



Report of:	Meeting	Date	Item No.
Cllr. Peter Gibson, Leader of the Council and Philippa Davies, Director of Resources	Council	14 July 2011	13

CONSTITUTION AMENDMENTS

1. Purpose of Report

- 1.1** To enable the Council's Scheme of Delegation to Officers and various Codes and Protocols included in the Council's Constitution, to be updated.

2. Outcomes

- 2.1** Effective governance arrangements and decision-making procedures.

3. Recommendations

- 3.1** That the diagram reflecting the revised management structure, (Appendix 1) and that the revised Scheme of Delegation to officers, set out in Appendix 2 be approved, with effect from 8 August, 2011.
- 3.2** That the revised version of Article 13 of the Constitution, set out in Appendix 3, be approved.
- 3.3** That a new Protocol for Member Involvement in Pre-Application Discussions, attached as Appendix 4, be approved for inclusion as an appendix to the existing procedure for Member involvement in the planning process referred to as the 'Local Code of Good Practice for Councillors and Officers involved in the planning process'.
- 3.4** That the amendments to the other Codes and Protocols, shown as "track changes" in Appendix 5, be approved.

4. Background

- 4.1** Updated versions of Parts 1 - 4 of the Council's Constitution were approved at the last Council meeting on 9 June. This report seeks approval for further changes required to enable the Council's revised

senior management structure to be implemented from 8 August and for various other minor amendments to bring the remaining parts of the Constitution up to date.

5. Key Issues and Proposals

(a) Scheme of Delegation

- 5.1** On 9 June 2011 the Council agreed to the appointment of Garry Payne as Chief Executive, with effect from 8 August 2011 and approved a new senior management structure, comprising the Chief Executive and two Corporate Directors.
- 5.2** The Council is required, in order to facilitate the smooth day-to-day operation of the Council and to ensure that decisions are taken lawfully, to formally delegate authority, to carry out various functions to named officers. The list of such tasks is set out in the Scheme of Delegation in Part 7 of the Constitution. Those delegations now need to be amended to reflect the changed structures.
- 5.3** Following discussions between the Chief Executive and each of the new Directors to clarify who will be responsible for each of the specific tasks listed, an updated Scheme is set out in Appendix 2. No new delegations have been added, but some tasks have now been delegated to the Heads of Service appointed following the recent restructure of the Directorates.

(b) Member Involvement in the Planning Process

- 5.4** In accordance with Government Guidance and national best practice, including advice from the Local Government Association and others, it is proposed that procedures be introduced to allow members of the Planning Committee and other members of the Council, in certain circumstances, to engage directly with developers and applicants at an early stage, without risking an appearance of pre-determination of a future application. The proposals have been considered in detail by both the Planning Committee and the Standards Committee (most recently by the Standards Committee on 31 May 2011) and are recommended for approval. The new arrangements will be reviewed when they have been in operation for 12 months.

(c) Other Codes and Protocols

- 5.7** The following Codes and Protocols, included in Part 5 of the Constitution have been reviewed to ensure that they are up to date, clear and understandable:
- Protocol for Member/Officer Relations;
 - Computer Use Policy;
 - Councillor web sites – acceptable Use Policy;
 - Gifts and Hospitality
 - Local Code of good Practice for Councillors and Officers Involved in

the Planning Process;

- Customer Guide to Public Speaking at Planning Committee meetings;
- Petitions scheme;
- Councillor Call for Action Procedures.

5.8 Proposed changes are shown as “track changes” in Appendix 5. The suggested amendments are minor in nature. Reference to mobile devices has been added to the Computer Use Policy, the Petitions Scheme and the Councillor Calls for Action Procedures have been amended to reflect the new Overview and Scrutiny arrangements and references to legislation have been updated throughout. Otherwise, the use of simpler language and clearer presentation, is intended to make the documents easier to follow. The ‘Voting Arrangements at Planning Applications Committee – A Memorandum of Understanding’ has been withdrawn because it duplicates information which is now presented more clearly in procedures and codes elsewhere in the Constitution which have been updated since the original Memorandum was produced.

5.9 The Standards Committee was informed on 31 May that the Codes and Protocols and the Scheme of Delegation were being updated and agreed that this report should be submitted directly to this Council.

IMPLICATIONS	
Finance	None arising directly from this report
Legal	The Council is required to have an up-to-date Scheme of Delegation to ensure that all decisions are taken lawfully. Other proposed changes comply with current legal requirements.
Community Safety	None arising directly from this report
Equality and Diversity	None arising directly from this report
Sustainability	None arising directly from this report
Health and Safety	None arising directly from this report
Risk Management	The proposed arrangements for revising the Scheme of Delegation will minimise the risk of any decisions being taken unlawfully.
Asset Management	None arising directly from this report
Climate Change	None

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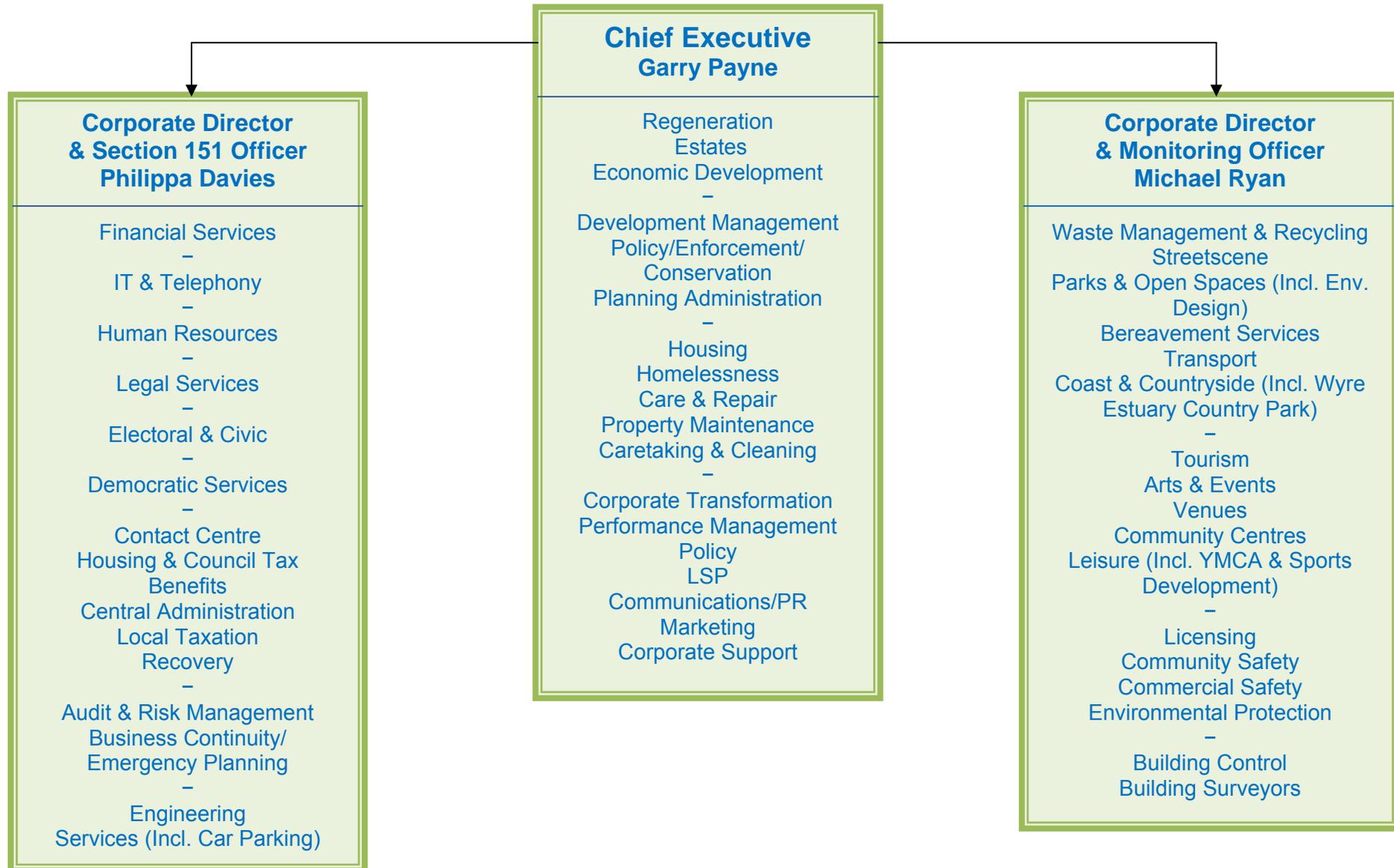
List of Background Papers:		
Name of Document	Date	Where available for inspection
None	-	-

LIST OF APPENDICES

- Appendix 1 – Revised Management Structure Diagram.
- Appendix 2 – Revised Scheme of Delegation.
- Appendix 3 – Revised Article 13.
- Appendix 4 – Proposed Protocol for Member Involvement in Pre-application Planning Discussions
- Appendix 5 – Proposed Amendments to Codes and Protocols in Part 5 of the Constitution

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Management Structure



Revised Scheme of Delegation to Officers

Scheme of Delegation to Officers

General

The powers and functions referred to in this Section may be exercised by the designated officer.

All decisions taken must comply with the Council's approved budget, the Policy Framework, the Financial Regulations and Financial Procedure Rules and all other elements of this Constitution.

In the absence of the Chief Executive the functions of the Chief Executive will be the responsibility of any of the Directors.

A Director may authorise any member of his or her staff in writing to exercise some or all of his or her delegated powers. (If the Director is acting as Proper Officer, as specified in particular legislation, the exercise of the delegation of those specified functions will be carried out in the name of the Proper Officer only).

In the absence of a Corporate Director, the Chief Executive may exercise any of the powers delegated to the Corporate ~~to any~~ Directors, subject to any statutory limitations.

In the absence of a Head of Service the Chief Executive or any of the Corporate Directors may exercise any of the powers delegated to a Head of Service subject to any Statutory Limitations.

The Chief Executive or any Corporate Directors may at any time waive the exercise of delegated powers and refer the matter to a Portfolio Holder, the Cabinet, the Council or a Regulatory Committee, as appropriate.

The exercise of delegated powers will in all cases be subject to any necessary consents by or on behalf of the Council or the Cabinet or Committee and to such statutory, ministerial or other consents as are necessary.

1. Authority Given to the Chief Executive (Head of the Paid Service)

- (1) To exercise the functions of the Council's Head of Paid Service under Section 4 of the Local Government and Housing Act, 1989 and in this role:
- to exercise overall responsibility for corporate management and operational issues (including overall management responsibility for all staff)
 - to give professional advice to all parties in the decision making process (the Cabinet, Overview and Scrutiny Committees, the Council and Regulatory Committees)
 - together with the Monitoring Officer, to be responsible for a system of record keeping for all the Authority's decisions
 - to represent the Authority on partnerships and external bodies (as required by statute or by the Authority).

- (2) To act as Returning Officer for elections, as appropriate.
- (3) As Returning Officer, to approve an annual increase in the Fees and Disbursements paid for Borough and Parish Elections, the amount of any increase to be equivalent to the amount of the latest local government pay award for administrative, professional and clerical employees, or the inflation rate at the time (as measured by the Consumer Price Index (CPI), whichever is the lower.
- (4)(2) After consultation with the ~~Director of Resources~~ Chief Financial Officer (or his or her nominee), to authorise action and to incur expenditure in the event of emergencies or disasters (the Leader to be notified as soon as reasonably possible after the expenditure is incurred).
- (5)(3) To suspend any of the Corporate Directors where their continued presence at work may prejudice an investigation or where there is a prima facie case of gross misconduct (the members of the Cabinet to be notified as soon as possible after the action is taken).
- (6)(4) To exercise overall responsibility for emergency planning and response arrangements under the provisions of the Civil Contingencies Act 2004 and Regulations 2005 and to appoint a deputy officer for such purposes.
- (7)(5) To be the Designated Officer responsible for approving requests under Part IV of the Anti-Social Behaviour Act, 2003.
- (8)(6) To approve, after consultation with the ~~Director of Resources~~ Chief Financial Officer, funding options from reserves and provisions in accordance with their purpose.
- (9)(7) To provide the necessary authorisations in respect of surveillance in accordance with the Regulation of Investigatory Powers Act, 2000, where confidential information is involved and therefore a higher level of authorisation than the relevant Director is required.
- (10)(8) To deal with all staffing management issues in relation to Corporate Directors.
- (11)(9) To deal with applications from Corporate Directors to take up outside appointments or engage in outside work.
- (12)(10) To determine following consultation with the ~~Director of Resources~~ Chief Financial Officer, the early release of any employees, except members of the Management Team provided that the proposals are cost – neutral to the Council over a specific period of time in accordance with the Council's Policy and Audit Commission requirements. (Any proposals for the early release of the Chief Executive or any Directors to be considered by the full Council).

2. Authority Given to the All-Chief Executive and Corporate Directors

NOTE: ~~All Directors~~ in undertaking ~~the these~~ functions ~~delegated to them~~ there must be an awareness of their wider corporate responsibility to the Council as a

whole ~~and undertake any necessary~~ with appropriate consultations ~~with other Directors prior to taking action.~~ taking place at Management Team.

- (1) To review and amend the structure and staffing levels of their Directorate within approved budget provision, and to fix commencing salaries or wages for such appointments and promotions as appropriate, in consultation with the officer responsible for strategic human resources.
- (2) To engage specialist or consultant services where necessary if within an approved cost or estimate or provided that the cost does not exceed the limit over which ~~Directors may not agree to transfer~~ expenditure may be transferred from one estimate head to another. (Financial Regulation number 1(13) refers).
- (3) To place orders for the supply of goods or materials or for the execution of work within approved revenue estimates in accordance with applicable Financial Regulations and Financial Procedure Rules.
- (4) To dispose of surplus vehicles, plant, machinery or equipment in accordance with applicable Financial Regulations and Financial Procedure Rules.
- (5)
 - (a) To accept, in accordance with Council procedure, the lowest tender submitted within the approved estimate (where the Council is paying) or highest (where the Council is receiving payment).
 - (b) To accept, after consultation with and agreement by the ~~Director of Resources~~ Chief Financial Officer, other than the lowest tender in the event of there being a technical or financial discrepancy in the lowest tender, provided that all other procedures conform Financial Regulations and Financial Procedure Rules relating to Contracts.
- (6) To approve transfer votes/virements in accordance with the limits contained within the Financial Regulations and Financial Procedure Rules as follows:
 - (a) Virements of up to £1,000 – delegated to Budget Holder. The Authority's accounting system will not normally be updated to reflect these virements unless requested by the Budget Holder.
 - (b) Virements of up to £15,000 – delegated to Corporate Directors with the approval of the ~~Director of Resources~~ Chief Financial Officer.

(Note: Virements of over £15,000 – relevant Portfolio Holder approval required).
- (7) To appoint temporary staff for a period of up to twenty-four weeks provided that expenditure is contained within approved estimates.
- (8) To deal with probationary service.
- (9) To operate national and local conditions of service.
- (10) To settle claims for ex-gratia payments in respect of loss or damage to the personal property of employees in accordance with the Council's policy and

Financial Regulations and Financial Procedure Rules.

- (11) To grant car allowances in accordance with conditions of service.
- (12) To grant ex-gratia leave of absence with or without pay up to 6 days per year in accordance with Council policy.
- (13) To accept without pay students on recognised courses for periods of practical training.
- (14) To authorise members of staff to attend conferences, seminars and similar functions provided costs can be met from within existing financial provision.
- (15) To approve overtime working within approved estimates or in accordance with the planned overtime scheme.
- (16) To take disciplinary action against staff in accordance with agreed procedures.
- (17) To deal with applications to carry forward leave from one year to the next up to a maximum of five days in accordance with agreed practice.
- (18) To approve applications for job-share where no additional financial burden would fall on the Authority.
- (19) After consultation with the Chief Executive to extend the time limit for lodging and travelling allowances up to 12 months in total.
- (20) To approve the payment of telephone rental charges in respect of those employees whose duties justify such allowances, subject to the necessary budgetary provision.
- (21) To authorise attendance at trade and travel fairs within agreed financial limits.
- (22) To accelerate increments for employees who are determined, after consultation with the ~~Director of Resources~~ officer responsible for strategic human resources, to have acquired the specified level of competence within their grade.
- (23) To approve expenditure on training and management development within allocated budgets and the Authority's adopted training plans and policies.
- (24) To deal with applications to take up outside appointments or engage in outside work for Officers above Grade 7.
- (25) To deal with applications from employees for extension of service.
- (26) To respond to consultations from central government and agencies and any other authorities, agencies or organisations on proposals relating to their respective areas of service.
- (27) To submit bids, after consultation with the ~~Director of Resources~~ Chief

Financial Officer, in accordance with Council policy, to Government and other relevant funding agencies relating to their respective areas of service.

- (28) To apply for planning permission on behalf of the Council in accordance with the Town and Country Planning General Regulations, 1992.
- (29) In the absence of the Chief Executive to approve requests under Part IV of the Anti-Social Behaviour Act 2003.
- (30) To represent the Council as appropriate to their respective areas of service on external bodies, partnerships or at other forums.
- (31) To provide the necessary authorisations in respect of surveillance in accordance with the Regulations of Investigatory Powers Act 2000.

3. Authority Given to Individual Directors

(a) Corporate Director of Resources (Chief ~~Finance~~ Financial Officer)

- (1) To exercise all the functions of the Council's Chief Financial Officer including proper administration of the Council's financial affairs under Section 151 of the Local Government Act, 1972, Section 114, the Local Government and Finance Act, 1988 and the Accounts and Audit Regulations, ~~2003~~ 2011.
- (2) To approve funding options from reserves and provisions in accordance with their purpose.
- (3) To arrange the borrowing and investments of the authority in such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the Council's Treasury Management Policy Statement and Strategy.
- (4) To pay all accounts legitimately due to be paid by the Council.
- (5) To agree advances of petty cash for the various Service Units as are necessary.
- (6) To effect all insurances and manage the Council's Insurance arrangements.
- (7) To submit all claims for grant to Government Departments and other bodies.
- (8) To maintain an Internal Audit over the Council's activities.
- (9) To determine the local average interest rates for the purposes of paragraph 3 to Schedule 16 of the Housing Act, 1985.
- (10) To advise on all matters relating to national insurance and pensions contributions.

- (11) To grant or refuse loans for the repair, improvement, conversion or purchase of houses within the policies approved by the Council and to deal with applications to transfer existing mortgages.
- (12) To record and approve the write-off of bad debts without limit and to report these to the relevant executive member in cases where:
 - a) the debt has been remitted by the Magistrates under the provisions of regulation 48(3) of the Council Tax (Administration and Enforcement) Regulations 1992, or
 - b) the debt is the subject of an insolvency/bankruptcy and the Council has submitted a relevant claim covering the outstanding debt.
- (13) To record and approve the write-off of bad debts not covered by (12) above and to report these to the relevant executive member.
- (14) To waive approved fees and charges under exceptional circumstances.
- (15) To administer the Collection Fund on behalf of the Authority and make such payments out of the fund and receive such monies into the fund as are appropriate under Sections 89 and 90 of the Local Government Finance Act, 1988.
- (16) To settle any claim made against the Council or on its behalf not exceeding £6,000, after consultation with the Legal Services Manager and to report thereon to the Resources Portfolio Holder.
- (17) To approve transfer votes within the approved estimates in accordance with the limits contained in Financial Regulations.
- (18) To take summary proceedings in Magistrates' Courts for the recovery of Council Tax, and Business Rates under Schedule 9 to the Local Government Finance Act, 1988 and Council Tax penalties under Schedule 4 of the Local Government Finance Act, 1992.
- (19) To deal with refunds of Business Rates under paragraph 2(2)(j) of Schedule 9 of the Local Government Act, 1988 and Council Tax under paragraph 2(5)(b) of Schedule 2 of the Local Government Finance Act, 1992.
- (20) To make determinations and deal with all applications for Council Tax Transitional Relief, Business Rate Transition Arrangements and Small Business Relief.
- (21) To deal with all matters relating to appeals to a Valuation tribunal established under Schedule 11 to the Local Government Finance Act, 1988 or Section 15 of Local Government Finance Act, 1992.
- (22) To deal with applications for rate relief under Sections 43 and 47 of the Local Government Finance Act, 1988 in accordance with

Council Policy.

- (23) To deal with applications for rate relief on the grounds of hardship under Section 49 of the Local Government Finance Act, 1988 in accordance with Council Policy.
- (24) To compile and maintain a Rural Settlement List and administer the Rural Rate Relief Scheme Under Sections 42A, 43 and 47 of the Local Government Finance Act, 1988 in accordance with Council policy.
- (25) To grant allowances for part-occupation of a rated property in accordance with Section 44 of the Local Government Finance Act, 1988.
- (26) To exercise the following powers in accordance with the appropriate Business Rates enforcement regulations issued under the Local Government Finance Act, 1988:-
- (a) distraint on goods
 - (b) charging orders
 - (c) winding up/bankruptcy proceedings.
 - (d) commitment to prison
- (27) To impose or quash penalties issued by the Authority under Sections 14 and Schedule 3(1) of the Local Government Finance Act, 1992.
- (28) To grant discounts in accordance with the Local Government Finance Act, 1992 and Council policy.
- (29) To deal with applications for reductions for disabled persons under Section 13 of the Local Government Finance Act, 1992.
- (30) To determine appeals prior to the involvement of the Valuation Tribunal made under Section 16 (7) and (8) of the Local Government Finance Act, 1992.
- (31) To exercise the following powers in accordance with the appropriate Council Tax enforcement regulations issued under the Local Government Finance Act, 1992:
- (a) distraint on goods
 - (b) attachment of earnings/benefits/members' allowances
 - (c) charging orders
 - (d) winding up/bankruptcy proceedings
 - (e) commitment to prison
- (32) To deal with applications for Housing Benefits in accordance with the provisions of the Social Security and Housing Act, 1982 as amended.
- (33) To deal with applications for Housing/Council Tax benefits in

accordance with the provisions of the Social Security Contributions and Benefits Act, 1992 and the Social Security Administration Act, 1992 as amended by Schedule 9 of the Local Government Finance Act, 1992.

- (34) To exercise all powers relating to Council Tax and Housing and Council Tax Benefits not included elsewhere in this scheme of delegation, having regard to Council policy as from time to time determined.
- (35) To institute proceedings for the offences created by Sections 13 and 14 of the Social Security Administration (Fraud) Act, 1997, and recover any overpaid benefit and administrative penalties through various methods available including the County Court.
- (36) To determine, on an annual basis, the amount of the Council Tax Base for inclusion in the report to be considered by the Council in setting its revenue budget and the Council Tax levels for the following year.
- (37) To operate the Council's Sanction Policy relating to Housing and Council Tax Benefit.
- (38) To authorise Officers who are not Solicitors to prosecute, defend or appear on behalf of the Council in Magistrates' Courts and County Courts.
- ~~(39) To provide the necessary authorisations in respect of surveillance in accordance with the Regulation of Investigatory Powers Act, 2000.~~
- ~~(39)~~⁽⁴ After consultation with the Leader/Chairman of a Committee (or in his/her absence the Vice-Chairman) to cancel or alter the time or the date of any meeting.
- ~~(40)~~⁽⁴ To determine reasonable charges for inspection of background papers by the public or for providing copies of background papers to the public.
- ~~(41)~~⁽⁴ To manage the budget and associated activity in relation to Civil Emergency Planning function.
- ~~(42)~~⁽⁴ To implement pay and other awards of joint negotiating bodies.
- ~~(43)~~⁽⁴ To advise on Statutory Sick Pay and Statutory Maternity payments.
- ~~(44)~~⁽⁴ In consultation with the Legal Services Manager to take all appropriate measures within approved budgets to ensure the Council's compliance with the Data Protection Act, 1984.
- ~~(45)~~⁽⁴ To effect arrangements for Disaster Recovery in relation to IT Services.
- ~~(46)~~⁽⁴ To require repayment of training expenses, payments on

- 7) recruitment and other similar payments in accordance with Council Policy.
- ~~(47)~~(4
8) To determine the fees and charges for Local Land Charges searches in accordance with best practice guidance.
- ~~(48)~~(4
9) To recruit trainees to the Council's internal training scheme and in response to external initiatives within the prescribed budget.
- ~~(49)~~(5
0) To approve 'acting up' payments to Officers undertaking additional responsibility associated with a higher graded post for a temporary period in accordance with relevant conditions of service.
- ~~(50)~~(5
1) To ~~approve extensions of time for~~ deal with any matters relating to the payment of recruitment incentives, in appropriate cases, including approving extensions of time, within existing financial budgets.
- ~~(51)~~(5
2) To take such proceedings or other steps as may be necessary to enforce any debt or other obligation to the Council.
- ~~(52)~~(5
3) To sign, or authorise another Officer to sign, on behalf of the Council any document necessary to implement any decision of the Cabinet, Portfolio Holder, Council or any Committee, Sub-Committee or Officer acting within delegated powers.
- ~~(53)~~(5
4) To take any proceedings for the recovery of Council owned land or property from trespassers.
- ~~(54)~~(5
5) To determine whether or not information is confidential within the terms of the Environmental Information Regulations, 1992 and to determine exemptions for requests made under Freedom Of Information Act.
- ~~(55)~~(5
6) To purchase land and property included in a compulsory purchase order in accordance with the Council's valuation.
- ~~(56)~~(5
7) To accept on behalf of the Council blight notices relating to properties affected by development or redevelopment where all the statutory requirements are complied with.
- ~~(57)~~(5
8) To authorise the payment of costs and damages to objectors to compulsory purchase orders, where awarded, after reporting costs outside budgetary provision to the Council.
- ~~(58)~~(5
9) To take any action to recover any house renovation grant for a breach of conditions, subject to the Council's policy.
- ~~(59)~~(6
0) To serve notices requiring information as to ownership or occupation of any land and to take proceedings in the event of non-compliance with any such notice.
- ~~(60)~~(6) After consultation with the ~~Director of Regeneration~~Head of Housing

4) Services is authorised to institute proceedings for offences under the Rent Act 1977 and the Protection from Eviction Act, 1977.

~~(61)(6~~
2) To institute proceedings for the recovery of rent arrears and arrears or other breach of covenant on housing advances and similar loans or payments including the recovery of possession and exercise of powers of sale.

~~(62)(6~~
3) After consultation with the ~~Director of Regeneration~~ Head of Housing Services to obtain the issue and execution of Warrants of Eviction in respect of tenants in serious rent arrears.

~~(63)(6~~
4) To seal contract documents on behalf of the Council in cases where, within the approved tendering strategy, the Council is the successful tenderer for contract works with public bodies other than the Council.

~~(64)(6~~
5) To institute prosecutions under the Road Traffic Regulation Act, 1984.

~~(65)(6~~
6) To authorise injunctive proceedings.

~~(66)(6~~
7) To deal with applications for occasional use of civic accommodation and to grant free use in appropriate cases.

~~(67)(6~~
8) ~~To deal with any matters relating to recruitment incentives within existing financial budgets.~~

~~(68)(6~~
9) After consultation with the developer, the Post Office and with the Town and Parish Councils, as appropriate, to name new streets.

~~(69)(7~~
0) To number new streets.

~~After consultation with the Director of People and Places (or the Licensing Manager)~~ Head of Environmental Health & Community Safety is authorised:

~~(70)(7~~
1) To institute proceedings in respect of offences under byelaws or enactments dealing with hackney carriages or private hire vehicles.

~~(71)(7~~
2) To deal with applications for registration, licences, certificates or exemptions under any provisions of the Acts set out above or any Regulations made thereunder, in accordance with any policies determined by the Council.

~~(72)(7~~
3) To institute prosecutions for non-compliance with a remedial notice issued under Part 8 of the Anti-Social Behaviour Act 2003 (relating to highways).

~~After consultation with the Director of Regeneration~~ Head of Built Environment is authorised:

~~(73)(7~~
4) To serve notices under Section 79 of the Building Act, 1984 requiring owners to deal with ruinous or dilapidated buildings and

structure.

After consultation with the Head of Engineering Services:

~~(74)~~~~(7~~
~~5)~~ To serve notices under Sections 25 and 28 of the Land Drainage Act, 1991, to require cleansing and maintenance works to be carried out to watercourses.

~~(75)~~~~(7~~
~~6)~~ To institute proceedings in respect of the following sections of the Highways Act, 1980:-

Section 132 - relating to unauthorised marks on highways.

Section 169 - relating to scaffolding on highways.

Section 170 - relating to the control of the mixing of mortar, etc., on highways.

Section 171 - relating to conditions of consent for temporary deposits and excavations on highways.

~~(76)~~~~(7~~
~~7)~~ To institute proceedings in respect of offences under Section 26 of the Local Government (Miscellaneous Provisions) Act, 1976 relating to dangerous excavations.

~~(77)~~~~(7~~
~~8)~~ To serve notices and where necessary, recover costs in relation to -

- (a) enforcement of liability to maintain unadopted highways;
- (b) interference with highways and streets;
- (c) urgent repairs to private streets;
- (d) carriage crossings.

After consultation with the Head of Planning Services is authorised:

~~(78)~~~~(7~~
~~9)~~ To exercise the Council's powers under Section 94 of the Town and Country Planning Act, 1990.

~~(79)~~~~(8~~
~~0)~~ To issue Planning Contravention Notices.

~~(80)~~~~(8~~
~~1)~~ To issue enforcement notices under Section 172, temporary stop notices under Section 171(e) and stop notices under Section 183 of the Town and Country Planning Act, 1990 in respect of breaches of planning control.

~~(81)~~~~(8~~
~~2)~~ To instruct to issue the discontinuance notices under the Town and Country Planning (Advertisements) Regulations.

~~(82)~~~~(8~~
~~3)~~ In cases of urgency, and following consultation with the Chairman or Vice-Chairman of the Planning Applications Committee to serve building preservation notices under the Listed Buildings and Conservation Areas Act, 1990 in respect of buildings which are not

listed as buildings of special architectural or historic interest but which the Head of Planning Services considers are of such interest.

- ~~(83)~~⁸
4) To issue Completion Notices under Section 94 of the Town and Country Planning Act, 1990.
- ~~(84)~~⁸
5) To issue Breach of Condition Notices under Section 187A of the Town and Country Planning Act, 1990 (as amended by the Planning and Compensation Act, 1991).
- ~~(85)~~⁸
6) To issue notices under Section 215 of the Town and Country Planning Act, 1990 requiring the proper maintenance of land.
- ~~(86)~~⁸
7) To institute prosecutions for non-compliance with enforcement notices, planning contravention notices, breach of condition notices, stop notices, Advertisement Regulations, Section 215 notices and Tree Preservation Orders.
- ~~(87)~~⁸
8) To enter into agreements under Section 106 of the Town and Country Planning Act, 1990.
- ~~(88)~~⁸
9) To serve notices under Section 207 of the Town and Country Planning Act, 1990 requiring the replacement of trees.
- ~~(89)~~⁹
0) To authorise to make and confirm Orders under Section 257 of the Town and Country Planning Act, 1990, subject to the applicant agreeing to be responsible for the Council's costs involved in the procedure and to there being no outstanding objections.
- ~~(90)~~⁹
1) To issue listed building enforcement notices under the Planning (Listed Building and Conservation Areas) Act, 1990.
- ~~(91)~~⁹
2) To seek injunctions against any short term events which do not meet the criteria for such events specified by the Director of Planning and Regeneration.

NOTES:

Legal Services Manager

The Legal Services Manager is authorised:

- (i) To act as the Council's Deputy Monitoring Officer and in the absence of the Monitoring Officer to exercise all the functions of the Monitoring Officer.
- (ii) To obtain Counsel's opinion and brief Counsel and to report additional costs to the Resources Portfolio Holder.
- (iii) To enter a defence against any claim brought against the Council.
- (iv) To provide the necessary authorisations in respect of surveillance in accordance with the Regulation of Investigatory Powers Act, 2000.

- (v) To perform the duties listed in paragraphs s1 to 65 and (704) to (912) inclusive of the delegations to the Corporate Director of Resources.

Chief Accountant

In the absence of the ~~Director of Finance and Revenues~~Chief Financial Officer the Chief Accountant is authorised to exercise all the functions of the Council's Chief Financial Officer, including proper administration of the Council's financial affairs under Section 151 of the Local Government Act 197, Section 114 of the Local Government Act 1998 and the Accounts and Audit Regulations ~~2003~~ 2011.

(b) Corporate Director of People and Places (Monitoring Officer)

- (1) To act as the Council's Monitoring Officer, in accordance with the provisions of the Local Government and Housing Act 1988, to ensure full compliance with both legal and ethical frameworks and to perform the functions set out in Article 13.

4. Authority Give to Individual Heads of Service

(a) Head of Culture Leisure & Tourism

- (1) To let leisure and cultural facilities in accordance with charges approved by the relevant Portfolio Holder.
- (2) To obtain licences issued under the Licensing Act 2003.
- (3) To deal with occasional applications for the use of public halls, cafes or similar buildings controlled by the Council at charges in accordance with the minimum approved by the relevant Portfolio Holder.
- (4) To alter normal opening hours in any buildings, premises or facilities open to the public for specific events, public holidays or in case of other urgent reasons.
- (5) To arrange publicity and advertising for facilities made available by a Portfolio Holder in accordance with approved policies and within approved estimates, and to approve advertisements and negotiate advertising rates in accordance with approved estimates.
- (6) To engage artists and musicians for musical, dramatic and similar functions in accordance with the policy of the Council and within budgetary provision.
- (7) To publish tourism and promotional material in accordance with the Council's policy and within approved estimates.
- (8) To arrange tourism promotional events, stage launches and organised activities in accordance with the policies of the Council within approved estimates.

- (9) To manage an interpretative programme of walks, events and activities for the encouragement of an understanding of Wyre's parks, open spaces and countryside.
- (10) To act on behalf of the Council as a consultee on grant applications including National Lottery Initiatives and grants for cultural services.
- (11) To manage and develop Tourist Information Centres, promotions and other visitor services.
- (12) To waive entry fees and charges for facilities and events where such action will result in the enhanced promotion of such a facility.
- (13) To provide a range of services and goods for sale.
- (14) To develop interpretative media for the furtherance of the Council's policies and within approved estimates.
- (15) To execute urgent works on any leisure, countryside or cultural sites or access areas to ensure public safety.
- (16) To loan or hire out equipment.
- (17) To arrange cultural activities and events in accordance with the policies of the Council within approved estimates, including partnership initiatives.

(b) Head of Operations

- (1) To undertake small countryside management projects in accordance with the policy of the Council and within approved estimates.
- (2) To undertake improvements to public open space in accordance with the policy of the Council and within approval estimates.
- (3) To be responsible for delivering the Council's statutory responsibilities in respect of the Forest of Bowland Area of Outstanding Natural Beauty.
- (4) To deliver the public rights of way (urban core) agency agreement, in accordance with approved estimates.
- (5) To approve or otherwise, designs and inscriptions on tombstones.
- (6) To grant Rights of Burial.
- (7) To deal with re-purchase of grave spaces.
- (8) To instruct the Legal Services Manager to make tree preservation orders and to confirm such orders where no objection has been made.

- (9) To take action in relation to dangerous trees and to deal with applications for felling or lopping trees included in a tree preservation order or notifications of intention to fell or lop trees in a conservation area.
- (10) To serve Hedgerow Replacement and Retention Notices and determine applications made under Regulation 8 of the Hedgerow Regulations, 1997.
- (11) To submit observations on applications for felling licences when the authority is consulted under the Forestry Act, 1967.
- (12) To instruct the Legal Services Manager to revoke Tree Preservation Orders.

~~To liaise with market traders and any other persons or organisation with a view to promoting Fleetwood Market.~~
- (13) To implement action necessary to complete the agreed environmental improvement programme within agreed budgets and timescales.
- (14) To appoint Officers as authorised Officers with powers of entry under any enactment relating to public health or hygiene, food control, public safety and welfare and licensing for matters so far as they relate to the powers and duties of the Council.
- (15) To authorise any employee to act as an 'Authorised Officer' under Section 4 of the Dogs (Fouling of Land) Act, 1996, to issue fixed penalty notices.
- (16) To delegate such responsibilities as he deems fit to comply with the Environmental Protection Act, 1990 relating to the Dog Wardens in particular and to any other Officer as required.

~~To serve notices requiring information as to the ownership, occupation or use of any land and to authorise proceedings in the event of non-compliance with any such notice.~~

~~To provide the necessary authorisations in respect of surveillance in accordance with the Regulation of Investigatory Powers Act, 2000.~~
- (17) To decline to determine complaints made under Part 8 of the Anti-Social Behaviour Act 2003 (relating to high hedges) as not duly made and valid.
- (18) To determine complaints made under Part 8 of the Anti-Social Behaviour Act 2003 (relating to high hedges) and to issue remedial notices.
- (19) To withdraw, waive, vary or relax the requirements of a remedial notice issued under Part 8 of the Anti-Social Behaviour Act 2003

(relating to high hedges).

- (20) To take any action, including carrying out work in default, to secure compliance with a remedial notice served under Part 8 of the Anti-Social Behaviour Act 2003 (relating to high hedges).
- (21) To authorise council employees and other persons acting on behalf of the council powers of entry to land under Part 8 of the Anti-Social Behaviour Act 2003 (relating to high hedges).
- (22) To institute prosecutions for non-compliance with a remedial notice issued under Part 8 of the Anti-Social Behaviour Act 2003 (relating to high hedges).

(c) Head of Environmental Health & Community Safety

- (1) To be responsible for all matters under the Environmental Health Information Regulations, 1992.
- (2) To maintain records, in the form indicated, of all requests for information.
- (3) To refuse a request for information if, in his/her opinion, the request is manifestly unreasonable or if too general, or if, after consultation with the Legal Services Manager, he/she deems it to be confidential within the terms of the Environmental Health Information Regulations, 1992.
- (4) To appoint Officers as 'Inspectors' under Section 19 of the Health and Safety at Work etc. Act, 1974 and to terminate any appointment so made. In each case he may authorise the inspector to exercise one or more of the powers specified in:
 - (i) Sections 20, 21, 22, 25 and 39 of the Act.
 - (ii) Any Health and Safety Regulation.
 - (iii) The provisions of the Acts mentioned in Schedule 1 to the Health and Safety at Work etc. Act, 1974, which are specified in the third column of that Schedule and of the Regulations, Orders or other instruments of a legislative character, made or having effect under any provisions so specified, as in force from time to time.
- (5) To authorise under Section 20 (2)(c)(1) of the Health and Safety at Work etc. Act, 1974 other people to accompany inspectors duly appointed under S19 of the Health and Safety at Work etc Act, 1974, when that inspector is exercising their powers of entry under Section 20 (2) (a) of the Act.
- (6) To agree to the transfer or assignment of premises, parts of premises or any activity carried on therein under Sections 5 or 6 of the Health and Safety (Enforcing Authority) Regulations, 1989.

- (7) To determine any action relating to the approval, refusal or transfer of licences, issue of sanctions, service of notice or institution of proceedings or formal cautions in accordance with the principles set out in the "Policy for Taxi Licensing Enforcement".
- (8) To approve, issue, renew or transfer licences for hackney carriages and private hire vehicles and private hire operators in accordance with approved Council policy.
- (9) To approve, issue or renew licences for hackney carriage operators and drivers for private hire vehicle drivers in accordance with approved Council policy.
- (10) After consultation with the Chairman of the Licensing Committee, to suspend licences relating to hackney carriages, private hire vehicles, their operators or drivers.
- (11) To exercise the powers contained in the Local Government (Miscellaneous Provisions) Act, 1976, and the Town Police Clauses Act, 1847 and the Rehabilitation of Offenders Act, 1974, relating to the enforcement of taxi licensing and to authorise persons to Act on behalf of the Council to exercise such powers.
- (12) To appoint Officers as authorised Officers with powers of entry under any enactment relating to public health or hygiene, food control, public safety and welfare and licensing for matters so far as they relate to the powers and duties of the Council.
- (13) To deal with applications for registration, licences, certificates or exemptions under any provisions of the Acts set out below or any Regulations made thereunder, in accordance with any policies determined by the Council Committee.
- (14) To determine the conditions attached to any licences, permits, registrations, certificates or exemptions issued under any provisions of the Acts set out at below or any regulation made thereunder, in accordance with any policies determined by the Council.
- (15) To authorise the appointment of Proper Officers to deal with matters relating to infectious disease or personal medical matters under the National Assistance Acts 1948, the Assistance (Amendment) Act 1951 and the Public Health (Control of Diseases) Act 1984, for the removal to suitable premises of persons in need of care and attention.
- (16) To determine any action relating to the service of notices, authorisation of work in default and the institution of proceedings to be taken under the following statutory provisions (or any regulations made thereunder) so far as such provisions relate to the powers and duties of the Council:

~~1. Animal Boarding Establishments Act, 1963~~

~~1.2. Animal Health Act, 1981~~

- ~~2.3.~~ Animal Welfare Act, 2006
- ~~3.4.~~ Anti-Social Behaviour Act, 2003
- ~~5.~~ ~~Betting, Gaming and Lotteries Act, 1963~~
- ~~6.~~ ~~Breeding of Dogs Act, 1973 and 1991~~
- ~~7.~~ ~~Breeding and Sale of Dogs (Welfare) Act, 1999~~
- ~~4.8.~~ Building Act, 1984
- ~~5.9.~~ Caravan Sites Act, 1968
- ~~6.10.~~ Caravan Sites and Control of Development Act, 1960
- ~~11.~~ ~~Cinema Act, 1985~~
- ~~7.12.~~ Clean Air Act 1993
- ~~8.13.~~ Clean Neighbourhoods and Environment Act 2005
- ~~9.14.~~ Control of Pesticides Regulations, 1986
- ~~10.15.~~ Control of Pollution Act, 1974
- ~~11.16.~~ County of Lancashire Act, 1984
- ~~12.17.~~ Dangerous Dogs Act, 1991
- ~~13.18.~~ Dangerous Wild Animals Act 1976
- ~~19.~~ ~~Dogs (Fouling of Land) Act, 1996~~
- ~~14.20.~~ Environment Act, 1995
- ~~15.21.~~ Environmental Information Regulations, 1992.
- ~~16.22.~~ Environmental Protection Act 1990.
- ~~17.~~ ~~Equality Act 2010~~
- ~~18.~~ ~~European Communities Act 1972~~
- ~~19.23.~~ Factories Act, 1961
- ~~20.24.~~ Food Act, 1984
- ~~21.25.~~ Food Safety Act, 1990
- ~~22.26.~~ Food and Environmental Protection Act, 1985
- ~~23.27.~~ Game Act, 1831
- ~~28.~~ ~~Game Licenses Act, 1860~~
- ~~24.29.~~ Gambling Act 2005.
- ~~30.~~ ~~Gaming Act, 1968~~
- ~~25.31.~~ Guard Dogs Act, 1975
- ~~26.32.~~ Health Act, 2006 and 2009
- ~~27.33.~~ Health & Safety at Work etc. Act, 1974
- ~~28.34.~~ House to House Collections Act, 1939
- ~~35.~~ ~~Late Night Refreshment Houses Act, 1969~~
- ~~29.36.~~ Licensing Act, 2003
- ~~30.37.~~ Litter Act, 1983
- ~~31.38.~~ Local Government (Miscellaneous Provisions) Act, 1976
- ~~32.39.~~ Local Government (Miscellaneous Provisions) Act, 1982
- ~~33.40.~~ Local Government Act, 1988
- ~~34.41.~~ Local Government and Housing Act, 1989
- ~~42.~~ ~~Lotteries and Amusements Act, 1976~~
- ~~35.43.~~ Motor Salvage Operators Regulations, 2002
- ~~36.44.~~ Noise Act, 1996
- ~~37.45.~~ Noise and Statutory Nuisance Act, 1993
- ~~38.46.~~ Offices, Shops and Railway Premises Act, 1963
- ~~47.~~ ~~Pet Animals Act, 1951~~
- ~~39.48.~~ Police, Factories etc. (Miscellaneous Provisions) Act, 1916
- ~~40.49.~~ Pollution, Prevention and Control Act, 1999
- ~~41.50.~~ Pollution, Prevention and Control (England and Wales) Regulations, 2000
- ~~42.51.~~ Prevention of Damage by Pests Act, 1949
- ~~43.52.~~ Private Water Supplies Regulations 1991.

- ~~44.53.~~ Public Health (Control of Disease) Act, 1984
- ~~45.54.~~ Public Health Act, 1936
- ~~46.55.~~ Public Health Act, 1961
- ~~56.~~ ~~Rag, Flock and Other Filling Materials Act, 1951~~
- ~~47.57.~~ Refuse Disposal (Amenity) Act, 1978
- ~~58.~~ ~~Riding Establishments Act, 1964~~
- ~~59.~~ ~~Riding Establishments Act, 1970~~
- ~~48.60.~~ Salmon and Freshwater Fisheries Act, 1933
- ~~49.61.~~ Scrap Metal Dealers Act, 1964
- ~~50.62.~~ Slaughter of Poultry Act, 1967
- ~~51.63.~~ Slaughterhouses Act, 1974
- ~~52.64.~~ Sunday Trading Act, 1994
- ~~53.65.~~ The Food Hygiene (England) Regulations 2006.
- ~~54.66.~~ The Materials and Articles in Contact with Food Regulations, 1978
- ~~55.67.~~ Theatres Act, 1968
- ~~56.68.~~ Town Police Clauses Act, 1847
- ~~57.69.~~ Water Industry Act, 1991
- ~~58.70.~~ Working Time Regulations, 1998
- ~~59.71.~~ Zoo Licensing Act, 1981

- (17) To grant applications for motor salvage operator registration and to issue notices of intention to refuse such operations if an applicant has an unspent conviction for one of the offences listed in the Motor Salvage Operators (Specified Offences) Order, 2002.
- (18) To include, exclude or vary any of the Standard Licence conditions in respect of Residential and Holiday Caravan Site Licences, taking into account the individual nature of each site.
- (19) To enforce the requirements of the Food and Environmental Protection Act, 1985 and the Control of Pesticides Regulations, 1986.
- (20) To appoint Officers as authorised Officers to enforce the requirements of the Food and Environmental Protection Act, 1985 and the Control of Pesticides Regulations, 1986.
- (21) To exercise the powers set out in the Water Industries Act, 1991 to the extent that it affects the Council and to authorise persons to act on behalf of the Council to exercise such powers.
- (22) To approve, issue, renew or transfer licences for pleasure boats in accordance with approved Council policy and the Public Health Act, 1936.
- (23) To approve, issue, renew or refuse licences for boatmen in accordance with approved Council policy and the Public Health Act, 1936.
- (24) After consultation with the Chairman of the Licensing Committee to refuse licences for pleasure boats or boatmen.

- (25) To grant longer response times which should not exceed 45 minutes for silencing audible intruder alarms as provided for in the 1982 Code of Practice issue by the Secretary of State for the Environment under the provisions of the Control of Pollution Act, 1974.
- (26) To deal with and authorise any relevant permit relating to installations and processes under the Pollution, Prevention and Control Act, 1999, including any Regulations made under the Act.
- (27) To deal with the burial or cremation of the body of any person where no suitable arrangements for disposal have been made.

(d) Head of Engineering Services

- (1) To have overall responsibility for managing and supervising the Relevant Tasks and Permissive Tasks under the Residual Highways Agreement with Lancashire County Council.
- (2) To determine any action relating to the service of notices or the authorisation of work in default and the institution of legal proceedings be taken under the following statutory provisions (or any regulations made thereunder).
 - County of Lancashire Act, 1984.
 - Highways Act, 1980.
 - New Roads and Streetworks Act, 1992.
 - Public Health Act, 1936.
- (3) To provide site and arrange for the maintenance of street furniture and any other apparatus, equipment or installation necessarily or conveniently situated on the highway.
- (4) To provide site and arrange for the maintenance of public seats within the highway or other operational land held by the Living Places Portfolio Holder.
- (5) To deal with the provision, siting and maintenance of bus shelters.
- (6) To deal with the siting and re-siting of bus stops after consultation with the Police, and County Council's Environment Director.
- (7) To deal with the cutting of trees etc. under Section 154 of the Highways Act, 1980.
- (8) To take any necessary action under section 25 and 26 of the Local Government (Miscellaneous Provisions) Act, 1976 relating to dangerous excavations.
- (9) Following the passing of a resolution of the Council to carry out private street works, to deal with all matters under the advance payment code including making apportionments and authorising any legal proceedings.

- (10) To arrange for the temporary prohibition of traffic on roads.
- (11) To carry out drainage works by agreement under section 275 of the Public Health Act, 1936.
- (12) To arrange for the maintenance of amenity and social lighting.
- (13) To exercise the powers of the Council under section 262 of the Public Health Act, 1936 relating to watercourses and ditches.
- (14) To arrange for Neighbourhood Watch signs to be provided where appropriate, within the Budget provided for that purpose.
- (15) To arrange for the maintenance of those coastal defences.
- (16) To arrange for the maintenance of watercourses and land drainage pumping stations.
- (17) To adopt, in appropriate cases, new land drainage pumping stations and systems by agreement with developers including a commuted sum for maintenance.
- (18) To exercise the powers under Sections 14 to 27 of the Land Drainage Act, 1976 relating to the prevention of flooding.
- (19) To arrange for the maintenance of the Fleetwood ferry dock and Knott End Landing Stage.
- (20) To arrange for the maintenance or replacement of street name plates.
- (21) As the Council's River Flooding and Tidal Flooding Officer, to take any emergency actions to execute any urgent works in relation to coastal and fluvial flooding, reporting the action to the ~~Neighbourhood Services-relevant~~ Portfolio Holder.
- (22) To authorise other officers to act as the Council's River Flooding and Tidal Flooding Officer as necessary.
- (23) To serve notices under Sections 25 and 28 of the Land Drainage Act, 1991 to require cleansing and maintenance works to be carried out to watercourse.
- (24) To approve the use of operational land under the control of the Neighbourhood Services Portfolio Holder for events (after consultation with other Directors where appropriate).
- (25) To be responsible for the management and maintenance of all the Council's car parks in accordance with the Council's policies, including making recommendations upon the future charging policy, maintenance and capital works.

- (26) To operate the Decriminalised Parking Enforcement System in partnership with Lancashire County Council and to determine representations and challenges and process appeals.
- (27) To manage the Fleetwood to Knott End ferry undertaking, in accordance with Council policy.
- (28) To institute proceedings in respect of contravention of or non-compliance with a provision of an order made under the Road Traffic Regulation Act, 1984.
- (29) To liaise with local road safety organisations.
- (30) To comment whenever the Borough Council is consulted by other public authorities or bodies on development proposals.

(e) Head of Housing Services

- (1) To deal with applications for grants for home improvement and repair within the guidelines laid down by the Council.
- (2) To determine any action (other than appeals to the Council) to be taken under sections 352 and 354-365 inclusive of the Housing Act, 1985, including the signing of demands for expenses under the default powers contained in these sections of the Act.
- (3) To extend the period for representations of appeals under the provisions of Sections 264 and 354 of the Housing Act, 1985.
- (4) To deal with matters arising under Sections 118 and 134 of the Local Government and Housing Act, 1989, (conditions of grants and repayments).
- (5) To deal with housing accommodation, allocations and nominations, in accordance with the policy of Council.
- (6) To assist in the rehousing of former owners or tenants of houses acquired by the Council in general improvement or renewal areas to allow them to remain in the property after renewal areas or to allow them to remain in the property after improvement or to provide temporary housing, as necessary.
- (7) To assist in the rehousing of owner/occupiers of properties where compulsory purchase powers are exercised or in respect of which blight notices have been accepted by the Council.
- (8) To assist in the rehousing of occupants of property in a dangerous condition.
- (9) To deal with applications for the Council's consent to the conversion or alteration of houses and other property under the remit of the Neighbourhood Services Portfolio Holder.

- (10) To provide nominations to qualifying people who are at the top of the relevant lettings waiting list and to override the points system in exceptional circumstances in accordance with Part VI of the Housing Act, 1996.
- (11) To secure temporary accommodation for statutory homeless persons, for a term of not more than 4 years.
- (12) To deal with applications for Local Authority Housing Association Grant for aids and adaptations to Wyre Housing Association owned dwellings for physically handicapped persons.
- (13) To deal with any reviews enacted through Parts VI and Parts VII of the 1996 Housing Act.
- (14) To deal with applications for Local Authority Housing Association Grant from social registered landlords.
- (15) To make Private Sector nominations other than to those applicants at the top of the Waiting List.
- (16) To override the points system in exceptional circumstances.
- (17) To review decisions relating to the allocation of housing accommodation under Part VI of the Housing Act, 1996.
- (18) To omit persons who present an identifiable risk to the Community (whether quantifiable or not) from the Waiting List. Such assessments to be monitored and reported upon periodically with a view to seeing if they form a basis for future policy guidelines.
- (19) To deal with the Council's statutory obligations under Part VII of the Housing Act, 1996 the determination of homelessness and the extent of the duty owed to applicants, following consideration of investigations.
- (20) To review decisions relating to homelessness under Part VII of the Housing Act, 1996, to be conducted in accordance with the approved procedures. In the event that the Director of Regeneration has been involved in the decision-making process, such review to be carried out by the Chief Executive or other approved Senior Officer.
- (21) To take possession proceedings against non-secure tenants/ licensees.
- (22) To submit bids, after consultation with the ~~Director of Resources~~ Chief Financial Officer, in accordance with Council policy to Government agencies for Capital Grants, ~~Credit Approval~~ or similar, in respect of housing issues.
- (23) To determine any action relating to the service of notices, authorisation of work in default and the institution of proceedings to

be taken under the following statutory provisions (or any regulations made thereunder) so far as such provisions relate to the powers and duties of the Council:

1. Housing Act, 1988
 2. Housing Act, 1985 and 1996
 3. Housing Act 2004.
 4. Housing Grants and Construction (Regeneration) Act, 1996
 5. Road Traffic Act, 1988
- (24) To operate a licensing scheme for Houses in Multiple Occupation and to approve, refuse, revoke and vary licences under the Housing Act 2004.
- (25) To make and operate prohibition orders under the Housing Act 2004.
- (26) To introduce and operate Interim and Final Management Orders under the Housing Act 2004.
- (27) To introduce and operate Empty Dwelling Management Orders under the Housing Act 2004.
- (28) To determine the conditions attached to any Licences, Empty Dwelling Management Orders, Interim and Final Management Orders.
- (29) To make payments under the Council's Discretionary Housing Incentive Scheme to facilitate accommodation for the homeless.
- (30) To liaise with Government agencies in accordance with Council Policy concerning the Council's investment priorities on housing related issues.
- (31) To make nominations in accordance with Council Policy in respect of low cost housing for sale by private developers.

(f) Head of Planning Services

- (1) To determine planning applications.

EXCEPT: Where a councillor requests that a planning application be considered by the Planning Committee, subject to the request being received by the Director of Regeneration within 10 working days of the distribution date of the weekly list of planning applications on which the said planning applications appeared.

NOTE 1: This exception applies only to original planning applications and not to re-submitted applications where no substantial change has been made to an original application which has been refused.

NOTE 2: Where a Member requests determination of an application by the Planning Committee and is unable to attend the meeting to speak thereon, consideration of a letter from that Member relating to that planning application will be at the discretion of the Committee.

- (2) To determine applications for the display of advertisements.
- (3) To determine matters reserved on outline planning permission or as a condition of a planning permission.
- (4) To determine proposed working or minor modifications or amendments to approved applications, which do not affect the principle of the original, approval or permission.
- (5) To determine applications for listed building consent for the execution of works for the alteration or extension of listed buildings.
- (6) To determine applications for conservation area consent.
- (7) To determine persons and agencies to be consulted and notified on the making of planning or other applications.
- (8) To comment whenever the Borough Council is consulted by other public authorities or bodies on development proposals.
- (9) To be responsible for the administration of Hazardous Substances matters and dealing with all applications for Hazardous Substances Consent.
- (10) To determine any matter relating to fees arising on applications under the Town and Country Planning Act, 1990 subject to compliance with statutory provisions and a Council approved policy.
- (11) To make determinations under Class A of Part 6 of Schedule 2 and Class A of Part 7 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order, 1995 in connection with proposed agricultural and forestry development.
- (12) To make determinations under Class A of Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order, 1995 in connection with proposed electronic communications equipment installation.
- (13) To make determinations under Class A of Part 31 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order, 1995 in connection with any building operation consisting of the demolition of a building.
- (14) To determine applications made under Section 55 of the Town and Country Planning Act, 1990, as amended by the Planning and Compensation Act, 1991, concerning the demolition of certain types

of buildings.

- (15) To determine applications for certificates of lawful use of existing uses or development or of proposed uses or development under sections 191 and 192 of the Town and Country Planning Act, 1990 as amended by Section 10 of the Planning and Compensation Act, 1991.
- (16) To decline to determine repetitive applications for planning permission under the Planning and Compensation Act, 1991 and the Town and Country Planning (Control of Advertisements) Regulations, 1992.
- (17) To determine whether planning or other applications should be subject to environmental assessment and, if so, what data should be contained in assessments.
- (18) To issue determinations pursuant to Section 64 of the Town and Country Planning Act, 1990 as to whether or not a proposal would constitute development and, if so, whether planning permission would be required in respect of such a proposal.
- (19) To authorise Council employees and other persons acting on behalf of the Council to exercise powers of entry under the National Parks and Access to the Countryside Act, 1949, the Town and Country Planning Act, 1990, Planning (Listed Buildings and Conservation Access) Act, 1990 and for any other purpose relating to the work of Planning Services and the Planning Committee.
- (20) To issue and serve Planning Contravention Notices under Section 171(c) of the Town and Country Planning Act, 1990 as amended by the Planning Compensation Act, 1991.
- (21) To issue and serve notices requiring information as to the ownership, occupation or use of any land and to authorise proceedings in the event of non-compliance with any such notice.
- (22) In cases of urgency, and after consultation with the Economy Portfolio Holder to authorise the making of a Direction under Article 4 of the Town and Country Planning General Permitted Development Order, 1995.
- (23) To take any other action, including carrying out work in default, to secure compliance with any notices served under the Building Act, 1984, the Planning (Listed Buildings and Conservation Areas) Act, 1990 or the Town and Country Planning Act, 1990 or any Regulation or Orders made thereunder.
- (24) To authorise the execution of works in accordance with Section 54(1) of the Planning (Listed Building and Conservation Areas) Act, 1990.
- (25) To issue Notices under Section 55 of the Planning (Listed Building

and Conservation Areas) Act, 1990.

~~To approve applications for grant aid up to a maximum of £15,000 and to authorise payments on satisfactory completion of approved grant aided works, under the Heritage Economic Regeneration Scheme.~~

- (26) To publish an Annual Monitoring Report.

(g) Head of Regeneration and Assets

- (1) To represent the Council and liaise with relevant agencies and partners in accordance with Council policy on all matters relating to economic development (including tourism), regeneration and asset management.
- (2) To respond to consultations from other public authorities, agencies and organisations on proposals in relation to economic (including tourism), regeneration and asset management.
- (3) To act on behalf of the Council in relation to consultation on grant applications including European, government and charitable grants on all matters relating to economic (including tourism) regeneration and asset management.
- (4) To develop the Council's approach to property asset management, including development of the Asset Management Plan.
- (5) To manage any scheme approved by the Council, which gives direct financial assistance to businesses, industry, commerce, enterprise and social enterprise and to consider and make recommendations on the establishment, variation on winding up of any schemes to enable the Council to keep pace with current commercial practices.
- (6) To consent to the assignment, sub-letting or change of use (subject to any necessary planning approval being sought and obtained) of land and premises leased from the Council.
- (7) To deal with applications for variation or release of covenants imposed by the Council or its predecessors on the sale of property, in relation to alterations or extensions to the property.
- (8) To approve the service of any notices in connection with the review of rents.
- (9) To deal with any matters relating to grazing or mowing licences or agricultural tenancies.
- (10) To approve building plans and plans submitted to fulfil covenants.
- (11) In consultation with the Legal Services Manager and the Chief

Accountant, to deal with all tenancy matters (including licences to use land and buildings) where the annual market rent or Fee (in his opinion) of the land and buildings the subject of the licence or tenancy is less than £15,000 p.a. and the period of the licence or tenancy does not exceed 30 years.

- (12) To deal with applications for wayleaves affecting highways and easements for statutory undertakers and others at only nominal consideration.
- (13) To deal with all matters affecting the operation of Fleetwood Market.
- (14) To deal with applications from market traders for consent to alternatives to market stalls.
- (15) To fix dates for closing the market on public holidays.
- (16) To effect temporary lettings of market shops.
- (17) To take action in respect of unauthorised markets as defined by Council policy.
- (18) To accept completed works on behalf of the Council.
- (19) To enter into contracts with parties outside the Council, in accordance with the Council's Procedure Rules and Standing Orders relating to contracts.
- (20) With respect to the shared ownership scheme at Jubilee Drive, Cleveleys:
 - (a) To agree the open market value of the properties, for subsequent disposals.
 - (b) To instruct the Valuation Office Agency, if necessary.
 - (c) To release the resale covenant to complete the purchase of the dwelling within the two month timescale.
- (21) To deal with offers by owners to convey property to the Council where such property is in the area of an unconfirmed Compulsory Purchase Order or is shortly to be acquired by the Council.
- (22) To decline offers of property not recommended for acquisition.
- (23) To approve the sale of freeholds under the Leasehold Reform Act, 1967.
- (24) Subject to the prior declaration as surplus to requirements to the Council, to approve:
 - (a) The sale of land and buildings up to £20,000 in any one case;

- (b) The lease of land and buildings in excess of thirty years where the premium does not exceed £20,000 or the annual rent does not exceed £15,000 in any one case; and
- (c) The sale of property by public auction and to determine the reserve price.

In all cases officers will be required to observe any requirements of the Section 123 of the Local Government Act 1972 to obtain the best price that can be reasonably obtained.

- (25) Subject to the prior declaration as surplus to requirements by the Council, to approve early entry onto land by a proposed purchaser/lessee.
- (26) To approve the service of a notice to quit for any tenancy for which a Portfolio Holder is responsible on the grounds of non-payment of rent.
- (27) To approve and report upon any action in respect of breach of covenants.
- (28) To reject purchase notices which may be served on the Council under Planning or Highway legislation.
- (29) To deal with applications for licences or permits for berths and moorings.
- (30) Arrange for the maintenance of the Cleveleys Bus Station.
- (31) To authorise the payment of disturbance expense, home loss and payments of a similar nature for which the Council may be liable to the owner/occupier of property.
- (32) To take the following action in the case of short term events:
 - (i) Allow the event on the basis that it is organised by a Sporting, Charitable or Voluntary Organisation and that all proceeds go to either the organisation or to charity.
 - (ii) Allow trading stalls at special events, providing that the goods sold are directly related to this event, and the sale of goods is incidental to and not the main purpose of that event.
 - (iii) Allow the use of properly registered and licensed donkeys at such events.
 - (iv) Allow “quality” rival markets, for periods of not more than 14 days in any one year, which are not considered to offer a substantial threat to Fleetwood Market, but subject to the payment of a negotiated fee.

- (v) After consultation with the Legal Services Manager to seek injunctions against any such short term events which do not meet the above criteria.
- (33) After consultation with the ~~Director of Resources~~ Chief Financial Officer, to ensure that all appropriate lettings meet the Council's insurance requirements.
- (34) To let allotments and to determine tenancies where tenants are in breach of any conditions of the tenancy.
- (35) To deal with applications for the erection of greenhouses and sheds and the keeping of poultry and livestock on allotments.
- (36) To deal with occasional applications for the use of open spaces at not less than the minimum charge approved by the Council.

~~To submit bids, after consultation with the Director of Resources in accordance with Council Policy to Government agencies for Capital Grants, Credit Approval or similar, in respect of housing issues.~~

(h) Head of Built Environment

- (1) To institute proceedings for non-compliance with Building Regulations and contravention of notices served under the Building Act, 1984.
- (2) To institute proceedings in connection with dangerous buildings.
- (3) To determine application plans under the Building Regulations (including applications for relaxation of Regulations).
- (4) To determine any matter relating to fees arising on applications under the Building Regulations subject to compliance with statutory provisions and any Council approved policy.
- (5) To serve or authorise the service of notices under sections 81 and 82 of the Building Act, 1984 requiring proper steps to be taken in connection with the demolition of buildings.
- (6) To serve notices requiring information as to the ownership, occupation or use of any land and to authorise proceedings in the event of non-compliance with any such notice.
- (7) To deal with the issue of licences for the demolition of buildings.
- (8) To take any emergency action in relation to dangerous buildings or structure, including the carrying out of work in default, reporting the action to the Portfolio Holder as soon as practical.
- (9) To refuse or to accept 'initial notices', 'final notices' or 'building

notices' under the Building Act, 1984.

- (10) To deal with matters arising under Sections 24 and 71 of the Building Act, 1984 (means of ingress and egress at certain buildings to which the public have access).
- (11) To exercise the powers of the Council in connection with dangerous, ruinous or dilapidated buildings or structures including authorisation of action in default.
- (12) To issue Completion Certificates in appropriate circumstances under the Building Regulations.
- (13) To determine charges within the provisions of the Council's Building Scheme of Charges for Building Regulation Work currently in operation, as follows:

In accordance with Section 5.1 of the Scheme, not to make a change: where he is satisfied that the whole of the building work in question consists of an alteration; and

where the building work is:

- (i) solely for the purpose of providing means of access to enable disabled persons to get into or out of an existing building and to or from any part of it, or of providing facilities designed to secure the greater health, safety, welfare or convenience of such persons; and
- (ii) is to be carried out in relation to:
 - (a) an existing building to which members of the public are admitted (whether on payment or otherwise); or
 - (b) an existing dwelling which is, or is to be, occupied by a disabled person.

In accordance with Section 5.2 of the Scheme, to agree a 30% reduction in the plan charge where an application or Building Notice in respect of building work which is substantially the same as building work in respect of which plans have previously been approved or building works previously inspected by the Council, and where the Council is satisfied that the owner of the plans who deposited them or who gives a building notice in respect of them, is the same person who originally deposited the plans or gave a Building Notice in respect of them.

In accordance with Section 8.1 of the Scheme, to agree that part of any charge which is payable to the Council may, in a particular case, be paid by instalments of such amounts payable on such dates as may be specified.

In accordance with Section 8.3 of the Scheme to agree that where a plan charge has been paid and not refunded, in any case considered reasonable, to decide not to make a further plan charge in respect of plans subsequently

deposited for substantially the same building work.

In accordance with Section 10.1 of the Scheme not to make a charge where considered reasonable, where, before 1st April, 1999 plans have been deposited or a building notice has been given in respect of any building work and, on or after that date, plans are deposited or such a notice is given in respect of substantially the same building work.

~~To provide the necessary authorisations in respect of surveillance in accordance with the Regulations of Investigatory Powers Act, 2000.~~

NOTES:

~~(i) Head of Development Management and Development Management Managers~~

~~The Development Control Manager and Principal Area Planning Officers are authorised to perform the duties set out in paragraphs (60) to (86) inclusive.~~

~~(ii) Development Manager (Policy)~~

~~The Development Manager (Policy) is authorised to perform the duties set out in paragraph (86) of delegations to the Director of Regeneration.~~

~~(iii) Estates Manager~~

~~The Estates Manager is authorised to perform the duties listed in paragraphs 90-122 inclusive of the delegations to the Director of Regeneration.~~

~~(iv) Senior Building Control Officer~~

~~The Senior Building Control Officer is authorised to perform the duties listed in paragraphs (126-138) inclusive of the delegations to the Director of Regeneration.~~

~~(v) Engineering Services Manager~~

~~The Engineering Services Manager is authorised to perform the duties set out in paragraphs (1) to (27) inclusive.~~

~~(vi) Housing Services Manager~~

~~The Housing Services Manager is authorised to perform the duties set out in paragraphs 31-59 inclusive.~~

~~(vii) Economic Development/Regeneration Manager~~

~~The Economic Development/Regeneration Manager is authorised to perform the duties set out in paragraphs 85, 87, 88, 89, 90 and 91.~~

Appendix 3**Article 13 – Officers****Terminology****13.01 Management Structure****(a) General**

The full Council may engage such staff (referred to as ‘Officers’) as it considers necessary to carry out its functions.

(b) Officers

The full Council will engage persons for the posts of Chief Executive and **the Corporate** Directors, who will be designated a members of the Management Team.

The functions of the Chief Executive will be, as follows:

Post	Functions and Areas of Responsibility
Chief Executive (and Head Of Paid Service)	<p>To assist with the identification and delivery of the Council’s vision and corporate objectives.</p> <p>To be the Council’s Head of Paid Service with overall responsibility for the effective corporate and operational management of the Authority, and delivery of quality services to the community.</p> <p>To provide professional and policy advice to all parties in the decision-making process.</p> <p>To ensure the effective strategic management of the Council.</p> <p>To support the work and decision-making processes of the Leader and Executive, including the setting of Strategic Priorities, which reflect the Council’s Community Strategy.</p> <p>To advise on the formulation, review and implementation of Council policy and strategy, including strategic financial matters.</p> <p>To ensure effective performance management systems are in place in order to secure Best Value in service delivery including maximising the opportunities for joined-up working through partnership and joint provision.</p> <p>To deliver the Council’s transformation agenda.</p> <p>To sustain the corporate interests and workings of the Council as a whole.</p>

Post	Functions and Areas of Responsibility
<p>Chief Executive (and Head Of Paid Service) (Cont)</p>	<p>To ensure effective mechanisms are in place for the delivery of effective internal and external communication.</p> <p>To actively manage the relationship between Members and Officers and to intervene to resolve any communication and other problems within the Authority.</p> <p>To work with elected Members and staff to ensure the Council adopts a proactive response to external challenges from central government and other bodies (locally, regionally, nationally and internationally).</p> <p>To secure arrangements for the Council to work with others to improve the economic, social and environmental well-being of the area through joined-up working and service provision.</p> <p>To keep under review the organisation and management of the Authority.</p> <p>To ensure arrangements are in place for the production of appropriate contingency plans for the authority and fulfil the statutory duties concerned with civil emergency planning.</p> <p>To ensure that the Council’s responsibilities for health and safety are met.</p> <p>To set agreed targets and monitor and evaluate the performance of the <u>Corporate</u> Directors.</p> <p>To work with the Cabinet to make any arrangements required to represent the Council at national, regional and European levels, with government bodies, local authorities, agencies, the local community, the private sector, academic institutions and any other organisations.</p>

(c) Head of Paid Service, Monitoring Officer and Chief Financial Officer

The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service <u>and Returning Officer for elections</u>

<u>Corporate</u> Director of People and Places	Monitoring Officer and Returning Officer for elections
<u>Corporate</u> Director of Resources	Chief Financial Officer

Such posts will have the functions described in Article 13.02 - 13.04 below.

(d) Structure

The Head of Paid Service will determine and publicise a description of the overall Service Unit structure of the Council showing the management structure and deployment of officers. This is set out in Part 7 of this Constitution.

13.02 Functions of the Head of Paid Service

(a) Discharge of Functions by the Council

The Head of Paid Service will report to the Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

(b) Restrictions on Functions

The Head of Paid Service cannot be the Monitoring Officer but may hold the post of Chief Financial Officer if a qualified accountant.

13.03 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, Chief Financial Officer and the Legal Services Manager, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an Executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise 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 Standards Committee

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

(d) Receiving Reports

The Monitoring Officer will receive and act on reports made by Ethical Standards Officers, who are appointed by Standards for England, and decisions of the case tribunals.

(e) Advising the Standards Committee

The Monitoring Officer will advise the Standards Committee on the assessment, investigation and determination of allegations of breaches of the Code of Conduct by Wyre Borough or Parish Councillors within the area. The Monitoring Officer will designate an Officer to conduct investigations into matters referred by a Standards Assessment Sub-Committee or an Ethical Standards Officer and to make reports or recommendations in respect of them to the Standards Committee.

(f) Proper Officer for Access to Information

The Monitoring Officer will ensure that decisions made by the Cabinet or one of its members, 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 contribute to the corporate management of the Council and will provide advice on the scope of powers and authority to take decisions, on maladministration, on financial impropriety, probity and on budget and policy framework issues to all Councillors.

(i) Restrictions on Posts

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

13.04 Functions of the Chief Financial Officer

(a) Ensuring Lawfulness and Financial Prudence of Decision Making

After consulting with the Head of Paid Service, the Legal Services Manager and the Monitoring Officer, the Chief Financial Officer will report to the full Council or to the Cabinet 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) Contributing to Corporate Management

The Chief Financial Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(c) Administration of Financial Affairs

The Chief Financial Officer will have responsibility for the administration of the financial affairs of the Council.

(d) Internal Audit

The Chief Financial Officer will be responsible to the Council for the provision of an independent audit service.

(e) Providing Advice

The Chief Financial Officer will provide advice on the scope of powers and authority to take decisions, on maladministration, on financial impropriety, probity and on budget and policy framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles.

(f) Give Financial Information

The Chief Financial Officer will provide financial information to the media, members of the public and the community.

(g) Restriction on Posts

The Chief Financial Officer cannot be the Monitoring Officer.

13.05 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Financial Officer

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

13.06 Other Officers

Other Officers will carry out the roles and functions for which they are responsible as set out in Part 7 of this Constitution.

13.07 Conduct

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

13.08 Employment

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

Protocol for the Involvement of Members in Pre-application Discussions (to be attached as an appendix to the Local Code of Good Practice for Councillors and Officers Involved in the Planning Process')

1. Existing Guidance

- 1.1 Existing guidance for members involved in the planning process may be found in Part 5.07 of the Council's Constitution to which this protocol is an appendix. Additionally, members may refer to other national publications including:
- Member Engagement in Planning Matters (Local Government Association)
 - Positive Engagement – a guide for planning councillors (CLG, PAS, POS, LGA)
 - Further clarification on the issues of predisposition and predetermination may be found on the Standards Board for England web site:
<http://www.standardsforengland.gov.uk/Guidance/TheCodeofConduct/CodeGuidance/>

2. Ways to be involved

2.1 Informal Member Briefing

Following the formal closure of the Planning Committee each month, the Head of Development Management will report to members on the details of any pre-application discussions held in respect of a 'Major' or 'Large Major' development proposal since the previous Committee meeting.

- Once the Committee meeting has been formally closed and after all members of the public and other non committee members have left, the Head of Planning Services, or Development Manager, will inform Members of the Planning Committee of any pre-application discussions commenced or ongoing since the previous committee meeting.
- The presentation will include a display of any plans submitted by the prospective applicant, a summary of the key issues identified, and the key policy considerations.
- In order not to influence members or give rise to any possibility of predetermination or bias, officers will not report to members on any views that they have previously expressed or forwarded to the prospective applicant.
- Members may ask questions or comment on the proposals identifying:
 - Consultation gaps or the need for wider consultation (within limits)
 - Issues that have not been identified but are of local significance
 - Issues that have not been identified and are of wider significance
 - Issues that will be of concern to the community that the applicant can be asked to resolve
 - What opportunities exist to incorporate a development into the local context
- In order to provide transparency to this process, members questions and comments will be noted in writing and used to provide feedback to a developer.
- All members of the Development Control Committee are aware of the law relating

to predetermination and will disqualify themselves from considering future applications if they have actually predetermined the matter. Any statements which members make therefore at this stage which might be interpreted as indicating that a member has a view on the merits of the application should be taken as indicating a preliminary view which is capable of being changed and that the member will consider the application on its merits if presented to the Planning Committee. The test here is whether a fair-minded and informed observer, having considered the facts, would decide that there was a real possibility that the councillor had predetermined the issue or was biased.

2.2 Developer Presentation

Following a written request to the Director of Regeneration, and subject to the agreement of the Director of Regeneration, in consultation with the Chairman of Planning Committee and the Economy Portfolio Holder, a developer may make a formal presentation to members and officers in order to seek their views in a prearranged and time limited meeting.

- For certain applications which have strategic implications or are likely to raise significant public interest, officers may suggest to a developer that they request the opportunity to make a presentation.
- Any member who considers that a presentation by a developer is appropriate/desirable, should make their request via The Director of Regeneration or the Head of Planning Services and should not approach the developer direct.
- The types of scheme that may be presented include major development proposals, development proposals that otherwise raise complex policy issues, or schemes that are wholly innovative in terms of design or concept.
- There will usually only be one opportunity to make a presentation to members per proposal.
- In order to ensure that the developer also carries out a pre-application consultation with the public (including the Parish/Town Council where appropriate), a request for a meeting will only be accepted provided that the developer has, prior to making such request, held a separate public consultation event in accordance with the council's SCI.
- The meeting would be held at the Civic Centre
- Invitations to the meeting would be extended to the members of the Planning Committee, the Economy Portfolio Holder, the Leader of the Council and any ward member for the ward within which the proposed development is situated.
- The meeting would be chaired by the Chairman of Planning Committee who will explain the role of Members at the meeting. It should be explained that the main purpose is to learn about the emerging proposal, and to identify outstanding issues to be dealt with. Planning Committee members will not be in a position to indicate any view as they need to balance all material considerations before reaching a view on any application in due course. This can act as a reminder to Councillors as well as a general explanation to all present. Where non Planning Committee members are present, they can express initial views on behalf of communities, whilst planning committee members should restrict themselves to questions or clarification.

- At least two officers must attend, one of which should be the Head of Planning Services or Director of Regeneration.
- The meeting will not be open to the public.
- The senior officer present will introduce the purpose of the meeting and advise how it will be conducted. Members will be advised as to the confidentiality status of the proposal (unless the developer advises otherwise).
- Developers will be given the opportunity to make a presentation that should describe their proposal and should explain how the proposal relates to both relevant national and local policy, how it meets local needs and preferences and any other material considerations that they believe members should give weight to. The format and length of the presentation should be agreed with the Head of Planning Services beforehand (to ensure that it will not lead members into negotiations and to check for accuracy) and should be limited to the development proposal. They should not normally last longer than 20 minutes.
- Members will be able to ask questions following the presentation but must refrain from entering into debate directly with the applicant or giving advice that indicates a pre-judging of the proposals.
- Members must maintain an impartial listening role and Planning Committee members must avoid expressing an opinion to the applicants. Questions and comments should focus upon clarifying aspects of the proposal or to flag up issues of concern but must not develop into negotiations. It is equally important at this stage for members not to have closed minds as to the merits of the proposal.
- The Chairman will then conclude the meeting. After the applicants have left the meeting members can then discuss the proposals with officers and may advise officers of any concern they have and any elements which they feel would benefit from negotiation with the developer. They will then be guided by professional officers as to what negotiations would be reasonable and would align with policy. Negotiations will be undertaken by professional officers only.
- A planning officer will record the meeting and take a note of all persons present, the issues discussed and the follow up actions. This will be placed on the file by the officer involved, to protect the members and the authority by showing what issues were discussed and that no pre-determination arose.
- The involvement of members will be recorded in any subsequent Committee Report.

2.3 Developer Forums

Within the Council's SCI developers are encouraged to present their proposals to the public prior to the submission of an application, and incorporate a mechanism for getting the views of the public on such proposals.

Such events may simply involve written consultation with local residents around the site, or may (more likely) to be in the form of an exhibition held in a local venue where the proposed plans are on display and the public are invited to ask questions of the prospective applicant or their agents, and are asked for their views. Such views may be expressed verbally (and may be recorded by the event organisers) or they may be made in writing (often on pre printed response forms).

Members are encouraged to attend such events but should act in accordance with the following guidance:

- Do not go 'incognito' – if approached (as you may well be) be open about your position as a councillor.
- Do not express an opinion until you have looked at the information (plans/models etc.) that is on show as to do otherwise may indicate bias.
- Non planning Committee members may freely express an opinion on the proposals but are advised to make it clear whether this is a personal opinion or one made on behalf of local residents.
- Planning Committee members must maintain an impartial role and must avoid expressing an opinion to the prospective applicants. Questions and comments should focus upon clarifying aspects of the proposal or to flag up issues of concern. Comments should not be made in writing.

2.4 Private meetings/briefings involving officers and developers/landowners.

There may be some occasions where developers or landowners wish to discuss strategic developments or developments on strategic sites, which have implications for the council's corporate priorities and aims regarding regeneration and its economy. At the early stage of any discussions it may be appropriate to involve the Leader of the Council and/or the Economy Portfolio Holder in such discussions. Occasionally, other relevant Portfolio Holders may also be required. It would not be appropriate to involve any other Member.

- An invitation to the Leader of the Council and /or relevant Portfolio Holder to attend such a meeting shall come only from the Director of Regeneration (or, in his absence, the Head of Planning Services)
- The Director of Regeneration or the Head of Planning Services shall attend all such meetings.
- The Leader and/or Portfolio Holder shall not, at any time, discuss the proposals with the developer/landowner without the Director of Regeneration or the Head of Planning Services being present.

2.5 Ward Members and rural affordable housing schemes.

The provision of affordable housing is a key priority and the delivery of schemes in rural areas requires a partnership approach involving officers, Registered Providers, landowners, Parish Councils and local ward members. This requires that local Ward members should be involved in the delivery of rural affordable housing schemes from the site identification stage, through to the completion of the development. Much of this is at pre application stage. As community leaders they need to be actively seeking out landowners to bring forward suitable sites that would otherwise be unacceptable for development if they were not for affordable housing. Local Ward Members need to be sponsors of suitable affordable housing sites in their Wards and be a key link with local people, developers and Parish Councils.

- Local Ward Members may identify sites within their own area and seek the views of planning officers on the suitability of such sites for development.

- Local Ward members may attend relevant meetings between the partners during the design stage of the proposal and should feel free to contribute views and comments which enable the scheme to evolve.
- Any local Ward member who is also a member of the Planning Committee shall not, at any time during the pre application or application stage, publicly express a view for or against a development prior to its formal consideration.

3. General Guidelines

- Members' involvement in pre-application discussions should be limited to the ways set out in this protocol. Members should not arrange private meetings with developers.
- Any Planning Committee member who elects to publicly support a view for or against a proposed development prior to its subsequent determination will predetermine their position to the extent that they will be advised to declare a prejudicial interest and thus be free to present their views to Committee in the event of the Committee considering the subsequent application, but they will not be able to vote on the application.
- All members attending Developer Presentations will undertake appropriate training.
- Once an application has been submitted the development cannot be subject to discussion with Members ahead of the Planning Committee meeting.
- Members should not, at any time, seek to influence or put pressure on officers to support a particular form of action or a particular view.

arm/rg/sta/cr/11/3105rs1 Appendix 1

arm/ex/cou/cr/11/1407pd1 Appendix 4 – revised protocol

**Proposed Amendments to Codes and Protocols in Part 5 of
the Constitution**

COUNCILLORS CODE OF CONDUCT

(Revised Model Code of Conduct adopted
by the Council on 18 May 2007)

**COVER SHEET ONLY. NO CHANGES PROPOSED
AT THIS STAGE**

LOCAL ASSESSMENT OF COMPLAINTS HANDBOOK

**Amendment to introduction only.
No changes proposed to other content at this stage**

Introduction

On 8 May 2008, responsibility for dealing with complaints that a borough or town or parish councillor may have breached the Code of Conduct passed from the then Standards Board for England to Wyre Borough Council's Standards Committee.

This handbook has therefore been designed to ensure that those who are the subject of or have to deal with such a complaint have a thorough and common understanding of the processes and procedures involved at each stage.

Throughout this handbook, the term "complainant" refers to the person making the complaint and the term "subject member" refers to the councillor against whom the complaint has been made.

The term "Monitoring Officer" refers either to the Monitoring Officer or his or her nominee.

The guidance contained in the handbook draws heavily on the guidance provided by Standards for England in its documents "Local Assessment of Complaints" and "Standards Committee Determinations".

~~This is a relatively new area of work not only for Wyre Borough Council but for all local authorities and it is anticipated that the guidance will need to be updated from time to time.~~

~~Jan Finch
Deputy Chief Executive and Monitoring Officer~~

~~13 August 2010~~

PROTOCOL FOR OFFICER/MEMBER RELATIONS

(October 2008)

A Protocol for Employee/Councillor Relations

1. Purpose of the Protocol

- 1.1 The Protocol sets a framework to assist Councillors (including Co-opted Members) and Employees of the Council to work together in a spirit of co-operation and mutual respect. The objective is to ensure that Councillors receive objective and impartial advice and that Employees are protected from accusations of bias and any undue influence in the execution of their duties.

2. Basis of the Protocol

- 2.1 To support the principles of the Codes of Conduct
- 2.2 To support Councillors and Employees in their roles as servants of the public, each with their distinct responsibilities. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Employees are responsible to the Council, and carry out the Council's work under the direction and control of the Council, their committees and subcommittees
- 2.3 To generate mutual respect and assist Employees and Councillors observe high standards of courtesy and probity in their working relationships

3. Dealing with a breakdown in relationships

- 3.1 Where a Councillor has a concern or cause for complaint about an Employee's performance ~~of or~~ behaviour s/he should attempt to resolve the issue through informal discussion in private. If that fails, the matter should be taken up with the Employee's line manager.
- 3.2 Where an Employee has cause for complaint against a Councillor, s/he should raise the matter informally with the Councillor in private. Where this is not possible or fails to resolve the issue, the matter should be raised with the Employee's line manager or if the line manager is unable to deal with the issue, the matter can be referred to the appropriate Director.

NB Nothing in 3.2 prevents an Employee making a complaint that a Councillor has breached the Code of Conduct direct to the Monitoring Officer.

4. Provision of Employee advice to Councillors and Party Groups

- 4.1 Employees serve the Council as a whole and not any political grouping or individual Councillor. Employees must always operate in a fair and even-handed manner.
- 4.2 Employee support is limited to information and advice on Council business. It does not extend to Party or external business.

- 4.3 Employees ~~may need to be aware that should they~~ attend political group meetings ~~unless those meetings these may~~ include non-members of the Council ~~since such persons who~~ are not subject to the Council of Conduct.
- 4.4 When providing information or advice to political groups, Employees must at all times maintain confidentiality and political neutrality.
- 4.5 Requests from Councillors for written factual information about service delivery or other operational issues must be appropriate, reasonable and proportionate. Councillors must not seek information on such matters as case work, eg benefits, grants, individual personal matters, etc.
- 4.6 The Monitoring Officer will arbitrate on any dispute as to provision of information with a final appeal to the Chief Executive who will consult with the relevant Group Leader(s) before reaching a final decision.

Advice on budget proposals

- 4.7 The governing Administration shall be entitled to confidential discussions with Employees regarding their budget options and proposals.
- 4.8 The Opposition shall be entitled to confidential discussion with Employees to enable them to formulate alternative budget proposals.
- 4.9 In both cases, options and proposals remain confidential until such time as the Administration or Opposition decide to release them.
- 4.10 Any issue or uncertainty concerning advice on budget proposals should be raised with the Chief Executive who will discuss them with the relevant Group Leader.

5. Provision of Support Services to Members and Party Groups

- 5.1 By law, the Council may only provide support services (e.g. office services and logistics) to Councillors to assist them in discharging their role as elected members of the Council. They should never be used in connection with party political or campaigning activity or for private purposes.

6. Councillors' Access to Information and to Council Documents

- 6.1 Councillors may request such information, explanation and advice as they reasonably need in order to assist them in discharging their role as an elected member of the Council. Such approaches should normally be made to the appropriate Employee.
- 6.2 Councillors have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted by the Council. This right does not, however, apply to documents relating to certain items which may appear as a confidential green item on the agenda for a meeting. Councillors have the same rights as members of the public under Freedom of Information legislation.

- 6.3** The common law right of Councillors is much broader and is based on the principle that any Councillor has a right to inspect Council documents in so far as access to the document is reasonably necessary for the proper performance of his/her Council duties. This principle is commonly referred to as the “need to know” principle. There is no right to “a roving commission”.

Further advice in connection with access to information can be obtained from the Monitoring Officer.

7. Employee/Cabinet Member Relationships and lines of authority.

- 7.1** Whilst some Employees work closely with Cabinet members, it is important that professional “distance” is maintained so as not to compromise the Employee’s impartiality.
- 7.2** Whilst Cabinet Members will routinely be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, the content of any report provided to the Cabinet will be the responsibility of, and reflect the professional judgement of the appropriate report author. Any issues arising between a Cabinet Member and a Director in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.
- 7.3** Resolutions may be passed, which authorises named Employees to take action between meetings following consultation with a Councillor or Councillors. In all cases, it is the Employee who takes the action and is accountable for it.
- 7.4** Employees are accountable to their Director and whilst Employees should always seek to assist a Councillor, they must not exceed the authority they have been given by their Director.

8. Correspondence

- 8.1** Correspondence between an individual Councillor and an Employee should not normally be copied to any other Councillor without the permission of the Councillor.
- 8.2** Official letters on behalf of the Council should normally be sent in the name of the appropriate Employee, rather than in the name of a Councillor. It may be appropriate in certain limited circumstances (eg. representations to a Government Minister) for a letter to appear in the name of a Member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

9. Involvement of Ward Councillors.

- 9.1** Whenever a consultative exercise or public meeting is organised by the Council, all the Councillors representing the Ward or Wards affected should as a matter of course, be notified and invited to attend any meeting.

- 9.2** Employees should consider whether policy or briefing papers, or other topics being discussed with a Cabinet Member, should be discussed with relevant Ward Councillors. Employees should seek the views of the appropriate Cabinet Member(s) as to with whom and when this might be done.

10. Publication of the Employee/Councillor Protocol

- 10.1** Copies of the Protocol will be issued to all Councillors along with other documentation upon election or appointment.
- 10.2** Questions of interpretation of this Protocol will be determined by the Monitoring Officer.

11. Establishing Good Employee/Councillor Relations – Checklist

11.1 Employees should:

- Work with Councillors in a spirit of mutual respect and co-operation.
- Remember that as an Employee, you serve the Council as a whole and not any particular group or individual.
- Maintain impartiality.
- Maintain political neutrality.
- Respect confidentiality.
- Observe the protocols with regard to access to information.
- Try to resolve any issues with Councillors informally and in a spirit of understanding. Formal complaints must always be handled in accordance with the Council's Procedures.

11.2 Councillors should:

- Respect confidentiality.
- Respect the impartiality of WBC Employees.
- Place no undue pressure on WBC Employees to operate outside their remit.
- Observe the protocols with regard to access to information.
- Promote equality and mutual respect between Councillors and Employees. Check that your behaviour and action ~~do~~does not constitute discrimination, bullying or harassment against Employees.
- Try to resolve any issues with Employees informally and in a spirit of understanding. Formal complaints must always be handled in accordance with the Council's Procedures.

Wyre Borough Council Computer Use Policy

~~April 2010~~
June 2011

Wyre Borough Council Computer Use Policy

Introduction

This policy covers the use by employees and elected members of any IT equipment provided by the council.

The policy governs use of e-mail accounts and addresses and Internet service provider (ISP) facilities provided through the council as well as other mobile devices such as the use of council laptops. It also governs the connection of any electronic device to the Council's I.T. network.

In the rest of this policy, "facilities" means anything covered in the preceding paragraph and "user" means any employee or elected member using any of the facilities. "Mobile ~~media~~ device" includes notebooks, laptops, Memory Sticks/Pen Drives, Personal Data Assistants (PDA's) or any other mobile device. "Viruses" means virus, Trojan, worm, malware, japeware, adware and any malicious software.

Every user has a responsibility to maintain and enhance the Council's public image and to use the facilities in an appropriate manner. This policy has been established to inform users of what is and is not appropriate. Any improper use of the facilities is not acceptable and may be dealt with through the Council's disciplinary process or through the members' code of conduct.

Access

Access to the Internet and e-mail must normally be through the use of the corporate Internet/e-mail system via the corporate network. Individuals using the network must not use modems or any other communication link attached to their PC's to access the Internet or any other service without the written permission of the IT Systems / Software Manager.

All users allowed access to the Internet/e-mail systems will be required to sign a declaration that they have read and understood this Policy and are prepared to abide by it.

The installation and configuration of software, for the purpose of Internet access or the collection and delivery of e-mail, must be undertaken by a member of the IT team and must not be changed without the authority of the IT Systems / Software Manager.

Access to the Council's information systems via the facilities is subject to password security. Users must not reveal their security password to any other person and passwords must not be recorded (e.g. written down) in any form. The IT Helpdesk can assist in resetting forgotten passwords.

Users must 'lockdown' their facilities when not in use or when away from their desk.

Only authorised users can use the facilities and third party access by any individual who has not signed up to the Computer Use Policy is prohibited.

Communications

Each user is responsible for the content of all data, text, audio or images that they place or send via or using the facilities. All messages must contain the user's full name as a user's email address is not a valid name. No e-mail or other electronic communication will be sent which hides the identity of the sender or represents the sender as someone else or someone from another organisation.

For efficiency purposes distribution lists should be limited and mass emailing or spamming (i.e. emailing to a large audience) is discouraged.

Users are recommended to utilise the signature facility when sending emails. Any messages or information sent by a user to another individual outside of the council via an electronic network (e.g. bulletin board, online service or Internet) are statements that reflect on the Council. The IT team will ensure that all external e-mail has the Council's standard disclaimer automatically attached to the end of the message (appendix A). Non-standard disclaimers must not be used.

Acceptable Uses of the Internet, E-mail and Data

All Users will use the Internet and email for-

- Business communication on behalf of the council;
- Lawful research into matters connected with their duties; this includes ward business and matters in connection with any special responsibility such as chairmanship.
- Political purposes so long as they are connected with the council; For example, use in connection with the leadership or other role in a political group in the council would be appropriate; as would use in connection with work as a Parish Councillor or use in connection with an outside body for which you are a Council nominee. Use in connection with any other outside position or office in a political party or other organisation would not be appropriate and would be considered a potential breach of the councillors' code of conduct.
- Personal purposes which do not interfere with work productivity, do not take up excessive amounts of time, are not connected with any private business enterprise or other employment and do not result in the dissemination of any information held by the council that is not in the public domain.

The Council accepts no responsibility for private use of the facilities or any loss, costs or liability, which the user or any other person may suffer as a result of the private use of the facilities.

The facilities must not be used for viewing, transmitting, retrieving or storing any material of a discriminatory or harassing nature or material that is obscene or pornographic.

The transmitting, retrieving and storage of any communications containing personal data must comply with the Data Protection Act 1998. A summary of these requirements can be seen on the Council's intranet.

No derogatory or inflammatory material about an individual's race, age, disability, religion, national origin, physical attributes or sexual preference shall be transmitted, retrieved or stored. Further information is available on the Equality and Diversity section of the intranet.

No abusive, profane or offensive language is to be transmitted, retrieved or stored.

The facilities must not be used for any other purposes, which are illegal, or against Council policy or contrary to the Council's legitimate interest.

All users will be able to access confidential Council material using the facilities. Every user is responsible for the continued security of any such confidential information, which they receive, including the security of any storage of such information. Users are advised of their obligations under the Code of Conduct not to disclose such confidential information to third parties. The relevant Codes of Conduct, both for employees and councillors, are available on the intranet.

For further guidance please see appendix B.

Training

Training is a requisite for all users of the Internet/e-mail systems. This will be provided in conjunction with the IT Section who can be contacted by e-mail at HDesk@wyrebc.gov.uk.



Software and Viruses

It is important that the Council's corporate networks are protected from viruses and that the following points are strictly adhered to:

Internet - there will be no unauthorised downloading of any software. All software downloaded must be registered to the Council. Users should contact the IT Team if they have any questions.

E-mail - all Wyre Borough Council IT gateway e-mails are scanned for known viruses. This should only be used as an indication and users should be cautious of opening attachments from un-trusted sources. The council's firewall is likely to intercept emails containing executable and certain other file types. You must not therefore arrange to be sent any such attachments via the facilities.

Only Wyre Borough Council owned equipment authorised by the IT Team may be connected to the Council's I.T. network. All PC's/laptops with Internet access must have access to a virus checker. Anti virus updates are automatically deployed when mobile devices are connected to the network. The IT Team may require access to all PC's and mobile media devices at any time to check for computer viruses. Any indication of a virus must be immediately reported to the IT Helpdesk.

Users shall not interfere with IT installed software packages, configurations or switches. The Council's firewall and anti virus measures must not be disabled.

Unless there is a valid business case for its use, the 'macro' feature in Microsoft Office applications should be disabled. Where 'macros' are used they should be digitally signed and be configured to run in HIGH security mode, to ensure that only macros from administrator-controlled sources i.e. trusted locations are run.

Any prompt, suggesting the automatic upgrading of software (such as Acrobat Reader), should be declined and the matter referred to

Connecting mobile media devices to the Council's network

The use of mobile media devices (such as notebooks, tablets, CDs, Floppy disks, Memory Sticks / Pen Drives, Cameras, Phones, Portable Media Devices e.g. iPods and Handheld Pocket PCs) presents additional risks to the Council's information systems including:-

- Increased susceptibility to viruses;
- Risk of unauthorised removal of sensitive / confidential data;
- Use of systems for non work related activities; and
- Reduction in productivity of staff (use of games, music, pictures).

All connections to the Council's I.T. network are monitored and will be screened to ensure that only authorised connections are permitted. Only where a business case is made for justifying such access will permission be granted via Council-owned devices.

Information that is removed from the networked systems owned by the Council must be treated with care. Caution must be used when copying data onto any mobile media device. This also applies to sending data attached to emails. Data removed from the network is at greater risk; it could be lost, intercepted, copied, etc. Measures must be taken to protect this data via encryption or the use of password access.

Mobile devices which connect to the Council's email facilities can be securely remote wiped if required. All users should be aware that in the event of a security incident IT may be required to initiate this function without prior warning. This would include the Users own personal device if this has been authorised for use.

Managers who authorise the use of mobile media devices should be aware of the associated risks and the possible consequences of their actions.

Copyright Issues

Users shall not knowingly infringe any copyrights by using, copying or dealing in any other way with copyrighted material without all necessary consents. It is the policy of Wyre Borough Council to respect all computer software copyrights and adhere to the Terms and Conditions of any licence to which Wyre Borough Council is a party. Wyre Borough Council will not condone the use of any software that does not have a licence and any employee found to be using, or in possession of, unlicensed software will be the subject of disciplinary procedures. Users should be aware that the Council is actively seeking the FAST (Federation Against Software Theft) accreditation.

Security and Monitoring

All incoming and outgoing emails are monitored for improper content. Such monitoring may be routine, random or targeted. Targeted monitoring will only be carried out where there are grounds to believe that a contravention of this policy has taken place. Any emails contravening these guidelines will be quarantined or deleted. The protocol for dealing with email can be seen on the IT Services section of the intranet.

The Council's Internet gateway is routinely monitored for cost control usage patterns and the accessing of improper material. The Council will investigate any apparent improper use. If any user feels that they have mistakenly accessed improper material, or are aware of or suspect another user who is not complying with the Computer Use policy, they must notify the IT Helpdesk immediately. The Council also reserves the right to implement filters and other means of blocking access to and from certain parts of the Internet from the Council's gateway.

All messages created, sent or retrieved over the Council's Internet/e-mail systems are the property of the Council and should be considered public information. The IT Section will limit the size of e-mails and attachments to ensure that network and system performance is not hindered.

The council may audit any mobile media device or PC at any time. Such audit may be carried out remotely and without specific notice or consent if the equipment is connected to the council's network. The council may take possession of equipment at any time in order to carry out an audit.

Users of the Government Connect Secure Extranet (GCSX) must also sign a Personal Commitment Statement confirming their responsibilities and acceptance that communications sent or received by that means may be intercepted, monitored and/or recorded for lawful purposes.

Return of equipment by all users

All equipment issued to users remains the property of the council. It must not be sold, given, or lent out to any third party. Mobile media devices must always be kept in a safe place and never left unattended in public. Proper precautions must be taken to keep them safe from theft or accidental damage and users must not deliberately damage or modify them in any way. The council will carry out any necessary repairs and maintenance.

Equipment must be returned immediately on termination of contract or when a member ceases to be a member of the council, or at any other time if demanded in writing on behalf of the council.

Policy Updates

Due to the changing nature of the facilities available through the Internet and e-mail, this document and any associated policies will be altered when necessary. In order to ensure that the latest copy is referred to, the official copy will be stored on the Councils Intranet Users will be notified of any - Amendments to the policy will be agreed with the appropriate representative bodies, following which all users will be notified of any amendments- that have been made. It is the responsibility of the user to acquaint themselves with the amendments to this or any other policies that may change from time to time.

Violations

Any employee who misuses or abuses the facilities will be subject to the Council's disciplinary procedures. Abuse of the facility (e.g. gross or continued misuse) may potentially lead to the termination of employment. If necessary, the Council also reserves the right to advise appropriate bodies of any illegal violations.

Any elected member who misuses or abuses the privilege of the facilities may result in their withdrawal. Additionally, such breach may be dealt with, if appropriate, as a breach of the members' code of conduct.

Declaration

I have read and understood the Computer Use Policy above and agree to comply with the Policy.

Employee / Member Name

.....

Employee / Member Signature

.....

Date

Appendix A

External E-mail Disclaimer

This e-mail contains information intended for the addressee only, may be confidential, and may be the subject of legal and/or professional privilege.

If you are not the intended recipient, any disclosure, copying, distribution or other action taken in reliance of the information contained in this e-mail is strictly prohibited.

Any views expressed by the sender of this message are not necessarily those of Wyre Borough Council.

If you have received this transmission in error, please use the reply function to tell us and then permanently delete what you have received.

Please note: Incoming and outgoing e-mail messages are routinely monitored for compliance with our policy on the use of electronic communications. Wyre Borough Council scans outgoing e-mails for viruses, and it is your responsibility to carry out any checks before opening the e-mail and/or attachments.

Appendix B

Acceptable Uses of the Internet, E-mail and Data – Further Guidance

The following guidance is non-exhaustive and is intended to help you in understanding good practice when using the facilities. If you are unsure or do require further assistance please contact the IT Help Desk.

- Use of facilities such as Apple iTunes or AmazonMP3 for music, movies, TV and applications is prohibited.
- The default media player (usually Windows Media Player) should not be used for playing, converting, duplicating or copying of any CD/DVD content either via mobile media devices or the computers internal hard drive.
- Examples of copyrighted material can include computer software, magazine articles, reports, photographs, music and video files.
- All software installations should be completed by the IT Team. PC and video games should not be installed on any Council equipment.
- A tablet device is typically a computer with touch screen capabilities such as an iPad, Playbook, Galaxy Tab, all of which must be authorised by the IT Team prior to being connected to the network.
- A secure remote wipe of a mobile device will remove all content, settings, applications and features on the device.
- The Councils I.T. Network includes both Local and Wide Area Network links.
- On-line gambling and accessing such websites is prohibited.
- Peer-to-peer (P2P) networks are commonly used to transmit music and video files across the internet. Unauthorised P2P file sharing is prohibited.
- The internet has now developed into an integral part of peoples' day-to-day lives through the introduction of on-line banking and shopping facilities and has, in many instances, replaced the necessity to physically visit the High Street / Retail Outlets. Care should be taken when accessing such facilities on the Council network. Excessive use of on-line banking or shopping may result in access being blocked.
- Using search engines such as google and bing can accidentally direct users to inappropriate websites whose content could not have been foreseen. Care should be taken at all times whilst using search engines and it is not always appropriate to try every link a search engine generates.
- On line streaming of media is not permitted, unless necessary for work reasons due to the bandwidth such sites use. Examples of online streaming media include BBC iPlayer, ITV Player and radio broadcasts.
- On line streaming of live sporting events is prohibited due to the bandwidth such sites use. Examples include Wimbledon, Cricket, World Cup etc.
- Unauthorised use of Social Media applications is prohibited. Authorised use is only available where such sites improve communications with citizens and are in the interests of the Council. Such sites include facebook, twitter, yammer, myspace, bebo, linkedIn, ning, flickr, photobucket, youtube, wordpress, blogger, digg.
- Chain letters, junk e-mail or similar correspondence should not be forwarded on either internally or externally. This includes such items as virus warnings and charity correspondence. Any email asking you to forward to all your contacts or send to ten people you know should be deleted with no further action.
- All users should be mindful that non-verbal clues to your meaning are lost in email communication and there is potential for misunderstanding – what's funny to you may appear rude and offensive to a recipient who only has your text to go off.
- Trust your instincts – it's very tempting to reply instantly to emails, but if you've composed a message and your 'gut feeling' tells you not to send it, for whatever reason - don't! Think about the matter further before committing yourself. In particular, venting rage by email is no more acceptable than shouting in someone's face and sarcastic or angry emails sent in haste are likely to be regretted.
- Use of the facilities is for the designated authorised user only. The facilities are not to be used by relatives or spouses.

COUNCILLOR WEBSITES: ACCEPTABLE USE POLICY

~~(October 2008)~~

**Minor updates enclosed – further research currently
being undertaken.**

Councillor Websites – Acceptable Use Policy

Wyre Borough Council provides the facility for every Councillor to have their own website. In order to ensure that websites are used properly by every Councillor, this Acceptable Use Policy has been drawn up.

It defines the purposes for which Members **can** and **cannot** use their councillor website.

1. Councillors can use their website for the following purposes:

- 1.1 To provide a portal collating local information, explaining local developments and supporting the Councillor in their role of community leader.
- 1.2 To show citizens what the councillor is doing on their behalf.
- 1.3 To interact with and improve communication with constituents and discuss their viewpoints.
- 1.4 To tell readers something about who the Councillor is as a person, what interests them and how they spend their time.
- 1.5 To give the reader an insight into the work a Councillor does.
- 1.6 To inform the reader what the Councillor considered when making a decision on how to vote on a certain issue.
- 1.7 To actively campaign on local concerns and issues and press for action on problems in their ward.
- 1.8 To publish photographs of problems within their ward that require attention (examples of vandalism, littering, etc).
- 1.9 To explain what a Councillor thinks about local, national and international issues providing it is not, or is not liable to misrepresentation as being, party political (see below).

2. Councillors cannot use their website for the following purposes:

- 2.1 To display content that may result in actions for libel, defamation or other claims for damages.
- 2.2 To process personal data other than for the purpose stated at the time of capture.
- 2.3 To promote any political party or campaigning organisation.
- 2.4 To promote personal financial interests or commercial ventures.
- 2.5 To promote personal campaigns.
- 2.6 To display content that is abusive or hateful.

Further details on these matters are given below.

3. Defamation

- 3.1** A defamatory statement is one that causes an adverse effect on a person's reputation. It must be published to a third person and refer to the defamed individual.
- 3.2** Libel, which is a form of defamation, is the publication of a statement which exposes a person to hatred, ridicule or contempt, or which causes him or her to be shunned or avoided, or which has a tendency to injure him/her in his office, trade or profession in the estimation of right-thinking members of society generally. The conventional rules of libel still apply to websites, even where a personal and conversational style is used.
- 3.3** Councillors cannot use their councillor website to publish defamatory statements or material. Anyone who believes that a Councillor has defamed them will be able to take legal action directly against the Councillor concerned. The relevant legislation is the Defamation Act 1996 and the full text can be found at <http://www.hms0.gov.uk/acts/acts1996/1996031.htm>.
- 3.4** A councillor is only permitted to publish information in the context of the Councillor's official role in respect of matters of general public interest.
- 3.5** Councillors have been provided with the tools to edit their councillor website by the Council and are responsible for the content of their own website. The Council is not responsible for approving content put on to councillors' websites. For the avoidance of any doubt, the Council does not authorise or in any way sanction the publication of statements that might be construed as defamatory.

4. Data Protection

- 4.1** In managing a website councillors may publish or refer to material from a wide range of sources, including that drawn from within the Council. Through the website email correspondence may be generated and councillors may receive comments, enquiries or complaints from members of the public and visitors to the site may register to receive occasional mailings.
- 4.2** Published material and emails may contain personal data. Wyre Borough Council is committed to full compliance with the law and to the welfare of individuals and therefore all such personal data should be treated with care and respect for relevant data protection law. Anyone processing personal data must comply with the eight enforceable principles of good practice. Two points, in relation to (a) material published on the website and (b) email correspondence are particularly relevant.
- 4.3** Published material

Material published on the website is accessible to anyone in the world. It is essential to restrict the publication of personal data, which includes facts and opinions about individuals, to that data for which explicit consent for

publication has been obtained unless this information is clearly already, and properly, in the public domain or it is otherwise wholly reasonable to publish. Given the purpose of councillor websites it will often be more appropriate to anonymise any narrative to avoid the identification of individuals.

4.4 Email correspondence

Emails are electronic records and, as such, individuals are entitled to access these records if they hold information about themselves. In the event of a "Subject Access Request" being made by an individual, councillors will be required to provide copies of relevant emails. Much of the work carried out by councillors would be regarded as Council business and therefore emails may be needed to be provided as part of requests made to the Council. All such requests are handled by the Council's Data Protection Officer. Other requests may be made for data that councillors hold in their own right, apart from Council information. Councillors are equally obliged to provide these emails if requested. All requests must be satisfied within 40 calendar days of receipt of the request.

The eight principles require, among other things, that emails are kept safe but only for as long as they are needed. It is therefore important to develop a policy of filing important emails and removing the ones that are no longer needed. The decisions relating to storage and removal must be reasonable in the light of the purpose for which the email is written.

Further details about these eight principles may be found at: <http://www.dataprotection.gov.uk/dpr/dpdoc.nsf>

The Data Protection Act 1998 applies, and the full text of the Act can be found at <http://www.legislation.hms.gov.uk/acts/acts1998/19980029.htm>

~~The Council's Information Officer may be contacted on 01253 887538~~

5. Political Publicity

5.1 Because every councillor website is funded by the Council, councillors may not use their councillor website to promote political campaigns and advocate party political stances on issues. They may not use the site to promote a political party or persons identified with a political party. They may not use it to promote or oppose a view on a question of political controversy which is identifiable as the view of one political party and not of another.

5.2 ~~Section 4 of the Local Government Act 1986 enabled the Secretary of State to issue a Code of Practice on Local Authority publicity. The original Code was amended in 2001. The Code was made more flexible in relation to publicity about individual councillors and the relevant paragraphs are:~~

~~"Publicity about individual councillors may include the contact details, the positions they hold in the Council (for example a member of the Executive or Chair of Overview and Scrutiny Committee) and their responsibilities. Publicity may also include information about individual councillors' proposals, decisions and recommendations only where this is relevant to their position and responsibilities within the Council. All such publicity~~

~~should be objective and explanatory and whilst it may acknowledge the part played by individual councillors as holders of particular positions in the Council, personalisation of issues or personal image-making should be avoided.~~

~~Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe policies put forward by an individual councillor which are relevant to her/his position and responsibilities within the Council, and to put forward his/her justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party, or directly attacking policies and opinions of other parties, groups or individuals."~~

Councillors may include links to external websites of a political nature within their website.

6. Representation of the People Act Restrictions

- 6.1 During election times (from the 'notice of an election' to the election itself), all councillor websites will be suspended. Visitors will still, however, be able to contact councillors by email through the Council's website.

7. Other Statutory Issues

- 7.1 Care should be taken to ensure compliance with Local Government legislation and the Council's policies on the following issues, which also apply to the content of web pages

- The particular legislative requirements ~~preventing discrimination on the grounds of race, sex or disability and incitement to racial hatred etc. (Anti-Terrorism, Crime And Security Act 2001 & Race Relations (Amendment) Act 2000)~~ of the Equality Act 2010.
- Publication of obscene material (Obscene Publications Act 1959, Protection of Children Act 1978, Criminal Justice Act 1988)

The text of all legislation can be found at: <http://www.hmsso.gov.uk/acts.htm#acts>

The Freedom to Information Act may also apply - and require councillors to disclose information if it is caught by a request

8. The Code of Conduct

- 8.1 The Code of Conduct governs the conduct of councillors and this applies equally to the content of councillor websites. Councillors must ensure that nothing on their councillor website puts them in potential breach of the Code of Conduct or the Officer/Member Protocol.

- 8.2 On a general level:

- The site must not be used in a way that will bring councillors or their authority into disrepute.

- The site must promote equality by not discriminating unlawfully against any person, treating others with respect and not to do anything that compromises the impartiality of those who work for or on behalf of the Council.
- Councillors must treat Council employees' recommendations or known views impartially.
- Councillors must not disclose information given to them in confidence or information acquired, which they believe is of a confidential nature, without the consent of a person authorised to give it unless in accordance with the data protection Act or the Freedom of Information Act.
- Councillors must not use their councillor website to disclose information that the Council has considered in exempt session, or which they are on notice is confidential for any other reason.
- Councillors must not use their councillor website to secure personal advantage or secure use for themselves or others of the resources of the authority (for instance, by advertising a commercial service or by using the site to encourage the Council to purchase a particular item or service).

9. Tainting of Decision Making through Biased/Closed Minds

- 9.1** Councillors who are in positions of determining quasi-judicial processes, particularly planning and licensing applications or determining the outcome of consultation exercises, must exercise care to keep an open mind on issues which he or she may be required to make decisions.
- 9.2** The use of individual websites to set out a clear position on a particular issue could well provide evidence of bias based on a particular personal interest or view, or a closed mind. It would be difficult for the councillor to subsequently demonstrate that s/he is able to consider openly all issues in the determination of that matter.

10. To have regard to all relevant advice when reaching decisions and to give reasons for decisions

- 10.1** Councillors must give an accurate and even-handed account of discussions or processes that lead to decisions being taken. For example, they must not give a one-sided account of the reasons for a planning application being refused.

11. Copyright

- 11.1** Copyright is the right to prevent another from carrying out unauthorised copying. The usual copyright rules apply to websites – so copying text or images onto a website from a copyrighted source is likely to breach copyright.

12. Setting up a Councillor Website

- 12.1** Each councillor website carries a standard message which must not be changed or removed. The message reads:

I have been elected as a councillor for Wyre Borough Council for the X Ward to serve the interests of all residents, regardless of political persuasion. I am a member of the X Party and take an active interest in a number of national and local campaigns. It would be inappropriate for me to use this website to promote these campaigns though you can visit related external websites by selecting some of the links to be found on this site.

- 12.2** Councillors who wish to use the councillor website facility must attend a short training session before their website goes live.
- 12.3** In addition, councillors must read and sign to agree to abide by this policy when using their councillor website.

GUIDANCE FOR COUNCILLORS AND OFFICERS ON GIFTS AND HOSPITALITY

**(Updated by the Audit Committee
on 9 November 2010)**

Guidance for Councillors on Gifts and Hospitality

1. This Guidance is intended to complement the Council's Members' Code of Conduct. It offers guidance to Councillors with regards to best practice and the need to preserve integrity and demonstrate good governance. It has been written to protect both individual Councillors and the Council. The intention of the Guidance is to ensure that the Council can demonstrate that no undue influence has been applied or could be said to have been applied by any supplier or anyone else dealing with the Council and its stewardship of public funds.
2. All Councillors have undertaken to abide by the Council's Code of Conduct. Councillors must not use their authority or office for personal gain and shall seek to uphold and enhance the standing of the Council by;
 - Maintaining an unimpeachable standard of honesty and integrity in all their business relationships.
 - Complying with the law, regulations and the Council's own policies and procedures.
 - Rejecting any business practice that might be deemed improper.
 - At all times when acting for or on behalf of the Council, put the interests and the reputation of the Council first.
3. As a general rule **business gifts and hospitality should not be accepted by any Councillor**. The general test of caution is one of common sense. Would the public question the appropriateness of hospitality or gifts received by the Councillor? You must never solicit a gift or hospitality, or accept any gift or hospitality offered as an inducement or which puts you under any obligation. On the other side of the coin, Councillors often do not wish to cause offence by rejecting a gift or offer of hospitality, for example when a member of the public wants to reward good service by offering chocolates, or a bottle of wine. It's about where to draw the line.
4. In summary, if a gift is received or hospitality accepted, unless it is of purely "token" value (e.g. a calendar, pen, or free gift at an exhibition), it should be declared to the Monitoring Officer, who will record the details in the Council's register. Any such gifts should be reported to the Monitoring Officer as soon as possible and, in any case, within 28 days of receipt.
5. If you register the gift, or hospitality you received, it is then on the public record and open to scrutiny if necessary. It cannot later be alleged that the gift or hospitality was accepted, in a secret, 'underhand' way, with an ulterior motive.
6. Prior to accepting **any** gift or hospitality ~~to the~~ with a value of **£25** or more, a Councillor must seek authorisation from the Monitoring Officer. Only once consent has been given should the Councillor take ownership. The details must then be provided immediately to the Monitoring Officer for recording in the Council's register.
7. In relation to conventional hospitality (lunches, outings etc.) these should only be accepted provided that it is normal and reasonable in the circumstances to do so.

An invitation that appears over-generous should be declined; it could be seen as an inducement to affect a Council decision. Again, you must declare the hospitality and it is advisable to discuss the offer with the Monitoring Officer if you are in any doubt as to the motive.

8. The register of gifts and hospitality and interests will be constantly updated and reviewed by the Monitoring Officer and the information will be retained for a period deemed necessary to demonstrate good governance and to address any allegations of misconduct accordingly.

Step by Step Guide

1. **Token Gifts** with no real monetary value can be accepted and do not need to be declared. These include calendars, pens etc. If you are in any doubt as to the classification of token gifts, ask the Monitoring Officer.
2. **Gifts Under £25** in value can be accepted but must be declared as soon as possible and, in any case, within 28 days of receipt. An entry will be made on the Council's register by the Monitoring Officer.
3. **Gifts Over £25** in value must not be accepted without prior permission from the Monitoring Officer. If authorisation is given, and the gift accepted, it must then be registered as above.

To

Declaration of Receipt of Gifts or Hospitality

Name	
What was the gift or hospitality?	
What is your best estimate of its market value or cost?	
Who provided it?	
When and where did you receive it?	
Does it come within one of the general consents set out in the Code of Conduct? If so, which?	
Did you get the consent of any officer before accepting it? If so, who?	
Were there any special circumstances justifying acceptance of this gift or hospitality?	
Do you have any contact in your job with the person or organisation providing the gift or hospitality?	
Signed	Date

Policy for Officers on Gifts and Hospitality and Registering Interests

1. This policy is intended to complement the Council's Employee Code of Conduct and Disciplinary Procedures and offers guidance for officers with regards to best practice and the need to preserve integrity and demonstrate good governance. It has been written to protect the officer as much as to protect the Council. The intention of the policy is to ensure that the Council can demonstrate that no undue influence has been applied or could be said to have been applied by any supplier or anyone else dealing with the Council and its stewardship of public funds.
2. Officers of the Council are bound by specific rules, codes of conduct and protocols, as are Members. Officers shall not use their authority or office for personal gain and shall seek to uphold and enhance the standing of the Council by:
 - Maintaining a high standard of honesty and integrity in all their business relationships;
 - Complying with the law, regulations and the Council's own policies and procedures;
 - Rejecting any business practice that might be deemed improper; and
 - Placing the interests and the reputation of the Council first when acting for or on behalf of the Council.
3. As a general rule, **business gifts and hospitality should not be accepted by any member of staff**. The general test of caution is one of common sense. Would the public question the appropriateness of hospitality or gifts received by the officer? On the other side of the coin, officers often do not wish to cause offence by rejecting a gift or offer of hospitality, for example when a member of the public wants to reward good service by offering chocolates or a bottle of wine. It's about where we draw the line.
4. Personal interests that may impinge or might reasonably be deemed by others to impinge on an employee's impartiality or conflict with the duty owed to the Council should be declared in writing. These could be an officer's interests outside work, membership or affiliations to societies or clubs, business interests etc. Anything that may lead to allegations of bias or favouritism; whether it is financial or political, should be declared.
5. The Council must be able to show that all its decisions are reached on the basis of value for money for the public and no other reason. Any consideration of whether or not the principles of this policy have been breached will be determined by reference to this principle.
6. Any breach of this policy and the associated codes of conduct could lead to disciplinary action being taken.
7. It is always best to seek a second opinion as to the appropriateness of any gift, hospitality, or regards any interests held outside the Council that maybe construed as influential, leading to favouritism. If you register the gift, or hospitality you received, or interest you have, it is then on the public record and open to scrutiny if

necessary. It cannot later be alleged that the gift or hospitality was accepted, or interest held, in a secret, 'underhand' way, with an ulterior motive.

8. If a gift is received or hospitality accepted **up to the value of £25**, unless it is of purely "token" value (e.g. diary, pen, free gift at an exhibition), it should be declared to your line manager, and reported to the Audit and Risk Manager, for inclusion in the Council's register.
9. Prior to accepting any gift or hospitality with a **value of £25 or more**, the Officer should seek authorisation from their immediate line manager, or their Director. Only once consent has been given should the Officer take ownership and the details must then be passed to the Audit and Risk Manager immediately for recording in the Council's Register.
10. Any personal interests that may impinge or might reasonably be deemed by others to impinge on an Officer's impartiality, or cause conflict with the duties of a Council officer as detailed above (such as conflicting business interests) should be declared in writing to the Officer's line manager. The details should then be passed to the Audit and Risk Manager to be entered onto the Council's Register.
11. In relation to conventional hospitality (lunches, golf days, etc) these should only be accepted provided that it is normal and reasonable in the circumstances to do so. An invitation that appears over-generous should be declined; it could be seen as an inducement to affect a Council decision. Again, you must declare the hospitality and it is advisable to discuss the offer with your line manager if you are in any doubt as to the motive.
12. Any officer who is aware of any business dealings conferring personal gain, or involving relatives or associates of a member of staff must supply these details to the Audit and Risk Manager for entry into the Register. The Council's Whistle Blowing Policy can be used to divulge such information in confidence.
13. The Council's Monitoring Officer will review the register of gifts, hospitality and interests annually, and the information will be retained for a period deemed necessary to demonstrate good governance and to address any allegations of misconduct accordingly.
14. The effectiveness of this policy will be reviewed regularly by carrying out various training / refresher exercises.

REMEMBER >>> If in doubt, declare it!!

Step by Step Guide

1. **Token gifts** with no real monetary value can be accepted and do not need to be declared. These include calendars, diaries, pens etc. If you are in any doubt as to the classification of token gifts, just ask.
2. **Gifts under £25** in value can be accepted but must be declared to your line manager and reported to the Audit and Risk Manager for inclusion on the Council's register.

3. **Gifts over £25** in value must not be accepted without prior permission from line management or Director. If authorisation is given, and the gift accepted, it must then be registered as above.
4. **Declaration of Interests**; if you feel that a personal involvement outside of work may affect judgements made in work, or be construed as doing so, these must be declared and registered as above.

Some useful links / contacts

Employee Code of Conduct	http://livelyre/Section_Pages/Business_Support/Human_Resources/Docs/Employee_Code_of_Conduct_-_Policy_-_Human_Resources.pdf
Whistleblowing policy	http://livelyre/Section_Pages/Business_Support/Audit_and_Risk_Management/Docs/Whistleblowing_-_Policy_-_Financial_Services.pdf
Anti Fraud and Corruption Policy	http://livelyre/Section_Pages/Business_Support/Audit_and_Risk_Management/Docs/Anti_fraud_and_Anti_Corruption_Policy.pdf
Disciplinary Policy	http://livelyre/Section_Pages/Business_Support/Human_Resources/Docs/Disciplinary_Policy.pdf
Audit and Risk Manager	Jbillington@wyrebc.gov.uk or telephone 01253 887372
Monitoring Officer	jfinch@wyrebc.gov.uk or telephone 01253 8877502 mryan@wyrebc.gov.uk or telephone 01253 887605
Deputy Monitoring Officer	EOConnor@wyrebc.gov.uk or telephone 01253 887610

Declaration of Receipt of Gifts or Hospitality

Name	
Post	
Department	
What was the gift or hospitality?	
What is your best estimate of its market value or cost?	
Who provided it?	
When and where did you receive it?	
Does it come within one of the general consents set out in the Code of Conduct? If so, which?	
Did you get the consent of any officer before accepting it? If so, who?	
Were there any special circumstances justifying acceptance of this gift or hospitality?	
Do you have any contact in your job with the person or organisation providing the gift or hospitality?	
Signed	Date

**LOCAL CODE OF
GOOD PRACTICE FOR
COUNCILLORS AND OFFICERS
INVOLVED IN THE
PLANNING PROCESS**

Adopted by the Council, 29 October 2009

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1. Foreword

1.1 Planning has a positive and proactive role to play at the heart of local government. It is a powerful tool that helps councils achieve the ambitions of local communities. Good planning stimulates growth and promotes innovation. It helps to translate goals for healthier communities, higher employment, better housing, reduced congestion, educational attainment, safe and sustainable communities into action through well-designed medical centres, offices, universities, homes, roads and other facilities vital to achieving them.

The planning system works best when the roles and responsibilities of the many players essential to its effective operation are clearly understood. It is vital that elected councillors and planning officers understand their roles and the context and constraints in which they operate.

1.2 Planning decisions involve balancing:

- the needs and interests of individual constituents and the community, with
- the need to maintain an ethic of impartial decision-making on what can be highly controversial proposals.

This 2009 update provides refreshed advice on achieving this balance in the light of such changes. It also better reflects local authorities' roles as place shapers and the enhanced role for councillors as champions of their local communities. It recognises councillors' ability to participate in discussions prior to the receipt of a planning application on behalf of their communities, and engaging in spatial planning policy formulation.

It provides advice on this following the Killian Pretty review's recommendations. It also advises on how to avoid predetermination or bias in decision making. Whilst the advice is designed primarily for officers and councillors involved in plan-making and development management, it will also assist scrutiny and standards committees dealing with planning matters.

2. Introduction

2.1 Following the planning green and white papers, and subsequent legislation, planning is moving to the heart of local authorities place-shaping and community planning roles. Positive attitudes to harnessing the benefits of sustainable development are changing stereotyped images of planning as a control mechanism. More flexible and responsive development plans are being prepared to harness development to build communities and shape places.

2.2 Councillors are encouraged to act as champions of their local communities and to co-ordinate public service delivery through Local and Multi Area Agreements, Strategic Partnerships and Sustainable Community Strategies. Creative place-shaping requires early and wide engagement and councillor and officer involvement. The 2008 LGA publication, **Planning at the Heart of Local Government**, explains these changes in more detail.

2.3 This guidance is intended to facilitate the development of councillors' community engagement roles. The Nolan report resulted in pressures on councillors to avoid contact with developers in the interests of ensuring probity. However, in the place-shaping context, early councillor engagement is now positively encouraged to ensure sustainable development proposals can be harnessed to produce the

settlements that communities need.

- 2.4 Planning decisions are not based on an exact science. Rather, they rely on informed judgement within a firm policy context. Decisions can be highly controversial as they affect the daily lives of everyone. This is heightened by the openness of the system (it actually invites public opinion before taking decisions) and the legal nature of the development plan and decision notices. It is important, therefore, that the process is characterised by open and transparent decision-making.
- 2.5 One of the key purposes of the planning system is to manage development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that planning authorities should make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons. The process should leave no grounds for suggesting that a decision has been partial, biased or not well-founded in any way.
- 2.6 This revised guidance note is useful to both councillors and officers who become involved in operating the planning system – it is not therefore restricted to professional town planners and planning committee members. The successful operation of the planning system relies on mutual trust and understanding of each other's role. It also relies on each ensuring that they act in a way which is not only fair and impartial but is also clearly seen to be so.

3. The General Role and Conduct of Councillors and Officers

- 3.1 Councillors and officers have different but complementary roles. Both serve the public but councillors are responsible to the electorate, whilst officers are responsible to the Council as a whole. Officers advise councillors and the council and carry out the Council's work. They are employed by the Council, not by individual councillors. It follows that instructions may only be given to officers through a decision of the Council or its executive or a committee. Any other system which develops is open to question. A successful relationship between councillors and officers can only be based upon mutual trust and understanding of each others positions. This relationship and the trust which underpins it must never be abused or compromised. The Council has adopted a Protocol for Officer/ Member Relations to support these principles.
- 3.2 Both councillors and officers are guided by codes of conduct. The Code of Conduct for members (the code), supplemented by guidance from the Standards for England, provides standards and guidance for councillors. Staff who are Chartered Town Planners are guided by the RTPIs Code of Professional Conduct, breaches of which may be subject to disciplinary action by the Institute. Similarly, staff who are Solicitors are subject to Solicitors Practice Rules and various Codes made under these Rules. In addition to these codes, a council's standing orders set down rules which govern the conduct of Council business.
- 3.3 The Code of Conduct for Members sets out the requirements on councillors in relation to their conduct. It covers issues central to the preservation of an ethical approach to Council business, including the need to register and declare interests, as well as appropriate relationships with other members, staff and the public. This impacts on the way in which councillors participate in the planning process. Of particular relevance to councillors making decisions on planning applications and

planning policies is paragraph 6(a) which states that a member:

“must not in his or her official capacity, or any other circumstance, use or attempt to use his or her position as a member improperly to confer on or secure for himself or herself or any other person, an advantage or disadvantage”.

- 3.4 The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved. Whilst councillors should take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. Councillors who do not feel that they can act in this way should consider whether they are best suited to serve on a planning committee.
- 3.5 Councillors should also be very cautious about accepting gifts and hospitality. The Council has guidance for members on gifts and hospitality contained in its Guidance for Councillors and Officers on Gifts and Hospitality. For members this requires that the prior permission of the Monitoring Officer must be sought before accepting any gift or hospitality over the value of £25 and for it to be declared in the Register of Gifts and Hospitality. Such details will go in the register of gifts and hospitality which will be open to inspection by the public. In addition the code requires any members receiving, in their capacity as members, any gift or hospitality over the value of £25, to provide written notification of the details to the monitoring officer of the Council within 28 days of its receipt. These details will go in the Council's register of members' interests and a member must declare an interest on any Council business related to it for a period of 3 years.
- 3.6 Similarly, officers, during the course of carrying out their duties, may be offered hospitality from people with an interest in a planning proposal. The Council have adopted a policy for Officers on gifts and hospitality which is contained in the Guidance for Councillors and Officers on Gifts and Hospitality. Wherever possible, offers should be declined politely. If the receipt of hospitality is unavoidable, officers should ensure that it is of the minimal level and declare its receipt as soon as possible. Prior permission of Director or Chief Executive ~~or Deputy Chief Executive~~ is required before accepting gifts or hospitality of £25 or over. Wyre Borough Council provide a register to record such offers whether or not accepted which is held by the Audit and Risk Manager. This register is reviewed regularly by the Council's monitoring officer. Failure by an officer to make an entry is likely to lead to disciplinary measures.
- 3.7 Employees must always act impartially. In order to ensure that senior officers do so, the Local Government and Housing Act 1989 enables restrictions to be set on their outside activities, such as membership of political parties and serving on another council. Councils should carefully consider which of their officers are subject to such restrictions and review this regularly.
- 3.8 Staff must act impartially as a requirement of the Employees' Code of Conduct. Such impartiality (particularly crucial in highly contentious matters) is re-enforced by requirements on members in the code. Members are placed under a requirement ~~by paragraph 2(b) and (c)~~ of the code to: treat others with respect; and not to do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

3.9 Finally, planning legislation and guidance can be complex. The LGA endorses the good practice of many councils which ensures that their members receive training on the planning process when first serving on the Planning Committee. It also recommends that members be updated regularly on changes to legislation or procedures. Such training is essential for those members involved in making decisions on planning applications and on local development documents. Wyre Borough Council provides training on the planning processes.

4. Registration and Declaration of Interests: Predetermination, Predisposition or Bias

4.1 The Local Government Act 2000 and the Code of conduct for members place requirements on members on the registration and declaration of their interests, as well as the consequences for the member's participation in consideration of an issue, in the light of those interests. For full guidance on personal and prejudicial interests reference should be made to the Standard's Board **Code of Conduct Guidance 2007**. In addition, advice may be sought from the Council's Monitoring Officer and Deputy Monitoring Officer. The requirements must be followed scrupulously and councillors should review their situation regularly. However, ultimate responsibility for fulfilling the requirements rests individually with each councillor.

4.2 The provisions of the Code are an attempt to separate out interests arising from the personal and private interests of the Councillor and those arising from the Councillor's wider public life. The emphasis is on a consideration of the status of the interest in each case by the Councillor personally, and included in that judgement is a consideration of the perception of the public, acting reasonably and with knowledge of the facts.

4.3 A register of members' interests is maintained by the Council's Monitoring Officer, and is available for public inspection, it is also on the Council's website. A member must provide the Monitoring Officer with written details of relevant interests within 28 days of their election, or appointment to office. Any changes to those interests must similarly be notified within 28 days of the member becoming aware of such changes.

4.4 An interest can either be personal or personal and prejudicial. The 2007 Code of Conduct for members defines personal and prejudicial interests in any matter under discussion, and should be referred to for the appropriate detail. A useful test to determine whether a position or view could be considered to be biased is to think about whether a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility of bias. Predetermination goes beyond predisposition and essentially evades the process of weighing and balancing relevant factors and taking into account other viewpoints. Sections 6.4 and 6.5 of this guidance further illustrate the concepts of bias and predetermination.

4.5 A prejudicial interest would require withdrawal of the Councillor from the Committee. However, an exception has been included in the 2007 Code. Where a Councillor has a prejudicial interest in any business of the authority, they 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. Paragraph 5.3 of this guidance advises on this when a Councillor is submitting a planning application to their Authority.

4.6 If a Councillor with a prejudicial interest speaks at a Committee, they should withdraw after they have spoken. This is to ensure that members of the Committee do not, by their presence, influence or seek to influence the remainder of the decision-making body.

4.7 The exceptions made to the definition of personal interests in the code, relating to membership of outside bodies, are attempts to clarify the nature of such interests and to encourage participation in such cases. It appears that too often in the past, members had been prevented from participation in discussions in such circumstances, on the basis that mere membership of another body constituted an interest that required such a prohibition, even in cases where the member was only on that body as a representative of the Authority.

In addition, this clause was intended to allow councillors to exercise their representative function and make representations on behalf of their constituents, in cases where they have a personal and prejudicial interest.

4.8 A personal interest will not require withdrawal. Where a member considers they have a personal interest in a matter, they must always declare it, but it does not follow that the personal interest debars the member from participation in the discussion or voting .

4.9 In addition to declaring personal or prejudicial interests, members of a planning committee need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application. Standards for England has provided guidance on predetermination, predisposition and bias. Avoidance of bias or predetermination is a principle of natural justice which the decision-maker is expected to embrace by the courts. But Councillors will often form an initial impression or view.

A distinction is drawn by the courts between a Planning Committee Councillor having clearly expressed an intention to vote in a particular way before a meeting (pre-determination), and a predisposition to an initial view, but where the Councillor is clear they are willing to listen to all the material considerations presented at the Committee before deciding on how to exercise their vote on behalf of the community. In the latter case, there is no predetermination.

4.10 If a Planning Committee Councillor has been lobbied by friends or others and wishes to pre-determine their position to promote or oppose a planning application, they will need to consider whether this has become a personal interest or not. Whether or not it is a personal interest, they need to consider if their view is likely to be regarded as pre-determined and against the fair determination of the planning application. If they have pre-determined their position, they should avoid being part of the decision-making body for that application.

4.11 A Ward Councillor who is also a member of the Planning Committee wishing to campaign for or against a proposal could speak at a planning committee on behalf of their constituents, having declared their pre-determined position. The Councillor can continue to represent those ward interests as a spokesperson for their local community, notwithstanding their normal planning committee membership. However, they would have to declare their position and not take part in the vote to avoid accusations of bias.

4.12 Standards for England nationally, and the Authority's Standards Committee locally, have the statutory responsibility of promoting and maintaining high standards of conduct by members and assisting them to observe the Authority's statutory Code of Conduct.

5. Development Proposals Submitted by Councillors and Officers; and Council Development

5.1 Proposals to their own Authority by serving and former Councillors, officers and their close associates and relatives can easily give rise to suspicions of impropriety. So can proposals for a Council's own development. Proposals can take the form of either planning applications or development plan proposals.

5.2 It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in such a way that gives no grounds for accusations of favouritism. Any local planning protocol or code of good practice should address the following points in relation to proposals submitted by Councillors and Planning Officers.

- serving Councillors and Officers who act as agents for people pursuing planning matters within their Authority should not play a part in the decision-making process for those proposals. If they submit their own proposal to their Authority, they should play no part in its decision making;
- such proposals are reported to the Planning Committee as main items and not dealt with by officers under delegated powers.

5.3 The consideration of a proposal from a Councillor in such circumstances would be considered as a prejudicial interest under the Code and as such, the Councillor would be required to withdraw from any consideration of the matter. The Councillor should 'not seek improperly to influence a decision about the matter'. It is important to emphasise here that 'improperly' does not imply that a Councillor should have any fewer rights than a member of the public in seeking to explain and justify their proposal to an officer in advance of consideration by a Committee.

However, whilst a member with a prejudicial interest may now address the Committee under the Code if the public enjoy the same rights, the member should consider whether it would be wise to do so in all the circumstances of the case, which could include the nature of the prejudicial interest and the relationship of the Councillor with the remainder of the Planning Committee.

5.4 Proposals for a Council's own development should be treated with the same transparency and impartiality as those of private developers. A member whose cabinet/executive responsibility effectively makes them an advocate for the development in question almost represents the 'internal applicant'. In such circumstances, the appropriate approach is likely to be that the member is able to argue for the development but should not vote on the relevant applications.

6. Lobbying of and by Councillors

6.1 It is important to recognise that lobbying is a normal and perfectly proper part of the political process. Those who may be affected by a planning decision will often seek to influence it through an approach to their elected ward member or to a member of the Planning Committee. As the Nolan Committee's third report stated: "It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be

done is through the local elected representatives, the Councillors themselves". Any guidance failing to take account of the realities of the political/representative process will not carry credibility with experienced elected members.

- 6.2 However, lobbying can lead to the impartiality and integrity of a Councillor being called into question, unless care and common sense is exercised by all the parties involved. When being lobbied, Councillors (members of the Planning Committee in particular) should take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments. In such situations, they should restrict themselves to giving procedural advice, including suggesting to those who are lobbying, that they should speak or write to the relevant officer, in order that their opinions can be included in the officer's report to the committee. If they do express an opinion, they should make it clear that they will only be in a position to take a final decision after having heard all the relevant evidence and arguments at committee.
- 6.3 Concerns on poor practices within local authorities have often been based on the issue of lobbying.
- 6.4 Councillors, and members of the Planning Committee in particular, need to avoid bias and predetermination and take account of the general public's (and the Ombudsman's) expectation that a planning application will be processed and determined in an open and fair manner. To do this, members taking the decision will take account of all the evidence presented before arriving at a decision, and will avoid committing themselves one way or another before hearing all the arguments. To do otherwise makes them vulnerable to an accusation of partiality. Bias or the appearance of bias has to be avoided by the decision-maker. Whilst the determination of a planning application is not strictly a 'quasi-judicial' process (unlike, say, certain licensing functions carried out by the local authority), it is nevertheless, a formal administrative process involving application of national and local policies, reference to legislation and case law as well as rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly. There is an added possibility that an aggrieved party may seek judicial review on the way in which a decision has been arrived at; or complain to the Local Government Ombudsman on grounds of maladministration; or that a member has breached the Code.
- 6.5 In reality of course, members will often form an initial view (a predisposition) about an application early on in its passage through the system, whether or not they have been lobbied. The difficulty created by the nature of the Planning Committee's proceedings is that members of the Committee (at least those who are not Councillors of the affected Ward) should not decide or declare which way they may be inclined to vote in advance of the planning meeting, or before hearing evidence and arguments on both sides.
- 6.6 Reality suggests that it is often important to distinguish between the role of the Planning Committee member who is, and who is not, a ward member for the area affected by a particular planning application.

A Planning Committee member who does not represent the Ward affected is in an easier position to adopt an impartial stance, however strong his or her feelings about the application may be and to wait until committee meeting before declaring one way or another.

- 6.7 A Planning Committee member who represents a Ward affected by an application can be placed in a difficult position if it is a controversial matter on which a lot of lobbying takes place. If the member responds to lobbying by deciding to go public in support of a particular outcome – or even campaigning actively for it – they will have predetermined their position when the committee comes to take a decision on the application. The risk of perceived bias means that the proper course of action for such a member would be not to vote.
- 6.8 As explained previously, even where a Councillor has a prejudicial interest in any business of the Authority, they 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.
- 6.9 A Ward Councillor who is also a member of the Planning Committee wishing to campaign for or against a proposal could speak at a Planning Committee on behalf of their constituents, having declared their pre-determined position. A pre-determined Councillor can continue to represent those Ward interests as a spokesperson for their local community, notwithstanding their Planning Committee membership. If that Councillor speaks on behalf of a lobby group at the decision-making committee, they should withdraw once any public or ward member speaking opportunities had been completed. This is to counter any suggestion that members of the Committee may have been influenced by their continuing presence.
- 6.10 It should be evident from the previous paragraphs that it is very difficult to find a form of words which conveys every nuance of these situations and which gets the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is, ultimately, the responsibility of the individual member.
- 6.11 Accordingly:
- the point at which a decision on a planning application is made cannot occur before the Planning Committee meeting, when all available information is to hand and has been duly considered, no political group meeting should be used to decide how Councillors should vote. The use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration;
 - with the exception in some circumstances of Ward Councillors, whose position has already been covered in the preceding paragraphs, Planning Committee councillors should in general avoid organising support for or against a planning application, and avoid lobbying other councillors. Such actions can easily be misunderstood by parties to the application and to the general public;
 - Councillors should not put improper pressure on officers for a particular recommendation, and, as required by the Code, should not do anything which compromises, or is likely to compromise, the officers' impartiality. Officers acting under the Council's delegation scheme to determine an application or making recommendations for decision by Committee, are required to be impartial. It is therefore important, as reflected in the code, for Councillors to

refrain from seeking to influence the outcome of the officers' decision or recommendation;

- ~~call-in~~ procedures, whereby members can require a proposal that would normally be determined under the delegated authority to be ~~called-in-for determination-decided~~ by the Planning Committee, includes provisions requiring the reasons for ~~call-in-this~~ to be expressed in writing so that there is a record of decision, and should refer solely to matters of material planning concern.

7. Pre-Application Discussion

7.1 Discussions between a potential applicant and a Council prior to the submission of an application can be of considerable benefit to both parties and are encouraged. However, it would be easy for such discussions to become, or to be seen by objectors to become part of a lobbying process on the part of the applicant.

7.2 With the recognition of the need to allow and encourage Councillors to be champions of their local communities in the local government white paper, there has followed a realisation that Councillor engagement in pre-application discussion on major development is necessary to allow Councillors to fulfil this role. Many Councils had been so concerned about probity issues following Nolan and the introduction of the ethical code, that they had not involved Councillors in pre-application discussions for fear of Councillors being accused of predetermination when the subsequent application came before them for determination.

7.3 In 2006, the Audit Commission followed emerging advice from the Local Government Association, National Planning Forum and Planning Advisory Service that Councillor involvement in pre-application discussions was beneficial provided it was done within carefully established limits to protect the Council and its Councillors.

The Audit Commission recommended that Councils should develop effective approaches to pre-application discussions which involve Councillors, to ensure the issues relating to proposed planning applications are identified and addressed early in the process. This was partly to help Councillors lead on community issues and partly to ensure that issues were not identified for the first time when the application was presented to the Committee for decision, causing delay and frustration.

7.4 The updated 2008 leaflet, **Positive Engagement – A Guide for Planning Councillors**, endorsed by the Government and the LGA asks Councillors to be prepared to engage with officers in appropriate pre-application discussions.

7.5 The negotiations need to take place within clear guidelines ~~to avoid perceptions that Councillors might have fettered their discretion. At present the Council has not agreed such guidelines and is in the process of agreeing them. Once finalised, the guidelines will be added as an appendix to this document, which are attached as an appendix to this document.~~

8. Officer Reports to Committee

8.1 The Courts and Ombudsman advice have determined officer reports on planning applications must have regard to the following points:

- reports should be accurate and cover, amongst other things, the substance of any objections and the views of those consulted;

- relevant information should include a clear exposition of the development plan; site or related history; and any other material considerations;
- reports should have a written recommendation of action. Oral reporting (except to update a report) should be avoided and carefully minuted~~s~~ when it does occur;
- reports should contain technical appraisals, which clearly justify a recommendation;
- if the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated.

It is particularly important to do so, not only as a matter of good practice, but because failure may constitute maladministration, or give rise to judicial review on the grounds that the decision was not taken in accordance with the provisions of the development plan and the Council's statutory duty under Section 38A of the Planning and Compensation Act 2004.

9. Public Speaking at Planning Committee Meetings

- 9.1 The Council agreed on 20 September 2007 to introduce a process to enable members of the public to speak at Planning Committee meetings. The new arrangements were implemented from December 2007 and were reviewed in June 2008.

The new arrangements reflect national best practice and are intended to provide more open, transparent and informed decision making.

The Council has opted to use an informal process which is flexible, simple to administer and easy for members of the public to understand and use.

No advance notice is required and when invited to do so by the Chairman of the Planning Committee applicants/agents and members of the public who are for or against an application can address the Committee simply by indicating their wish to speak at the meeting.

Speakers must, however, state their name and address and the points raised must relate to a previously submitted written representation made on the planning application.

The procedure is as follows:

1. The application will be introduced by the Chairman.
2. The report will be presented by a Planning Officer.
3. The Chairman will call upon those objecting to the proposal to speak for three minutes.
4. The Committee may ask questions for clarification.
5. The Chairman will call upon those supporting the proposal to speak for three minutes.
6. The Committee may ask questions for clarification.

7. The Chairman will call upon the agent or applicant to speak for three minutes.
8. The Committee may ask questions for clarification.
9. The Chairman will call upon the Ward Councillor or the Parish Councillor to speak for three minutes.
10. The Committee may ask questions for clarification.
11. The Chairman will call upon the Planning Officer/Development Control Manager or Director of Planning and Regeneration to comment on any factual matters raised by the speakers.
12. The Committee will debate the application, ask questions to officers and reach a decision without further public involvement.
13. After each decision the Chairman will inform the meeting of the decision and the procedure for formal notification of the decision. Please note that when addressing the committee under this procedure you will not be allowed to display or circulate any material ~~of or~~ information to the committee.

A guide explaining the procedures is available.

10. Decisions Contrary to Officer Recommendations and/or the Development Plan

- 10.1 The law requires that decisions should be taken in accordance with the development plan, unless material consideration indicate otherwise (Section 38A Planning and Compensation Act 2004).
- 10.2 This gives rise to two main issues. Firstly, all applications which are not in accordance with the development plan must be identified and advertised as such. Secondly, if it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan must be clearly demonstrated. The application may then have to be referred to the relevant secretary of state, depending upon the type and scale of the development proposed. If the officers' report recommends approval of such a departure, the justification for this should be included, in full, in that report.
- 10.3 The Association of Council Secretaries and Solicitors' **Model Planning Code**, advises planning committees to take the following steps prior to making a decision contrary to officers' recommendations:
 - encouraging the formation of tentative reasons by discussing a predisposition with planning officers beforehand;
 - writing down the reasons as part of the mover's motion;
 - adjourning for a few minutes for those reasons to be discussed;
 - if a very strong objection from officers on validity of reasons, considering deferring to another meeting to have the putative reasons tested and discussed.
- 10.4 If the Planning Committee makes a decision contrary to the officers' recommendation (whether for approval or refusal), a detailed minute of the

Committee's reasons should be made and a copy placed on the application file. Thus, members should be prepared to explain in full their reasons for not agreeing with the officer's recommendation. In so doing, members should observe the 'Wednesbury principle' (the case of Associated Provincial Picture Houses Ltd 'v' Wednesbury Corporation [1948] 1 K.B. 223) which, put simply, requires all relevant information (ie. material considerations) to be taken into account and all irrelevant information (ie. non-material matters) to be ignored.

10.5 The courts have expressed the view that the Committee's reasons should be clear and convincing. The personal circumstances of an applicant, or any other material or non-material considerations which might cause local controversy, will rarely provide such grounds. A notable exception is where planning policy allows for this, for example, the provision of a dwelling for an agricultural worker.

11. Committee Site Visits

11.1 Earlier enquiries revealed little consistency amongst Councils on the operation of site visits, both in terms of why they are held and how they are conducted. While a variety of approaches can be healthy, the lack of any common approach on when and why to hold a site visit and how to conduct it can leave a Council open to accusation that such visits are arbitrary and unfair or a covert lobbying device. A protocol setting out the arrangements for a Council could be used to encourage consistency and transparency of process.

11.2 The Code applies whenever the Councillor is conducting official business, which will include site visits. The Council intends to set out the criteria for deciding when a site visit is justified and consider the procedures for such visits.

11.3 Site visits consist simply of an inspection by a viewing committee, with officer assistance, and are in most cases the most fair and equitable approach. An inspection could be unaccompanied (ie. without applicant and objectors) or accompanied by-but run on the strict lines of a planning inspector's site inspection, ie. not allowing arguments to be expressed on site.

12. Regular Review of Decisions

12.1 The report of the Audit Commission Building in Quality recommended that Councillors should revisit a sample of implemented planning permissions to assess the quality of the decisions. Such a review should improve the quality and consistency of decision-making, strengthening public confidence in the planning system and can help with reviews of planning policy.

12.2 Such reviews are best undertaken at least annually. They should include examples from a broad range of categories such as major and minor developments; permitted departures; upheld appeals; listed building works and enforcement cases. Briefing notes should be prepared on each case. The Planning Committee should formally consider the review and decide whether it gave rise to the need to reconsider any policies or practices.

12.3 Scrutiny Committees may be able to assist in this process but the essential purpose of these reviews is to assist Planning Committee members to refine their understanding of the impact of their decisions from the visiting of completed developments. It is therefore important for Planning Committee members to be fully engaged in such reviews.

13. Complaints and Record Keeping

- 13.1 Whatever procedures a Council operates, it is likely that complaints will be made. However, the adoption of the advice in this guidance should greatly reduce the occasions on which complaints are justified. It should also provide less reason for people to complain in the first place.
- 13.2 A logical consequence of adopting good planning practice guidance is that a Council should also have in place a robust complaints system. Such a system may well apply to all Council activities, but a Council should consider specifically how planning related complaints will be handled, in relation to the Code of Good Practice.
- 13.3 So that complaints may be fully investigated and as a matter of general good practice, record keeping should be complete and accurate. Omissions and inaccuracies could cause a complaint or undermine a Council's case. The guiding rule is that every planning application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, and why and how it had been reached. Particular care needs to be taken with applications determined under officers' delegated powers. Such decisions should be as well documented and recorded as those taken by members. These principles apply equally to enforcement and development plan matters.

**APPENDIX TO THE LOCAL CODE OF GOOD PRACTICE FOR
COUNCILLORS AND OFFICERS INVOLVED IN THE PLANNING
PROCESS**

**PROTOCOL FOR THE INVOLVEMENT OF MEMBERS IN PRE-
APPLICATION DISCUSSIONS**

**A NEW PROTOCOL, SUBMITTED AS APPENDIX 4 OF THIS
REPORT, TO BE INSERTED WHEN APPROVED.**

~~(Approved by the Planning Committee in September, 2010 and the Standards Committee in
November, 2010)~~

~~**VOTING ARRANGEMENTS AT
PLANNING COMMITTEE:
A MEMORANDUM OF
UNDERSTANDING**~~

Now deleted

PETITIONS SCHEME

~~(Approved by Council on 24 June, 2010)~~

WYRE BOROUGH COUNCIL

Petition Scheme

1 Introduction

- 1.1** This is the Petitions Scheme for Wyre Borough Council, made under Section 11 (1) of the Local Democracy, Economic Development and Construction Act 2009 (referred to here as “the Act”).
- 1.2** The Scheme was approved at a full meeting of the Council on 24 June, 2010 and is available on the authority’s website.
- 1.3** The purpose of the Scheme is to establish a clear process for petitions submitted to the Council to be handled in accordance with the legislation (Sections 10 –22 of the Act). The Council will treat something as a petition if it is identified as a petition or if it could reasonably be regarded as a petition. Generally, a petition must be signed by at least 10 people, and any persons who sign should live, work or study in the Council’s area and include on the petition their name and address.
- 1.4** It covers, amongst other things,
- how people who live, work or study in the Authority’s area can organise or sign a petition and secure a statutory response
 - how specific responses can be triggered by achieving prescribed levels of signatures
 - who will do what and to what performance standards
 - how petition organisers can seek a review of the Council’s response
 - how the Council will monitor the effectiveness of this Scheme
- 1.5** The officer responsible for the Petitions Scheme and its operation in Wyre (the ‘Scheme Administrator’) is the Democratic Services and Scrutiny Manager, who can be contacted at:

Wyre Borough Council
Civic Centre
Breck Road
Poulton-le-Fylde
FY6 7PU
Telephone 01253 897481
rsaunders@wyrebc.gov.uk

2 About Petitions in Wyre

- 2.1** The council and its partners welcome petitions and recognise that they are one way in which people can let us know their concerns. The council will encourage the use of petitions in appropriate circumstances, and will offer advice to interested persons as to how best to make use of the Scheme in order to achieve their aims.
- 2.2** The Council places importance on the opportunity offered by petitions, to seek solutions and agreements to issues identified by Petition Organisers. If this can be

accomplished before the period set aside for the petition, then the Council may seek agreement with the Petition Organiser to withdraw the relevant petition.

- 2.3** Petitions to this authority should be about matters relating to one of its functions. Potential Petition organisers who need advice as to whether it would be more appropriate to address a Petition to the County Council will be offered guidance. In the first instance the point of contact is the Democratic Services and Scrutiny Manager (see Para 1.5).

3 Submission of Petitions

- 3.1** Petitions may be submitted to Wyre Borough Council in the following ways:-

- On paper
- In person
- Electronically, through the Council's own e-Petition facility
- Electronically by e-mail (for this method of submission to be used, each sheet of signatures has to be scanned in full as an exact replica of the original copy, and the original copy retained by the Petition Organiser).

- 3.2** In every case, a clear and concise statement covering the subject of the Petition should be included, along with a statement about what action the petitioners wish the council to take. A Petitions Organiser must also provide their name, address and telephone number. These details will not be made public.

- 3.3** The Council will formally acknowledge and respond to any Petitions that meet the criteria shown in Paragraph 3.7. The final decision as to whether a Petition meets the minimum criteria will lie with the Council's Chief Executive.

- 3.4** For e-Petitions, the Council will issue a formal acknowledgement within 5 working days of its initial submission. During this period, the Web Communications Officer will act a 'moderator' and establish that there are no problems that might prevent the system from hosting the Petition. If there are difficulties, the Web Communications Officer or the Scheme Administrator will contact the Petition Organiser and use their best endeavours to resolve matters so that the Petition can be open for signatures. Where such a dialogue occurs, the formal acknowledgement will be sent within 5 working days of the resolution of the difficulty.

- 3.5** For all other Petitions, the Council will also issue a formal acknowledgement within 5 working days of its receipt.

- 3.6** In all cases, formal acknowledgements will indicate how the Council proposes to handle the issue, and where appropriate, to outline what it may be possible for the Authority to do in response.
- 3.7** To be a valid Petition, and trigger the provisions of the statutory 'duty to respond', a Petition must:
- ❑ Be initiated by a Petition Organiser whose details have been supplied to the Council
 - ❑ Relate to the Council's functions or to wider issues applicable to the areas served by the County Council
 - ❑ Not be vexatious or abusive
 - ❑ Not be related to matters excluded from the Scheme (for example, any matters relating to individual planning or licensing decisions, for which other established processes already exist)
 - ❑ Obtain a minimum of 10 valid signatories, including verifiable details that they live, work or study in the Council area. Signatures from others (e.g. tourists) may be considered as valid if relevant to the issue of the petition
 - ❑ Not be a duplicate or near-duplicate of a similar petition received or submitted under 12 months ago
- 3.8** To ensure the Council understands the level of local support for a Petition, it reserves the right to seek to verify each signature appended to a Petition.
- 3.9** In the case of e-Petitions, the Council requires signatories to append their email addresses and their postcodes. When signatories have submitted this information they will be sent an email to the email address provided. The email will contain a link, which must be clicked on in order to confirm that the email address is valid. Only once that step is complete will the 'signature' be added to the Petition. People visiting the e-Petition will be able to see the signatory's name on the list, but contact details will not be visible.
- 3.10** Unless otherwise agreed following discussions with the Petition Organiser, an e-Petition will remain open for signatures for 30 days.
- 3.11** As each Petition is received or created online, the Council will log each one, and publish details on its website. For any Petition relating specifically to a Council Ward or Wards, the relevant Elected Member will be formally notified and asked for comments.

4 Responding to Petitions

- 4.1** Upon receipt or submission, the Council will assign the Petition to a Responding Officer, who will take responsibility for investigating the issue and advise on the action to be taken by the Authority. The name of the Responding Officer will be notified to the Petitions Organiser at the time of the acknowledgement.
- 4.2** Among the actions the Council will undertake are one or more of the following:-
- ❑ Taking the action requested in the Petition
 - ❑ Considering the Petition at a Council Meeting

- Holding an Inquiry
- Commissioning relevant research
- Holding a public meeting
- Facilitating a wider public consultation
- Meeting with the Petition Organiser or representatives of signatories
- Providing a written response outlining the Council's views on the subject
- Referring the issue to ~~one of~~ the Council's Overview and Scrutiny Committees
- Consulting statutory partners and local service providers
- Instigating discussions with the voluntary and community sectors
- Make representations to Commercial or other Interests

4.3 Under normal circumstances, the Council will expect to provide the Petition Organiser with a response detailing which of the actions specified in Para.4.2 or other initiatives it intends within 10 working days of receipt of a paper Petition. In the case of e-Petitions which will be expected to remain open for some time, the response will be within 10 working days of the closing date for signatures, or a date requested by the Petition Organiser, whichever is the earlier.

4.4 If a Petition has, or acquires 3,000 valid signatures, the issue will be debated at Full Council, a meeting to which all elected members are invited.

4.5 At such a meeting, the Petition Organiser or someone nominated on his or her behalf will have the right to speak about the petition, normally for up to 3 minutes; reasonable advance notice will be provided to ensure that any preparation can be undertaken in time.

4.6 The Mayor will decide upon the amount of time to allow for the debate on the Petition. This will take into account the degree of public interest in the issue, the level of support given to the Petition and the number of elected members wishing to express their views on the subject.

4.7 The Council accepts that it will not normally be sufficient for such a meeting merely to 'take note' of the Petition. There should be a decision as to what other steps should be taken in response. These include, but are not restricted to, the actions specified in Para 4.2. The Petitions Organiser will be formally notified of the decision taken at the Council meeting within five working days.

4.8 Petitions may request that a senior officer is required to appear and give evidence on an issue for which he or she is responsible. If such a Petition has, or acquires 50 valid signatures, the Council will arrange for the relevant senior officer to give evidence at a public meeting of the ~~most appropriate of~~ the Council's Overview and Scrutiny committees. The Council reserves the right to substitute a more appropriate person for the name referred to in the Petition.

4.9 The Petition Organiser will be given reasonable notice of the meeting, and although able to attend, will not normally be able to participate. The meeting Chairperson will normally be prepared to consider suggested lines of questioning from the Petition Organiser or signatories.

4.10 If in the opinion of the Council, an issue raised in a petition seeking to call a senior officer to account would be better considered by relevant senior officers from a partner authority, the Council may request that such an individual be invited to give evidence to the Overview and Scrutiny Committee.

- 4.11** Following the meeting at which the senior officer appears and gives evidence, the Overview and Scrutiny Committee will prepare a Report and/or make recommendations. These will be sent to the Chief Executive the Leader of the Council and the relevant Portfolio Holder/Cabinet, and a copy sent to the Petition Organiser.
- 4.12** References to 'threshold' numbers of signatures in paragraphs 1.3, 3.7, 4.4 and 4.8 confer a clear entitlement under the provisions of this Scheme. However, the Council accepts that there are situations where issues may be of considerable significance to a small number of stakeholders, but where the absolute number of signatures for a petition may be less appropriate a measure of relevant support.

In these circumstances the Scheme Administrator is authorised to substitute for the thresholds in the paragraphs referred to above, revised numbers that take account of the specifics of the case. When this occurs, the entitlements operate as for the rest of this Scheme.

- 4.13** At the end of the process of considering the Petition, the relevant ~~Director Senior Officer~~ will write to the Petition Organiser with a formal response. This communication will normally outline the steps taken by the Council to consider the issue and will refer to the involvement (where applicable) of the Authority's elected members.

In the case of an e-Petition the response will be distributed by email to all of the petition signatories.

A copy of the response to all petitions will be posted to the publicly accessible website and available to view for a period of 6 months from closing the petition. For e-Petitions this will include the names of signees.

The letter will also identify the Responding Officer who handled the issue and highlight his or her involvement where appropriate. This formal response will be despatched within 6 weeks of receipt or submission of a Petition, and a copy will be published both on the Council website and easily accessible from the relevant pages of the e-Petitions facility.

5 Reviewing the Results

- 5.1** If a Petitions Organiser is not satisfied with the Council's response to the Petition, he or she may request a Review. Such a request should be made in writing within 10 working days of the despatch of the formal response to the Petitions Organiser.
- 5.2** Upon receipt of such a request the Scheme Administrator will identify a Reviewing Officer from among the Council's senior officers (not the Responding Officer, previously identified). The Reviewing Officer will be given wide scope to reconsider whether the Authority should, in all the circumstances take additional steps to respond to the Petition. This will normally include reference to ~~an~~ the Overview and Scrutiny Committee.

~~On some occasions, As~~ it may not be ~~in~~ appropriate for the same Committee to review the issue. In consultation with the Scheme Administrator, the Reviewing Officer will ensure that a suitable alternative process is followed to engage elected members in

reviewing the Petition.

- 5.3** At the end of the review process, the Council's Chief Executive will write to the Petition Organiser to inform him or her of the results of the Review. This communication will normally outline the process followed to establish whether the initial response had been adequate and outline any additional steps taken by the Council as part of the Review. It will also refer to the involvement (where applicable) of the Authority's elected members. The letter will also identify the Reviewing Officer who handled the issue and highlight his or her involvement where appropriate.

This Review Response will be despatched within 10 working days of receipt of the request for Review, and a copy will be published both on the Council website.

6 Reporting

- 6.1** The Council will report progress in addressing issues raised through Petitions by updating the e-Petitions system regularly, and by ensuring that the status of each Petition is accurately shown.
- 6.2** In addition, the Council will prepare an Annual Summary detailing all petitions submitted, the signatures each attracted, and the Council's response to each. This Report will be presented to the ~~Corporate Services Watchdog~~ Overview & Scrutiny Committee each year and published on the Council's website.

COUNCILLOR CALLS FOR ACTION PROCEDURES

~~(Approved by Council on 20 January, 2011)~~

1. Background

- 1.1 The 'Strong & Prosperous Communities' White Paper, 2006, proposed the idea of a Community Call for Action by stating:

"We want to strengthen the ability of local councillors to speak up for their communities and demand an answer when things go wrong. We propose that this role should be exercised by individual councillors through a 'Community Call for Action' or collectively by councillors through the Overview and Scrutiny Committee."

- 1.2 Section 119 of the Local Government and Public Involvement in Health Act 2007 (which inserted a new section 21A into the Local Government Act 2000) provides councillors with the opportunity to ask for such debate and discussion at an overview and scrutiny committee on issues where local problems have arisen and other methods of resolution have been exhausted. This legislation was implemented on 1 April 2009.

2. Key Issues and Proposals

- 2.1 The main principles of the Councillor Call for Action (CCfA) are as follows:

- a) The focus of the CCfA is on neighbourhood or locality issues and specifically the quality of public service provision at local level.
- b) The CCfA represents a genuine matter of local concern, based upon the councillor's judgement.
- c) The CCfA powers are limited to issues affecting a single ward.
- d) The subject of a CCfA should be a persistent problem which the ward councillor had been unable to resolve through local action and discussion with the cabinet or relevant services and agencies.
- e) Overview and Scrutiny consideration of a CCfA will be short and outcome-focused.
- f) A CCfA is not appropriate for dealing with individual complaints.
- g) A CCfA is not appropriate for dealing with matters that relate to quasi-judicial decisions (e.g. licensing and planning) or to council tax and non-domestic rates as these are subject to their own statutory appeals processes.
- h) A CCfA is concerned with the resolution of the issue raised.

- 2.2 The proposed arrangements for Wyre are as follows:

- ◇ Initially, a ward councillor should log a prospective CCfA with the scrutiny team. In consultation with the scrutiny team, the ward

councillor might carry out some further actions in an effort to achieve an early resolution of the identified problem.

- ◇ If the issue remains unresolved it will be referred to ~~a small group of non-executive members, already identified by the three Watchdog Committees, who will consider the matter fully before agreeing whether or not to refer the matter to~~ the Overview and Scrutiny ~~most appropriate Watchdog~~ Committee as a Councillor Call for Action.
- ◇ The Watchdog- Overview & Scrutiny Committee will consider the matter fully, hearing any relevant evidence from appropriate individuals or organisations, with a view to achieving resolution at that meeting.
- ◇ The committee will make recommendations to the cabinet, or identify further work, as appropriate.

2.3 To make these procedures as easy to follow as possible, separate Guides have been prepared for Councillors, for Officers and for residents each of which is attached.



**Councillor Call for Action –
Procedure Guide**

Wyre's Procedure Guide for the Councillor Call for Action is in three parts:

- 1 Councillor Guide
- 2 Officer Guide
- 3 Residents' Guide

‘Councillor Call for Action’ in Wyre - Councillor Guide -

Context

Councillor Call for Action (CCfA) guidance is contained in the Local Government and Public Involvement in Health Act 2007 and the Police and Justice Act 2006.

What is a Councillor Call for Action (CCfA)?

CCfA is a tool to help you in your work as a ward councillor. It can be used to tackle problems, on a neighbourhood or ward specific basis, which you have been unable to resolve through the normal channels.

Although unresolved issues may be referred to scrutiny for further consideration at the end of the CCfA process, CCfA should not be regarded as merely a ‘scrutiny process’. It is a whole council approach, which is designed to help councillors to resolve issues and problems on behalf of their residents.

CCfA is not guaranteed to solve a problem. However, CCfA can provide:

- ❑ Recognition that an issue is significant enough for time, attention and resources to be spent in trying to resolve it.
- ❑ A public forum for discussion of the issues.
- ❑ An opportunity to discuss the issues in a neutral environment.
- ❑ An opportunity to discuss a problem with the explicit and sole aim of solving it.
- ❑ A high profile process owned by the ward councillor.

The Scrutiny Team will support you throughout the process, which is illustrated on page 4.

What CCfA is not

CCfA is not:

- ❑ about a councillor’s everyday case work
- ❑ appropriate for dealing with individual complaints
- ❑ to be used for dealing with issues that relate to quasi judicial decisions (e.g. planning or licensing) or other issues that have their own statutory appeals processes.

Who can raise a CCfA?

The power to initiate a CCfA lies with you as a councillor; it is up to you to take the issue forward if you think it is a potential CCfA. **(STAGE 1)**

What kind of issues can be tackled by CCfA?

Issues should be genuine local community concerns which focus on the quality of public service provision at a local level. This includes any function of the authority that affects the councillor’s ward and constituents.

Issues that can be tackled by CCfA are usually persistent and have remained unresolved for a significant period of time. They may be issues that you are aware of from your work as a ward councillor or you can decide to champion a request on behalf of the public.

What does championing a request mean?

Championing a request will mean that you take the issue up on behalf of the resident(s)/community concerned and try to resolve the problem by liaising with council officers, the Cabinet and/or outside agencies. You need to do all that you possibly can to resolve the matter before it becomes a CCfA.

What if I don't want to champion a request from a member of the public?

If you decide not to champion a request, no further action will be taken under a CCfA. There is no right of appeal by members of the public.

I want to initiate a CCfA - what do I do next?

The first thing you should do is log a potential CCfA with the Scrutiny Team (see *contact details*) who will help you to decide if an issue is suitable for the CCfA process. **(STAGE 2)**

If my issue is suitable for CCfA, what do I do next?

You will need to continue trying to resolve the issue yourself **(STAGE 3)**. You should keep the Scrutiny Team informed about the progress you have made, keeping them up to date with developments. The Scrutiny Team will try to assist you in resolving the concern by, for example:

- helping you to discuss issues with services/partner agencies;
- facilitating informal discussions;
- helping you to formally raise an issue with other agencies such as the Wyre Strategic Partnership, PCT, police or other relevant organisation

I have done everything I can to resolve the issue but it still remains unresolved; what do I do now?

At this stage, with no stone having been left unturned, the matter will be referred, with the agreement of the Chairman, for inclusion on the agenda of the next meeting of the O&S Committee **(STAGE 4)**.

The matter is referred to the O&S Committee - what happens now?

The CCfA will be added to the O&S Work Programme.

The Scrutiny Team will arrange for any relevant person or representative of an organisation to attend the O&S Committee meeting so that the matter can be fully explored and resolved. One further option, if the matter cannot be resolved at one meeting, would be for the O&S Committee to set up a CCfA Task Group (a small group of members) to look in greater detail at the issue and how it should be resolved **(STAGE 5)**.

What will happen after the O&S Committee or CCfA Task Group has concluded its work?

A report will be produced, together with a set of recommendations. The report will be referred to Cabinet, via the O&S Committee if appropriate. The O&S Committee will review the progress of the implementation of recommendations agreed at Cabinet in the same way that the implementation of any other task group recommendations is reviewed.

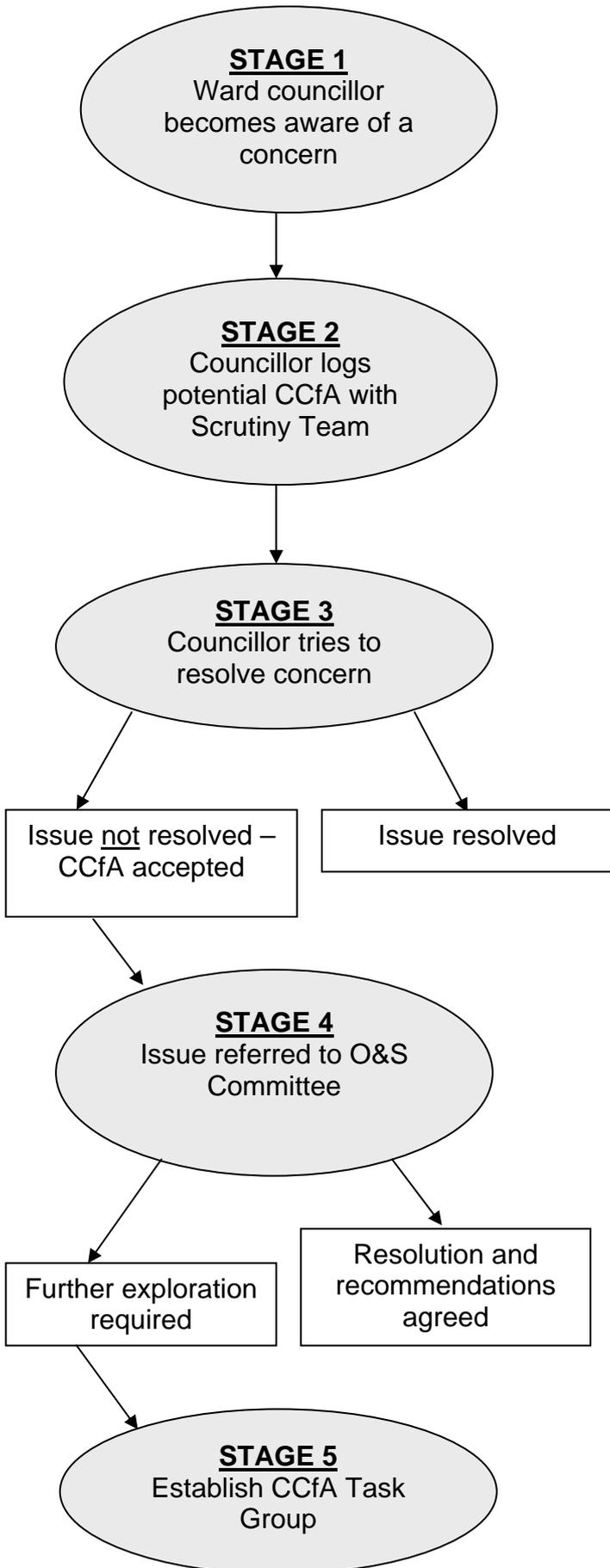
Contact details

**Scrutiny Team
Civic Centre
Breck Road
Poulton-le-Fylde
FY7 6PU**

Tel: 01253 887606 or 887607

E-mail: pfoulsham@wyrebc.gov.uk or sdavis@wyrebc.gov.uk

Councillor Call for Action - Process



STAGE 1

Ask yourself - is it a potential CCfA?

1. Is it neighbourhood and ward specific?
2. Is it an individual complaint?
3. Is it about quality of public service provision at a local level?
4. Have you checked that it isn't a quasi-judicial decision?

STAGE 2

You need to log the potential CCfA with the Scrutiny Team. Have you got the following information?

1. Names of other councillors involved
2. The wards and localities affected
3. Detailed account of the concern including timescales
4. Information and action taken so far
5. Information on officers/services/ partners involved

The Scrutiny Officer will forward details to the relevant Director and Cabinet Member.

STAGE 3

You should continue to try to resolve the issue, keeping the Scrutiny Officer (SO) up to date with any progress made. The SO will assist you in determining if everything possible has been done to resolve the concern.

Your aim should be to get to a stage where you can demonstrate that no stone has been left unturned.

Once that is so, the matter will be referred for inclusion, with the agreement of the Chairman, to a meeting of the O&S Committee for full consideration.

STAGE 4

1. O&S Committee will hear evidence from all relevant contributors.
2. Recommendations made to Cabinet
3. If matter is not resolved at one meeting, O&S Committee can agree to set up a CCfA Task Group which will report its findings and recommendations, via the Committee, to Cabinet

STAGE 5

CCfA Task Group established

‘Councillor Call for Action’ in Wyre - Officer Guide -

Context

In order to strengthen the ward councillor’s role as a champion for local concerns, the Government has enacted, in the Local Government and Public Involvement in Health Act 2007, provisions for a ‘Councillor Call for Action’ (CCfA). This provides councillors with the opportunity to ask for discussions at scrutiny committees on issues where local problems have arisen and where all other methods of resolution have proved ineffective.

Despite its links with scrutiny, CCfA should be regarded as a ‘whole council approach’, which is intended to help councillors resolve issues on behalf of their residents.

Purpose and Objectives of CCfA

The successful operation of CCfA relies on several broad principles being recognised, and supported, in local authorities. These principles are:

- Transparency in decision-making and the involvement of scrutiny in the decision-making process at some level.
- A willingness to identify mistakes and shortcomings and the acceptance that problems can often be resolved through discussion.
- A common understanding shared by senior officers, executive members and non-executive members, that scrutiny plays a key role in helping the council to improve its services.
- An understanding and a wish to bolster and support the role that ward councillors play as champions and leaders of their communities.

CCfAs should represent genuine local community concerns and should focus on neighbourhood and ward issues, specifically the quality of public service provision. CCfA is a means of last resort when all other avenues have been exhausted and the councillor has been unable to resolve the issue.

What CCfA is not

CCfA is not:

- about a councillor’s everyday case work
- appropriate for dealing with individual complaints
- to be used for dealing with issues that relate to quasi judicial decisions (e.g. planning or licensing) or other issues that have their own statutory appeals processes.

What do officers need to know?

There are a number of scenarios in which you may come into contact with the CCfA process:

1. A member of the public contacts you to say that they want to raise a CCfA
 - Only ward councillors can initiate a CCfA
 - You should therefore direct them to their local ward councillor **(STAGE 1)**

2. A ward councillor contacts you to say that they want to log a CCfA **(STAGE 2)**
 - CCfA must be logged with the Scrutiny Team, to whom the councillor should be directed (details below)
3. A ward councillor may ask you to assist them in trying to resolve an issue that has been logged as a potential CCfA.
 - Once a councillor has logged a potential CCfA they are still required to try and resolve the issue. A CCfA will only be established when all other avenues have been exhausted, although councillors are encouraged to log the issue with the Scrutiny Team at an early stage. **(STAGE 3)**
 - You may be invited to attend meetings specifically set up by the Scrutiny Team to try to help a councillor resolve the issue.
4. A Scrutiny Officer may contact you to seek clarification or further information on an issue that has been logged as a potential CCfA.
5. Once it is accepted that the issue still remains unresolved, despite no stone having been left unturned, the matter will be referred, with the agreement of the Chairman, for inclusion on the agenda of the next O&S Committee meeting.
6. Relevant officers might be asked to attend as a witness or submit written information to the O&S Committee **(STAGE 4)** or a subsequently convened CCfA Task Group **(STAGE 5)**.

You will be contacted by the Scrutiny Team if you are required to attend the O&S Committee or a CCfA Task Group or to provide written information.

7. Once the O&S Committee or CCfA Task Group has completed its work, recommendations will be sent to Cabinet. Arrangements will be made to monitor the progress of the recommendations agreed. You, or a member of your team, may be asked for a progress update by the O&S Committee, in the same way that the implementation of any other task group recommendations is regularly reviewed.

Any queries?

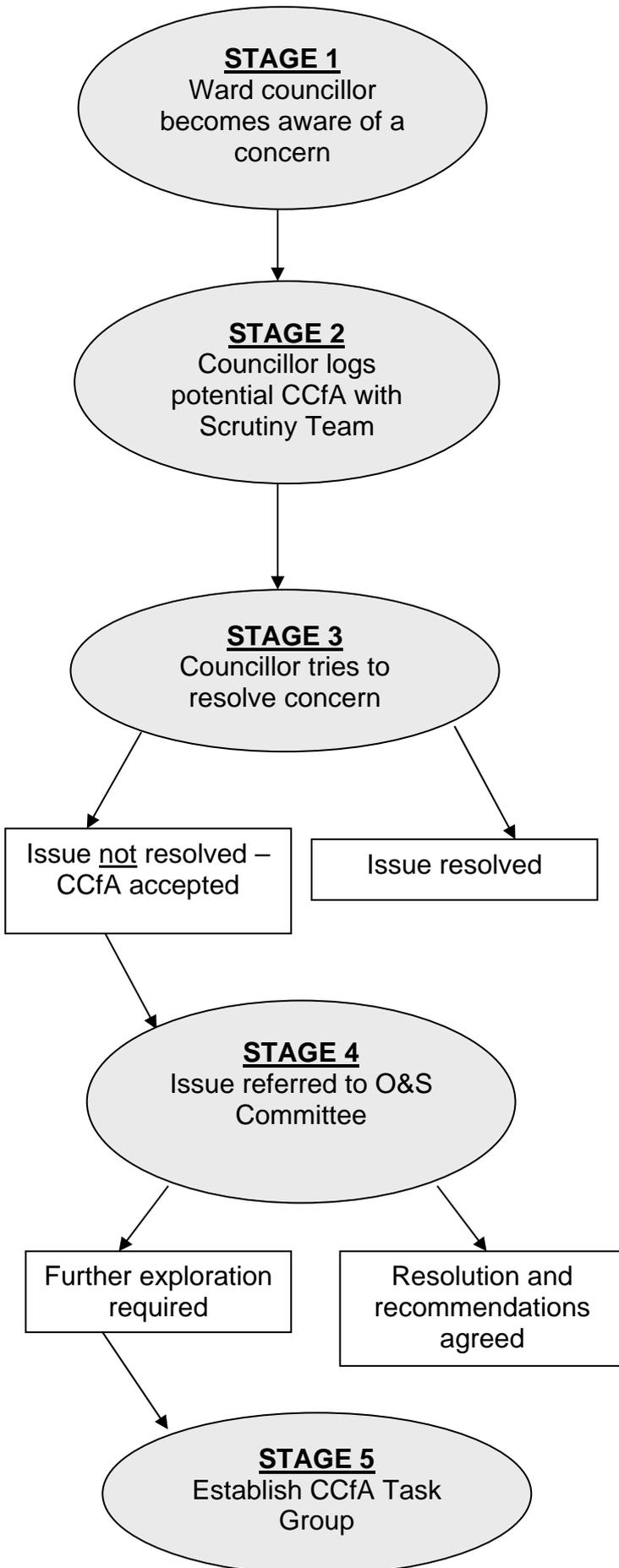
If you require any further information, please contact:

Scrutiny Team
Civic Centre
Breck Road
Poulton-le-Fylde
FY7 6PU

Tel: 01253 887606 or 887607

E-mail: pfoulsham@wyrebc.gov.uk or sdavis@wyrebc.gov.uk

Councillor Call for Action - Process



STAGE 1

Ask yourself - is it a potential CCfA?

5. Is it neighbourhood and ward specific?
6. Is it an individual complaint?
7. Is it about quality of public service provision at a local level?
8. Have you checked that it isn't a quasi-judicial decision?

STAGE 2

You need to log the potential CCfA with the Scrutiny Team. Have you got the following information?

6. Names of other councillors involved
7. The wards and localities affected
8. Detailed account of the concern including timescales
9. Information and action taken so far
10. Information on officers/services/ partners involved

The Scrutiny Officer will forward details to the relevant Director and Cabinet Member.

STAGE 3

You should continue to try to resolve the issue, keeping the Scrutiny Officer (SO) up to date with any progress made. The SO will assist you in determining if everything possible has been done to resolve the concern.

Your aim should be to get to a stage where you can demonstrate that no stone has been left unturned.

Once that is so, the matter will be referred for inclusion, with the agreement of the Chairman, to a meeting of the O&S Committee for full consideration.

STAGE 4

3. O&S Committee will hear evidence from all relevant contributors.
4. Recommendations made to Cabinet
3. If matter is not resolved at one meeting, O&S Committee can agree to set up a CCfA Task Group which will report its findings and recommendations, via the Committee, to Cabinet

STAGE 5

CCfA Task Group established

'Councillor Call for Action' in Wyre - Residents' Guide -

Context

Councillor Call for Action (CCfA) guidance is contained in the Local Government and Public Involvement in Health Act 2007 and the Police and Justice Act 2006.

What is a Councillor Call for Action (CCfA)?

CCfA is a tool to help councillors carry out their work in their wards, to resolve issues and problems on behalf of their residents. It can be used to tackle problems, on a neighbourhood or ward specific basis, which it has not been possible to resolve through the normal channels.

CCfA is not guaranteed to solve a problem. However, CCfA can provide:

- ❑ Recognition that an issue is significant enough for time, attention and resources to be spent in trying to resolve it.
- ❑ A public forum for discussion of the issues.
- ❑ An opportunity to discuss the issues in a neutral environment.
- ❑ An opportunity to discuss a problem with the explicit and sole aim of solving it.
- ❑ A high profile process owned by the ward councillor.

The Scrutiny Team will support councillors throughout the process.

What CCfA is not

CCfA is not:

- ❑ about a councillor's everyday case work
- ❑ appropriate for dealing with individual complaints
- ❑ to be used for dealing with issues that relate to quasi judicial decisions (e.g. planning or licensing) or other issues that have their own statutory appeals processes.

Who can raise a CCfA?

The power to initiate a CCfA lies with councillors; it is up to them to take the issue forward.

What kind of issues can be tackled by CCfA?

Issues should be genuine local community concerns which focus on the quality of public service provision at a local level. This includes any function of the authority that affects the councillor's ward and constituents.

Issues that can be tackled by CCfA are usually persistent and have remained unresolved for a significant period of time. They may be issues that councillors are aware of from their work in the ward councillor or that they decide to champion on behalf of the public.

What does championing a request mean?

Championing a request will mean that your local councillor will take the issue up on behalf of the community and try to resolve the problem by liaising with council officers, the Cabinet and/or outside agencies. S/he will need to do all that s/he possibly can to resolve the matter before it becomes a CCfA.

What if the councillor does not want to champion a request from a member of the public?

If the ward councillor decides not to champion a request, no further action will be taken under a CCfA. There is no right of appeal by members of the public.

What is the process?

Your local councillor will do all that they possibly can to resolve the matter. They are encouraged to 'leave no stone unturned'. If it is not possible to resolve the matter, despite the councillor's best efforts, the councillor will have to make representations to the council's Overview and Scrutiny Committee.

The committee will consider all the evidence and information available and will try to resolve the matter at one meeting. If that proves impossible and further work is required, the Committee will convene a CCfA Task Group (a small group of councillors) who will carry out further work on the issue and make recommendations about how it should be resolved. The recommendations will be passed, via the O&S Committee, to Cabinet, the council's executive decision-making body.

Who do I contact?

If you wish to suggest something for consideration as a CCfA, you should contact your local ward councillor in the first instance – it is for councillors to take this forward.