside Act 1981  
Town and Country Planning Act 1990  
Planning and Compulsory Purchase Act 2004

Strategic Head of  
Economy and Growth

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