

Constitution of Eden District Council

This page is left intentionally blank

Contents

Page No

Part 1	Summary and Explanation	7
Part 2	Articles of the Constitution	13
Article 1	The Constitution	17
Article 2	Members of the Council	19
Article 3	Citizens and the Council	21
Article 4	The Full Council	23
Article 5	Chairing the Council	29
Article 6	Overview and Scrutiny	31
Article 7	The Executive	35
Article 8	Licensing, Quasi-Judicial and Other Committees	39
Article 9	Standards	41
Article 10	Joint Arrangements	45
Article 11	Officers	47
Article 12	Decision Making	53
Article 13	Finance, Contracts and Legal Matters	55
Article 14	Review and Revision of the Constitution	57
Article 15	Suspension, Interpretation and Publication of the Constitution	59
Schedule 1	Description of Executive Arrangements	61
Schedule 2	Roles and Responsibilities of Members	63

Part 3	Responsibility for Functions	73
1.	General Limitations	77
2.	Responsibility for Local Choice - Functions	79
3.	Responsibility for Council Functions - Full Council and Committees	83
4.	Responsibility for Council Functions - Scheme of Delegation to Officers	91
5.	Designation of Proper Officers	101
6.	Responsibility for Executive Functions - The Executive	111
Schedule 1	Policy Areas and Executive Functions included in Portfolio	123
Schedule 2	Executive Functions Delegated to Officers	129

Part 4	Rules of Procedure	143
A.	Council Procedure Rules	147
B.	Access to Information Procedure Rules	169
C.	Executive Procedure Rules	179
D.	Budget and Policy Framework Procedure Rules	197
E.	Committee Procedure Rules	207
F.	Scrutiny Procedure Rules	215
G.	Accounting and Audit Procedure Rules	229
H.	Procurement Rules	251
I.	Officer Employment Procedure Rules	265

Part 5	Codes and Protocols	273
A.	Members' Code of Conduct and Guidance on the Code of Conduct	277
B.	Protocol on Public and Member Participation in Meetings	297
C.	Officers' Code of Conduct	299
D.	Code of Planning Conduct and Practice	307
E.	Protocol on Member/Officer Relations	325
F.	Filming, Photography, Recording and Use of Social Networking at Council Meetings Policy	333
G.	Protocol for the relationship between the Leader of the Council and the Chief Executive	335
H.	Protocol for the Monitoring Officer	343
I.	Protocol for the Independent Person	349
J.	Protocol for the Chairman	355

Part 6	Members' Allowances Scheme	361
Schedule 1	Special Responsibility Allowance	369
Schedule 2	Approved Duties	370
Schedule 3	Mileage Rates Payable	375

Part 7	Management Structure	377
--------	----------------------	-----

This page is left intentionally blank

Part 1

Summary and Explanation

This page is left intentionally blank

The Council's Constitution

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

The Constitution is divided into 15 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

What's in the Constitution?

Article 1 of the Constitution commits the Council to:

1. provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement of citizens in the process of local authority decision-making;
3. help Members represent their constituents more effectively and enable decisions to be taken efficiently and effectively;
4. create a powerful and effective means of holding decision-makers to public account and ensure that no one will review or scrutinise a decision in which he/she was directly involved;
5. ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions; and
6. provide a means of improving the delivery of services to the community.

Articles 2 to 15 explain the rights of citizens and how the key parts of the Council operate.

How the Council operates

The Council is composed of 38 Members, elected every four years. Members are democratically accountable to residents of their wards. The overriding duty of Members is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Members have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Accounts and Governance Committee will oversee the provision of training and advice on the code of conduct.

All Members meet together as the Council. This is the legal body that can employ staff, own land and property and enter into contracts. Meetings of the Council are normally open to the public. Here Members decide the Council's overall policies and set the budget each year. The Council, at its annual meeting following the regular election of District Councillors, appoints the Leader for a four year term of office. The Leader selects the Members for his/her Executive, nominates them to the Council for formal appointment and allocates their Portfolios (areas of responsibility). The Council also appoints committees to deal with certain areas of responsibility which are not within the powers of the Executive such as planning applications and other regulatory matters. The Council also appoints scrutiny committees.

All committee and Executive meetings are open for the public to attend except where personal or confidential matters are being discussed. Public questions can be raised at all public meetings of the full Council, the Executive and committees. Questions to Executive Members are dealt with at Council meetings. The rules about raising questions are set down in Part 4 of this Constitution in the Council Procedure Rules.

How decisions are made

The Executive is part of the Council and is responsible for most day-to-day decisions. The Executive is made up of the Council Leader and at least two but no more than nine other Members whom he/she selects. Executive decisions may be made by individual Members, by the Executive as a whole or by Officers acting under powers given to them by the Leader and or the Executive.

If the key decisions are to be discussed at a meeting of the Executive, this will be open for the public to attend except where personal or confidential matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If the Executive wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council to decide.

The Council also has committees to carry out a number of regulatory functions, including dealing with planning applications, licensing and any other regulatory business.

Scrutiny

There is one Scrutiny Co-ordinating Board and two Scrutiny Committees supporting the work of the Executive and the Council as a whole. They allow citizens to have a greater say in Council matters by holding public reviews into matters of local concern. Reports and recommendations can be produced which advise the Executive and the Council as a whole on its policies, budget and service delivery. The Scrutiny Committees monitor the decisions of the Executive. They can 'call-in' a decision which has been made by the Executive but not yet implemented. This call-in power enables them to consider whether the decision is appropriate. A Committee may recommend that the Executive reconsiders the decision. A Committee may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

The Council's Staff

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have specific duties such as to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between officers and Members of the Council and can be found in Part 5 of this Constitution.

Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The Citizens' Advice Bureau can advise on individuals' legal rights.

Where members of the public use specific Council services they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- vote in local elections if they are registered to vote;
- contact their local Member about any matters of concern to them in relation to the activities of the Council;
- obtain a copy of the Constitution;
- attend meetings of the Council, its Executive or its Committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of Executive;
- participate in meetings by asking questions and contribute to investigations by the Scrutiny Committees;
- through their ward Members and through the Chairmen of the Scrutiny Committees, raise issues which they want to be investigated or discussed. The Council Member is able to ask the relevant Scrutiny Committee to take forward an investigation, pursue a problem within Council policy or any other issue concerned with the way the Council or the Executive functions;
- submit a petition to the Council under the Council's Petition Scheme;
- attend meetings of the Executive except where personal or other confidential matters are likely to be discussed;
- see reports and background papers and any record of decisions made by the Council and the Executive, unless they contain personal or confidential material when only the public papers and records will be available;
- complain to the Council about any matter where they are dissatisfied with the Council's operations or services;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Monitoring Officer if they have evidence which they think shows that a Member has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact Member Services within the Department of Governance, Town Hall, Penrith, CA11 7QF, telephone (01768) 817817. Email: cttee.admin@eden.gov.uk. Details of the Council's meetings, Members and services can be found on the Council's website at www.eden.gov.uk.

Details of the rights of citizens to inspect agendas and reports and attend meetings are contained in the Council's Access to Information Rules at Part 4 of this Constitution.

This page is left intentionally blank

Part 2

Articles of the Constitution

This page is left intentionally blank

Articles of the Constitution - Index	Page No
Article 1 The Constitution	17
Article 2 Members of the Council.....	19
Article 3 Citizens and the Council.....	21
Article 4 The Full Council	23
Article 5 Chairing the Council	29
Article 6 Overview and Scrutiny.....	31
Article 7 The Executive.....	35
Article 8 Licensing, Quasi-Judicial and other Committees.....	39
Article 9 Standards	41
Article 10 Joint Arrangements	45
Article 11 Officers	47
Article 12 Decision Making	53
Article 13 Finance, Contracts and Legal Matters.....	55
Article 14 Review and Revision of the Constitution	57
Article 15 Suspension, Interpretation and Publication of the Constitution	59
Schedule 1 Description of the Executive Arrangements.....	61
Schedule 2 Roles and Responsibilities of Members (Index)	63

This page is left intentionally blank

Article 1 - The Constitution

1.1 Powers of the Council

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

1.2 The Constitution

This Constitution, with all its appendices, is the Constitution of Eden District Council.

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
 2. support the active involvement of citizens in the process of local authority decision-making;
 3. help Members to represent their constituents more effectively;
 4. enable decisions to be taken efficiently and effectively;
 5. create a powerful and effective means of holding decision-makers to public account;
 6. ensure that no one will review or scrutinise a decision in which he/she has been involved;
 7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
 8. provide a means of improving the delivery of services to the community; and
 9. ensure that all parts of the District are properly and economically served;
- and to:

Enable the Council to meet its principal aim to best serve the people of Eden

1.4 Interpretation and Review of the Constitution

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

This page is left intentionally blank

Article 2 - Members of the Council

2.1 Composition and eligibility

1. Composition. The Council will comprise 38 Councillors, otherwise called Members. One or more Members will be elected by the voters of each ward in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State.
2. Eligibility. Only registered voters of the District or those living or working there will be eligible to hold the office of Member.

2.2 Election and terms of Members

The regular election of Members will be held on the first Thursday in May every four years beginning in 2007. The terms of office of Members will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.3 Roles and Functions of all Members

In addition to the following roles and functions, the Council has also adopted job descriptions for all Members set out in Schedule 2 to Part 2 of this Constitution.

1. Key Roles

All Members will:

- a) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- b) consider the views of others, and of their group, if they have one, but it is their responsibility alone to decide what view to take on any questions which Members have had to decide;
- c) represent their communities and bring their views into the Council's decision-making process, that is, become the advocates of and for their communities;
- d) when dealing with quasi-judicial decision making, such as determining planning applications, take into account only those matters which may properly be taken into account and deal with every decision to be made fairly and impartially;
- e) be available to represent the Council on other bodies;
- f) effectively represent the interests of their wards and of individual constituents. Councillors have a duty to their constituents, including those who did not vote for them;
- g) respond to constituents' enquiries and representations, fairly and impartially;
- h) participate in the governance and management of the Council, and actively encourage community participation and citizen involvement in decision making;
- i) maintain the highest standards of conduct and ethics;
- j) participate in Member training; and

- k) participate in initiatives to promote electronic communications.

2. Rights and Duties

All Members will:

- a) have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law;
- b) not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Member or officer entitled to know it;

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

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

2.4 Allowances

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

Article 3 - Citizens and the Council

3.1 Citizens' Rights

Citizens have the rights set out below. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part 4 of this Constitution:

1. Information

Citizens have the right to:

- a) attend meetings of the Council and its Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- b) attend meetings of the Executive particularly when key decisions are being considered and at all other times except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
- c) see reports and background papers, and any records of decisions made by the Council and the Executive subject to the Access to Information Rules at Part 4 of this Constitution; and
- d) inspect the Council's accounts following publication of the advertisement that they are available for inspection and make their views known to the external auditor.

2. Participation

Citizens have the right to:

- a) contribute to meetings of the Council and/or its committees by asking questions, making representations, giving evidence or answering questions. They have the right to contribute to investigations by Scrutiny Committees at the invitation of the committees; and
- b) submit a petition to the Council under the Council's Petition Scheme.

3. Complaints

Citizens have the right to complain to:

- a) the Council itself under its complaints scheme;
- b) the Local Government Ombudsman after using the Council's own complaints scheme;
- c) the Monitoring Officer about a breach of the Members' Code of Conduct.

4. Voting and Petitions for an Elected Mayor

Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.

3.2 Citizens' Responsibilities

Citizens must not be violent, abusive or threatening to Members or officers and must not wilfully harm things owned by the Council, Members or officers.

Article 4 - The Full Council

4.1 The Policy Framework

1. The policy framework means the following plans and strategies:
 - a) Those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 to be adopted by the Council:
Community Safety Partnership Strategy;
Licensing Authority Policy Statement under Section 349 of the Gambling Act 2005;
Cumbria Local Transport Plan;
Plans and alterations which together comprise the Development Plan.
 - b) Those other plans and strategies which Guidance recommends should be adopted by the Council as part of the Policy Framework:
The Council Plan;
Food Enforcement Policy.
 - c) Other plans and strategies which should be adopted by Council as a matter of local choice:
Asset Management Plan;
The Development Plan;
Eden Economic Development Plan;
Environmental Policy;
Eden Homelessness Strategy;
Housing Strategy;
Treasury Management Strategy;
Sport and Active Recreation Strategy;
Eden Waste Management Strategy;
Resources Plan;
Licensing Policy Statement;
Gambling Policy;
The Commercial Plan;
- Other plans and strategies determined by the Council.

4.2 Functions of the Full Council

The Council only will exercise the following functions:

1. To adopt a Members' Allowance scheme under Article 2.4
2. for Elections and Electoral Registration (except those functions undertaken by the Chief Executive), including:
 - i) the appointment of an Electoral Registration Officer;
 - ii) the appointment of a Returning Officer for local government elections;
 - iii) the appointment of a Deputy Returning Officer for local government elections.
3. for Parishes including:
 - i) dealing with any issues relating to the establishment and review of Parish Councils and their consequent electoral arrangements;
 - ii) dissolving small parish councils;
 - iii) making orders for grouping parishes, dissolving groups and separating parishes from groups;
 - iv) dividing electoral divisions into polling districts at local government elections;
 - v) making temporary appointments to parish councils.
4. the name and status of areas and individuals including:
 - i) changing the name of the District;
 - ii) changing the name of a parish;
 - iii) conferring the title of Honorary Alderman or admission to be an Honorary Freeman.
5. any changes not otherwise dealt with by the Executive, or any Committee of the Council.
6. appointments to outside bodies including:
 - i) the appointment of any individual;
 - ii) those to any office other than an office in which a person is employed by the authority;
 - iii) those to anybody other than the authority, or to any committee or sub-committee of any such body;
 - iv) the revocation of any such appointments; and
 - v) determining whether any of the above duties are approved for the purposes of travel and subsistence payments.
7. to make appointment of Members to committees and the filling of any vacancies.

8. to decide the Council's Constitution as set out in this document and any revision or amendment of the whole or any part of the Constitution;
9. upon report from the Accounts and Governance Committee to consider and decide proposed revisions to the Council's Constitution;
10. to elect the Chairman;
11. to appoint and remove the Leader of the Council;
12. to formally appoint the Executive as proposed by the Leader to the Portfolios indicated by the Leader;
13. to determine annually the revenue and capital budgets (the Budget Requirement) and the capital programme;
14. to determine supplementary estimates for which there is no budget approval and which are outside the authority to spend available to the Executive;
15. to determine the policy framework;
16. to take decisions which would represent a departure from the strategies and budgets previously agreed in the budget and policy framework;
17. to decide whether to delegate to the Executive the power to make any in year modifications to any policy in the framework;
18. subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, the powers of virement and supplementary estimate in the Budget and Policy Framework Rules, to implement the conflict resolution procedure under the Budget and Policy Framework Procedure Rules and make decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
19. with the exception of those Working Groups constituted by the Scrutiny Committees, agreeing and/or amending the terms of reference for committees and working groups, and deciding on their composition and making appointments to them;
20. to determine the scheme and amounts of Members' Allowances under Article 2;
21. to make, amend, revoke, re-enact or adopt by-laws and promoting or opposing the making of local legislation or personal Bills;
22. those responsibilities which are set out in Part 3 of this Constitution which the Council decides should be undertaken by the Council or its committees rather than the Executive;
23. to make decisions on those matters where only Council has authority to do so or where the committees have not exercised delegated powers, and have referred the matter to Council;

24. to receive reports from the Executive and the Scrutiny Co-ordinating Board and Committees;
25. to receive Notices of Motion and reports from Executive Members on Notices of Motion and make decisions as necessary and/or refer Notices of Motion or reports for further consideration;
26. to receive questions or petitions under the public arrangements in the Procedure Rules;
27. to designate a post as Head of Paid Service and to appoint the Head of Paid Service upon the recommendation of the Human Resources and Appeals Committee;
28. to designate the appropriate Officer posts as the Monitoring Officer and the Chief Finance Officer and appoint other officers for particular purposes, as may be required;
29. to consider reports from the Chief Finance Officer or the Monitoring Officer;
30. to set the financial thresholds for key decisions required under the Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2000;
31. to decide whether to enter into joint arrangements with another local authority whether in respect of executive or non-executive functions. In relation to executive functions the Executive will remain accountable for the executive function and will ensure that any joint arrangement proposed does not adversely affect efficiency, transparency and accountability in respect of the discharge of those functions and that it will deliver best value;
32. to consider reports from the Leader of the Council on the response of the Executive to any report of the Monitoring Officer or Chief Finance Officer;
33. to appoint the Chairs of the Scrutiny Co-ordinating Board, Scrutiny Committees and the Planning, Licensing, Accounts and Governance and Human Resources and Appeals Committees;
34. to consider reports from the Leader of the Council on key decisions which were made under the general exception and special urgency procedures set out in the Access to Information Rules at Part 4 of this Constitution;
35. to approve the Council's Statement of Licensing Policy and the Gambling Policy;
36. to appoint the Independent Person(s) in relation to the Code of Conduct;
37. to approve the Council's Pay Policy Statement;
38. to undertake the duties and functions in relation to Community Governance reviews and petitions; and
39. all other matters which, by law, must be reserved to Council.

4.3 Council Meetings

There are three types of Council meeting:

1. The Annual Meeting
2. Ordinary Meetings
3. Extraordinary Meetings

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

4.4 Appointments to the Chairs of Scrutiny and Committees

Nominations for an appointment of a Chairman of the Scrutiny Co-ordinating Board, a Scrutiny Committee, the Licensing Committee, the Planning Committee, Accounts and Governance Committee and the Human Resources and Appeals Committee should be submitted to the Assistant Director Governance at least five days before the meeting of Council at which such appointments will be considered.

4.5 Responsibility for Functions

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

This page is left intentionally blank

Article 5 - Chairing the Council

5.1 Role and Responsibilities of the Chairman

The Chairman will be elected by the Council annually. The Chairman and, in his/her absence, the Vice-Chairman will have the following roles and functions:

1. Ceremonial Role

- a) to communicate with the Private and Voluntary Sector organisations across the district;
- b) to act as official host to visitors to the District;
- c) to represent the District at ceremonial events;
- d) to attend civic events and local community activities;
- e) to carry out all duties in a manner that reflects the position and traditions of the office;
- f) to act as the representative of the District of Eden on other occasions as determined by the Council; and
- g) to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

2. Chairing the Council Meeting

- a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Members and the interests of the community;
- c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Executive and do not hold committee chairs are able to hold the Executive and Committee chairmen to account;
- d) to promote public involvement in the Council's activities;
- e) to be the conscience of the Council;
- f) to authorise extraordinary meetings of the Council under the Council's Procedure Rules at Part 4 of this Constitution; and
- g) to act in a politically neutral and impartial manner when performing all roles as Chairman of the Council.

3. Further guidance is set out in the Protocol for the Chairman of the Council which is contained at Part 5 (J) of the Constitution.

This page is left intentionally blank

Article 6 - Overview and Scrutiny

6.1 Terms of Reference

The Council will appoint an Overview and Scrutiny Committee as set out below to discharge the functions conferred by Section 21 of the Local Government Act 2000 or regulations under Section 32 of the Local Government Act 2000.

The Overview and Scrutiny Committee will consist of 12 members and will have responsibility for the Council's performance against finance and improvement targets, risk management, scrutiny of the budget, allocating the agreed Scrutiny budget and for the scrutiny of the work the Executive, including call-in decisions. The Board will meet at least six times per year with power to set the Scrutiny work plan.

The Chairman of the Overview and Scrutiny Committee, whenever practicable, should not be a member of the majority political group on the Executive or the same political group as the Leader.

This Committee will also exercise the functions of a Crime and Disorder Panel.

6.2 General role

Within the terms of reference the Overview and Scrutiny Committee will:

1. review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions; but will not act as an appeal body on any matter where a right of appeal exists within, or external to, the Council;
2. make reports and/or recommendations to the full Council and/or the Executive in connection with the discharge of any functions;
3. consider any matter affecting the area or its inhabitants;
4. exercise the right to call-in, for reconsideration of decisions made but not yet implemented by the Executive which fall within the parameters set for this purpose in the Scrutiny Procedure Rules; and
5. consider any matter which is referred by a member of the Council and is relevant to its functions.

6.3 Specific Functions

1. Policy Development and Review

Overview and Scrutiny Committee may:

- a) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- b) conduct research and undertake community and other consultation in the analysis of policy issues and possible options;
- c) consider and propose to Council or the Executive mechanisms to encourage and enhance community participation in the development of policy options;

- d) question Executive Members, chairmen of committees and chief officers about their views on issues and proposals affecting the area; and
- e) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

2. Scrutiny of Decision Making

Overview and Scrutiny Committee may:

- a) review and scrutinise the decisions made by, and performance of, the Executive, committees and Council officers both in relation to individual decisions and over time;
- b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- c) question members of the Executive, committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- d) make recommendations to the Executive, appropriate committee and/or Council arising from the outcome of the scrutiny process;
- e) review and scrutinise the performance of other bodies which provide a significant public service in the District and invite reports from them by requesting them to address the overview and scrutiny committees and local people about their activities and performance; and
- f) question and gather evidence from any person (with their consent).

3. Performance Review

The Overview and Scrutiny Committee will have responsibility for reviewing the performance of the Council's services, through the review processes, monitoring of the Council's targets and objectives and consideration of all internal and external audits.

4. Finance

The Overview and Scrutiny Committee will exercise overall responsibility for the agreed Scrutiny budget made available in consultation with the Director of Corporate Services.

5. Report to or submit recommendations to the Council

The Overview and Scrutiny Committee may consider a matter referred to it in accordance with the Scrutiny Procedure Rules on a 'Call for action'. The Committee may consider a local crime and disorder matter which is referred to it. The Committee may make a report or recommendations to the Council on a matter which has been referred to it by a member of the Council.

6. Annual Report

The Overview and Scrutiny Committee may report annually to full Council on its work and make recommendations for amended working methods if appropriate.

6.4 Proceedings of a Scrutiny Committee

The Overview and Scrutiny Committee will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution.

6.5 Powers of a Scrutiny Committee

The Committee appointed by the Council has full delegated powers to deal with all matters within their terms of reference. Their obligation is to report to Council or the Executive. A report of the Overview and Scrutiny Committee on the performance of another public body is made to Council. The Council will decide whether and what comments, if any, should be made to the other public body.

6.6 The Overview and Scrutiny Committee acting as the Crime and Disorder Committee

The Committee as the Crime and Disorder Committee:

- a) shall have power to scrutinise decisions or actions taken in connection with the discharge of its crime and disorder functions by any responsible authority and make recommendations or reports to the Council in relation to the discharge of those functions;
- b) may co-opt additional members to serve on the committee;
- c) may require the attendance before it of any officer or employee of any responsible authority or co-operating body;
- d) may make a report or recommendation to a responsible authority or co-operating body; and
- e) shall exercise its functions in accordance with any appropriate regulations.

This page is left intentionally blank

Article 7 - The Executive

In this Constitution the term “Executive” refers to the Leader and Cabinet together and any other person or body carrying out executive functions delegated to him/her by the Executive or individual Executive Members. It may also include officers acting under powers delegated to them to exercise executive functions. The restrictions on an individual Member’s decision making powers are described in the Executive Procedure Rules at Part 4 of this Constitution. The restrictions on officers’ delegated powers are set out in Part 3 of this Constitution.

7.1 The Executive’s Functions

The Executive will carry out all of the Council’s functions that are not the responsibility of any other part of the Council whether by law or under this Constitution.

7.2 Form and Composition

The Executive will consist of the Leader together with at least two, but not more than nine Members appointed to the Executive by the Leader. Normally there will be seven Executive Members including the Leader.

7.3 Appointment of Council Leader and Executive

1. The nomination for Leader of the Council will be made at the Annual Meeting following the regular election of District Councillors for which there shall be a separate agenda item of business.
2. Nominations must be made to the Chief Executive not less than 24 hours before the time fixed for the Annual Meeting and each nomination must be seconded by no less than five Members of Council in addition to the proposer of the motion.
3. At the Annual Meeting of Council following the regular election of District Councillors, the Leader will be appointed by the Council for a four year term of office and he/she will inform the Council of the names of members of the Executive which the Council will formally endorse.
4. The Executive may be formed only from duly elected Councillors of whom not more than nine nor less than two may be appointed to the Executive in addition to the Leader.
5. The Chairman and Vice-Chairman may not be appointed to the Executive.
6. The broad structure of the Portfolios of the Executive Members will be as set out in Part 3 of this Constitution. The actual extent and nature of each Portfolio from time to time is a matter for the Leader of the Council. The broad parameters of the Portfolios will be:

Leader (Strategic and Community Leadership)

Resources

Services

Housing and Health

Commercial Services

Communities

Eden Development

A Deputy Leader shall be appointed from amongst the Executive Members and may serve in that capacity whilst having responsibility for any of the above Portfolios. The rules relating to the term of office, retirement, resignation or removal of a Deputy Leader shall be the same as those set out in respect of other Executive Members. If the Leader deems it appropriate (and subject to those rules) a Deputy Leader may retire, resign or be removed in that capacity but continue to serve as an Executive Member.

7.4 Terms of Office of Leader and Executive

The Council operates on the basis of 'whole elections' and the term of office of the Leader is four years ordinarily from the date of this regular election.

1. Leader

- a) The Leader will hold office from his/her appointment until the Annual Meeting following a regular election of Councillors unless:
 - i) he/she resigns from office;
 - ii) he/she becomes the subject of a criminal investigation of an indictable offence, when he/she shall, with immediate effect stand down from his/her position as Leader until such time as the investigation or subsequent court proceedings have concluded;
 - iii) he/she is no longer a councillor or is disqualified from being a councillor;
 - iv) he/she is removed from office by resolution of the Council.
- b) The Leader of the Council may be removed from office against his/her wishes following a majority vote on a motion on notice to the Council, in accordance with the Council's Rules of Procedure at Part 4 of this Constitution.
- c) Since the Executive is appointed by the Leader of the Council, in the event of the Leader ceasing to hold office for any reason, then the whole Executive is automatically presumed to have resigned.
- d) If the Leader of the Council is removed by resolution of the Council, then he or she may not stand for re-election at the Council meeting where he/she is removed.
- e) The Council meeting will adjourn to the next evening, following the removal of the Leader by motion on notice, and the new Leader will be appointed at the adjourned meeting.

2. Executive Members

- a) All Executive Members other than the Leader will hold office until:
 - i) he/she resigns from office;
 - ii) he/she becomes the subject of a criminal investigation of an indictable offence, when he/she shall, with immediate effect, stand down from his/her position as an Executive Member until such time as the investigation or subsequent court proceedings have concluded;
 - iii) he/she is no longer a councillor or is disqualified from being a councillor;
 - iv) he/she is removed from office by the Leader of the Council.
 - v) the Leader of the Council resigns or is removed from office.
- b) Any Executive Member who resigns automatically because of the removal or resignation of the Leader of the Council will be eligible to be reappointed as an Executive Member by the new Leader. The Leader of the Council, who has resigned or been removed by resolution of the Council, will also be eligible to be appointed as an Executive Member by the new Leader.
- c) If an Executive Member wishes to resign then his/her resignation must be tendered to the Leader of the Council.
- d) If a new Executive Member is to be appointed within eight days before a Council meeting his/her appointment will take effect from the date of the Council meeting as will the termination of the appointment of the retiring Executive Member. The retiring Executive Member will be able to act until the time of the Council meeting but the Leader may choose to appoint another Executive Member to deputise, under the Executive Procedure Rules at Part 4 of this Constitution, from the time the Chief Executive receives notification of the retirement. This will be assumed to be received on the next working day after the date of the letter, fax or e-mail sent by the Leader notifying the Chief Executive of the change and the appointment of a deputy. The Chief Executive will arrange for an item to be placed on the agenda for the Council meeting. At the Council meeting the Leader will advise the Council of the change and seek formal acceptance.
- e) Resignation or Removal
 - i) Where an Executive Member resigns or is removed more than eight days before a Council meeting the Leader will so notify the Chief Executive and name the new Executive Member, if he/she then considers fit. The retirement of the Member will take effect on receipt of that notification by the Chief Executive. This will be assumed to be received on the next working day after the date of the letter, fax or e-mail sent by the Leader.

The Chief Executive will notify all Members of Council of the retirement and the appointment of a new member of the Executive. No formal acceptance of the appointment will be required and the appointment will take effect at the same time as the retirement of the retiring Executive Member.

- ii) If for any reason the Leader chooses not to replace a retiring Executive Member by an immediate appointment then the Leader shall notify the Chief Executive of the name and title of the existing Executive Member who will act in relation to the vacant Portfolio and the Chief Executive will notify all Members of Council.
- iii) At the next Council meeting the Leader will explain to the Council whether, and if so how, he/she intends to reorganise the Portfolios of the Executive, or appoint a new Executive Member to the vacant post. The Council shall formally note either a reorganisation of the Portfolios or the appointment of the new Executive Member and any consequential amendment of the Executive Arrangements set out at Schedule 1 to these Articles will be submitted to the next Council meeting by the Chief Executive.

7.5 Proceedings of the Executive

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

7.6 Responsibility for Functions

The Leader will maintain a list in Part 3 of this Constitution setting out which individual Executive Member, committees of the Executive, officers or joint arrangements are responsible for the exercise of particular executive functions.

Article 8 - Licensing, Quasi-Judicial and other Committees

8.1 Licensing, Quasi-Judicial and other Committees

The Council will appoint the committees set out in Part 3 of this Constitution to discharge the functions described in the section headed Responsibility for Functions.

8.2 Terms of Office

Members of regulatory and other committees, including the Chairman and Vice-Chairman, shall hold office until:

1. the Annual Meeting of the Council following their appointment; or
2. they resign from Office; or
3. they are no longer Members or are disqualified from being a councillor; or
4. a six months absence from attendance at Council committees has occurred;
or
5. they are removed from Office by Resolution of the Council.

8.3 Procedure Rules

The proceedings of regulatory and other committees shall take place in accordance with the Committee Procedure Rules.

This page is left intentionally blank

Article 9 - Standards

9.1 Standards

The Council is committed to promoting and maintaining good governance and high ethical standards amongst its Members and within Parish Councils. The Council will have a Committee which has a particular responsibility for Standards issues. Presently this role will be fulfilled by the Accounts and Governance Committee.

9.2 Composition

1. Panels

The Accounts and Governance Committee may establish a panel (or a Sub-Committee) to hear or consider any complaint that a District Councillor or a Parish Councillor is alleged to have breached the Code of Conduct. The Committee will establish a procedure for considering and hearing any complaints which are made.

A panel which is established will consist of not less than three members.

2. Independent Person(s)

The Independent Person(s) who is/are appointed by Council must be duly and properly consulted in relation to any complaint against a Member or a Parish Councillor and generally in relation to code of conduct matters.

3. Co-opted Independent Members

A co-opted member of a panel will not be entitled to vote at meetings;

The period of office that a co-opted member of a Panel can serve is fixed at four years from the date of appointment;

No person who is co-opted to the panel may serve more than two terms in office.

4. Substitutes

A member of the Committee or Panel who is unable to attend and who wishes to appoint a substitute should do so by giving the Assistant Director Governance 12 hours' notice in advance of the meeting. The notice should indicate the name of the substitute member. A shorter period of notice can be given with the agreement of the Chairman. Co-optees cannot be substituted.

5. Quorum

The quorum for a meeting of a Panel shall be three.

9.3 Role and Function

The Accounts and Governance Committee in relation to Standards issues will have the following roles and functions:

1. to be responsible for establishing and maintaining the highest standards of integrity within the Council at all levels of decision making;
2. to be responsible for reviewing and monitoring the operation of the Council's Constitution;
3. to formulate, recommend, revise and advise upon a Members' Code of Conduct;
4. to assist the Members and co-opted members to observe the Members' Code of Conduct;
5. to formulate advice to Members on declarations of interest, to review the arrangements for recording interests and to monitor interests recorded under the arrangements;
6. to review any lapses of standards and to make recommendations to prevent further occurrences;
7. to carry out the functions of the Council in relation to Parish Councils within the District upon code of conduct matters;
8. to review arrangements for designating politically restricted posts;
9. to formulate a code on member/officer relations and review its operation;
10. to formulate and recommend a Code of Conduct for Employees;
11. to have responsibility for monitoring the programme of training for Members and to review induction training for Members;
12. to review and monitor the Council's complaints procedures;
13. to monitor the operation of the Council's Rules of Procedure, Accounting and Audit Rules, Procurement Rules and the Code of Planning Conduct and Practice;
14. to recommend a code of practice for public access to information, confidentiality and arrangements for data protection;
15. to monitor the operation of the Council's procedure rules, and co-ordinate investigation into any breach of any procedure rules;
16. to consider and determine a complaint relating to an alleged breach of the Code of Conduct by a District Councillor or a Parish Councillor within the District in accordance with regulations and statute; and
17. to grant dispensations to councillors and co-opted members from the requirements relating to interests set out in the Members' Code of Conduct.

9.4 Sub Committees

1. The Committee may establish a sub committee consisting of not less than three members to undertake any aspect of its roles and functions as may be determined.

9.5 Powers of the Committee

1. The Committee has power to deal with all matters within its remit and terms of reference referring matters to Council only where necessary and reporting matters to Council when the Committee considers appropriate.
2. In the event of an allegation of misconduct by a Member or co-opted Member being confirmed, the Committee has the power to do anything permitted by regulations and in particular any of the following:
 - a) publish its findings;
 - b) recommend that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - c) recommend that he/she be removed from particular Portfolio responsibilities;
 - d) instruct the Monitoring Officer to arrange training for him/her;
 - e) remove him/her from all outside appointments;
 - f) withdraw facilities;
 - g) exclude him/her from the Council's offices or other premises.
3. The Committee may arrange to publish a summary of its findings, reasons for its findings and any penalty set in one or more newspapers that are independent of the authorities concerned and circulating in the area of those authorities. (If the Committee finds that the Member has not broken the Code, the Member concerned may direct the Committee not to publish this information.)
4. The Committee may take action against an Executive Member following a report by the Monitoring Officer for a breach of Rule 6 of the Members' Conduct Rules in Part 5 of this Constitution.
5. The Committee may consider a complaint by a member of staff that a councillor has breached the Code of Conduct and if such a complaint is upheld then in addition to the powers at (b) above the Committee shall have power to:
 - a) reprimand the Member requiring an apology to be made to the Officer;
 - b) instruct the Member not to speak to the Officer in future;
 - c) instruct the Member not to enter the office in which the Officer works;
 - d) instruct the Member to stop the behaviour which was the cause of the complaint.

6. The Committee may consider any report of the Monitoring Officer, on matters within its terms of reference under regulations issued by the Secretary of State, which may include provisions with respect to the procedure to be followed by the Committee, and to take any action prescribed by the regulations following consideration of the report including as necessary, action against any Member or co-opted Member of the Council who is the subject of the report.
7. The Committee has full delegated power to deal with all matters raised by or following consideration by any Sub-Committee in relation to Parish Councillors or Parish Council matters.

Article 10 - Joint Arrangements

10.1 Arrangements to promote well being

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

1. enter into arrangements or agreements with any person or body;
2. co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
3. exercise on behalf of that person or body any functions of that person or body.

10.2 Joint arrangements to exercise functions

1. The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions which are not executive functions in any of the participating authorities (or advise the Council). Such arrangements may involve the appointment of a joint committee with these other local authorities.
2. The Executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities or the setting up of agency arrangements to carry out executive functions.
3. Except as set out below, the Executive may only appoint Executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
4. The Executive may appoint members to a joint committee from outside the Executive where the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Executive may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.
5. Details of any joint arrangements which include any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

10.3 Access to information of Joint Committees

1. The Access to Information Procedure Rules in Part 4 of this Constitution will apply.
2. If the joint committee contains members who are not on the Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972, as amended, will apply.

10.4 Delegation to and from other local authorities

1. The Council may delegate non-executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
2. The Executive may delegate executive functions to another local authority or the Executive of another local authority in certain circumstances.
3. The decision whether to accept such a delegation, even of executive arrangements, from another local authority shall be reserved to the Council as a whole.

10.5 Contracting Out

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

Article 11 - Officers

11.1 Management Structure

1. **General** - The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
2. **Chief Executive** - The Human Resources and Appeals Committee will consider candidates for the appointment of the Chief Executive. Full Council will consider the recommendations of the Human Resources and Appeals Committee and appoint the Chief Executive:

Post	Functions and areas of responsibility
Chief Executive	<p>Overall corporate management and operational responsibility (including overall management responsibility for all officers).</p> <p>Provision of professional advice to all parties in the decision making process.</p> <p>Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p> <p>Responsible for human resources and organisational development.</p> <p>Policy, Performance and Human Resources – Employee Relations; Recruitment; Learning and Development; Personnel Admin; Corporate Health and Well-being; Organisational Development; Corporate Policy; Performance Management and Information Governance.</p> <p>Transformation and Customers – Customer Services; Alston Local Links centre; Communications and the Council's Websites.</p> <p>Is the Council's Electoral Registration Officer and Returning Officer for national and local elections.</p>

Chief Officers - The Human Resources and Appeals Committee will appoint persons to the following posts, who will be designated as chief officers:

Post	Functions and areas of responsibility
Director of Corporate Services	The Director is responsible for leading the Commercial Strategy and the programme of work which supports it. The Director of Corporate Services has senior management responsibility for the Assistant Director Governance who is the Council's Monitoring Officer and Assistant Director Finance who is the Council's Chief Finance Officer (s151). The Director will have senior management responsibility for legal services, financial services, revenues and benefits, electoral services and committee administration.
Director of People and Place	The Director of People and Place takes the lead on the development and delivery of the Council's plans to meet the long-term challenges for Eden, such as delivering more homes, creating higher paid jobs and improving transport infrastructure. The Director will lead the district's plans for place-shaping and masterplanning and have senior management responsibility for Community Services, Commissioning and Technical Services and Planning and Economic Development.

Head of Paid Service, Monitoring Officer and Chief Finance Officer - The Council will designate the following posts to the officers shown:

Post	Designation
Chief Executive	Head of Paid Service
Assistant Director Governance	Monitoring Officer
Assistant Director Finance	Chief Finance Officer

The posts will have the functions described in Articles 11.2 - 11.4 below.

Restrictions on posts

The Head of Paid Service cannot be the Monitoring Officer or the Chief Finance Officer. The posts of the Head of Paid Service, Monitoring Officer and Chief Finance Officer must be three separate post-holders. An office holder of any of these posts may not hold any of the other posts.

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

11.2 Functions of the Head of Paid Service

1. Discharge of functions by the Council

The Head of Paid Service will report to full Council when appropriate 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.

11.3 Functions of the Monitoring Officer

1. 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, officers and the public.

2. Ensuring Lawfulness and Fairness of Decision Making

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council 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.

3. Supporting Standards

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the processes and systems relating to the Code of Conduct.

4. Corporate Management

The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional advice, and ensuring that appropriate arrangements are embedded throughout the Council. The Monitoring Officer may be a member of Corporate Management and Senior Leadership Teams and shall have access to all reports and documents to be considered by either of these bodies.

5. **Conducting Investigations**

The Monitoring Officer will conduct or arrange for the conduct of investigations into matters to be determined by the Accounts and Governance Committee and make reports or recommendations in respect of them.

6. **Proper Officer for Access to Information**

The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

7. **Advising whether 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.

8. **Providing Advice**

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, impropriety, and probity to all Members.

9. **Corporate Complaints Officer**

The Monitoring Officer will act as the Council's corporate complaints officer and liaison officer for the Local Government Ombudsman.

10. **Restrictions on Posts**

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

11.4 Functions of the Chief Finance Officer

1. **Ensuring Lawfulness and Financial Prudence of Decision Making**

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Executive in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

2. **Administration of Financial Affairs**

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

3. Contributing to Corporate Management

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice, and ensuring that appropriate risk management arrangements are embedded throughout the Council. The Chief Finance Officer may be a member of Corporate Management and Senior Leadership Teams and shall have access to all reports and documents to be considered by either of these bodies.

4. Providing Advice

The Chief Finance Officer will provide advice on financial impropriety, probity and budget and policy framework issues to all Members and will support and advise Members and officers in their respective roles.

5. Providing Financial Information

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

6. Budget and Reserves

In accordance with section 25 of the Local Government Act 2003 the Chief Finance Officer will confirm to Members the robustness of the Council's budget and the adequacy of its reserves.

7. Restriction on Posts

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

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

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

11.6 Conduct

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

11.7 Employment

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

This page is left intentionally blank

Article 12 - Decision Making

12.1 Responsibility for decision making

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

12.2 Principles of decision making

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

Principles of Decision Making

All decisions made whether by the Council, its committees, or sub-committees or by the Executive whether by an individual Executive Member or collectively, or by Officers acting under powers delegated to them by the Council, a committee or sub-committee or the Executive, will be taken in accordance with the principles set out below which are not listed in any order of priority or preference:

1. there is a presumption in favour of openness in decision making;
2. decisions will be taken in accordance with the law after obtaining all necessary legal advice;
3. all decisions will take into account respect for human rights as set down in the Human Rights Act 1998;
4. proper advice will be obtained on financial or legal issues and implications of or relating to any decisions under consideration;
5. no decision to be made by an individual Executive Member will be taken without a written report from officers setting out relevant advice;
6. all reports on which decisions have to be made will explain clearly the purpose of the report and the outcome to be achieved, together with details of options which may be considered and the reporting officer's recommendation together with the reasons for that recommendation;
7. all decisions made will be proportionate to the outcome intended to be achieved;
8. all Executive decisions will set out clearly the decision being made giving the reasons for that decision and the other alternatives which have been considered;
9. all decisions will be formally recorded and a public record of those decisions made available in accordance with the Access to Information Rules at Part 4 of this Constitution.

12.3 Types of decision

1. Decisions reserved to full Council

Decisions relating to the functions listed in Article 4.2 will be made by the full Council unless they have been delegated as provided in the responsibility for functions.

2. Key decisions

- a) A “key decision” means a decision of the Executive which, is likely:
 - i) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates; or
 - ii) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority; and regard must be had to any guidance issued by the Secretary of State to determine the meaning of “significant”.
- b) The Council may direct the Assistant Director Governance to publish annually the thresholds fixed under a) i) above. The thresholds so fixed will have been considered by the Council’s Management Team and will be included in the Executive Procedure Rules each year automatically after the decision has been made.
- c) A decision maker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

12.4 Decision making by the full Council

The Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

12.5 Decision making by the Executive

Subject to Article 12.8, the Executive will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

12.6 Decision making by a Scrutiny Committee

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

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

Subject to Article 12.8 below, Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

12.8 Decision making by Council bodies acting as tribunals and in determining matters affecting people’s rights

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

Article 13 - Finance, Contracts and Legal Matters

13.1 Financial management

The management of the Council's financial affairs will be conducted in accordance with the Accounting and Audit Rules, and Procurement Rules set out in Part 4 of this Constitution.

13.2 Inspection of documents

The accounts of the Council and of any proper officer of the Council will be open to the inspection of any member of the Council and any such member may make a copy of or an extract from the accounts.

13.3 Contracts

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

13.4 Legal proceedings

The Assistant Director Governance is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Assistant Director Governance considers that such action is necessary to protect the Council's interests.

13.5 Authentication of documents

1. Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Assistant Director Governance or another person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.
2. Any contract with a value exceeding a lifetime value of £60,000:
 - a) Entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by the Assistant Director Governance or made under the Common Seal of the Council.
 - b) Where joint arrangements are in place under which the Council or the Executive will enter into contracts on behalf of another local authority or body then that other authority or body may stipulate different arrangements for the authentication of documents dealing with the discharge of those joint arrangements by the Council or the Executive.

13.6 Common Seal of the Council

1. The Common Seal of the Council will be kept in a safe place in the custody of the Assistant Director Governance. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Assistant Director Governance should be sealed.

2. The affixing of the Common Seal will be attested by the Assistant Director Governance or some other person authorised by him/her and the Chairman of the Council.
3. In respect of every document upon which the Common Seal is to be impressed, details of that document and of the authority under which the document is to be sealed will be entered in the Seal Register and each entry numbered consecutively. The number so entered will be marked against the impression of the Seal on the document to which the entry relates.

Article 14 - Review and Revision of the Constitution

14.1 Duty to monitor and review the Constitution

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

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

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

14.2 Changes to the Constitution

1. Changes to the Constitution will only be approved by the full Council:
 - a) after consideration of the proposal by the Accounts and Governance Committee following a report from the relevant Officer; or
 - b) following a petition of the electorate, satisfying the provision of the regulations and calling for a referendum for an elected mayor; or
 - c) on a report direct to Council by the Monitoring Officer; or
 - d) on acceptance by the Council of the findings in a report from an overview and scrutiny committee as a result of investigations the committee has undertaken whether at the request of the Executive or otherwise.
2. Textual and factual amendments including those resulting from changes in legislation, required to keep the Constitution up to date, or consequential amendments as a result of a Council, Executive or Committee decision may be implemented by the Assistant Director Governance. All Members will be notified of changes made.
3. Changes to the Constitution, not involving a change to the Executive Arrangements adopted by the Council:
 - a) will require only the confirmation by resolution of Council to be approved;
 - b) in relation to such changes the Council may choose to delay agreement to the revision for further consultation with stakeholders or for a full review by the relevant overview and scrutiny committee, or may approve the changes with immediate effect.
4. A review of the Constitution by the Accounts and Governance Committee will take place in each year.

5. Council may consider a change to the Constitution at any time which is considered to be urgent upon a report by the Monitoring Officer, the Accounts and Governance Committee or the Scrutiny Co-ordinating Board or the Executive.

14.3 Referendum

Where a petition for a referendum under 14.2, 1) b) above has been received then following the report to the Council the Director of Corporate Services will put in hand immediately the necessary procedures for a referendum in accordance with the law.

14.4 Suggested Changes by a Scrutiny Committee

1. Where a report from a scrutiny committee suggests a change to the Executive Arrangements then the Council will not determine whether to approve the report until the second Council meeting after its receipt. The Annual Meeting will not be counted as the second Council meeting, but will be wholly disregarded.
2. The matter will stand referred to the Accounts and Governance Committee for further consideration and the views of stakeholders will be sought by that committee and reported to the Council together with the views of the committee at the second Council meeting provided that is not the Annual Meeting.

Article 15 - Suspension, Interpretation and Publication of the Constitution

15.1 Suspension of the Constitution

1. Limit to suspension

The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.

In relation to committees of the Council the relevant Rules may be suspended as set out at (3) below by resolution of the committee and subject always to compliance with (2) of this clause.

2. Procedure to suspend

A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of Members are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

3. Rules capable of suspension

The following Rules may be suspended in accordance with Article 15.1:

- a) Council Procedure Rules - All except those which are specified or required by law.
- b) Access to Information Procedure Rules - None.
- c) Executive Procedure Rules - All except as required by law.
- d) Budget and Policy Framework Procedure Rules - None.
- e) Scrutiny Procedure Rules - All, except as required by law.
- f) Accounting and Audit Rules - All, except as required by law.
- g) Procurement Rules - All, except as required by law.
- h) Officer Employment Procedure Rules - All, except as required by law.

15.2 Interpretation

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

15.3 Publication

1. The Assistant Director Governance will give a printed copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.

2. The Assistant Director Governance will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, can be accessed via the Council's website, and can be purchased by members of the local press and the public on payment of a reasonable fee.
3. The Assistant Director Governance will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

A copy of this Constitution will be given to each co-opted member of any Committee of the Council.

Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute the Executive Arrangements:

1. Article 6 - Overview and Scrutiny Committees and the Overview and Scrutiny Procedure Rules;
2. Article 7 - The Executive and the Executive Procedure Rules;
3. Parts of Article 12 - Decision making and the Access to Information Procedure Rules where they relate to the operation of the Executive;
4. Part 3 - Responsibility for Functions.

This page is left intentionally blank

Schedule 2: Roles and Responsibilities of Members

The Roles and Responsibilities of the Leader and the Members of the Executive are set out in Schedule 1 of Part 3 (Responsibility for Functions).

INDEX	Page No
1. The Chairman and Vice Chairman of Council	65
2. Chairman of Scrutiny Committees	66
3. Vice Chairman and Member of Scrutiny Committee	67
4. Chairman of Regulatory Committee	67
5. Vice Chairman and Member of Regulatory Committee	68
6. Standards (the Code of Conduct)	68
7. Chairman and Member of Accounts and Governance Committee	69
8. Chair of any Other Committee	70
9. Vice Chair of any Other Committee	70
10. Member of the Council	70
11. Group Leader	71

This page is left intentionally blank

1. The Chairman and Vice Chairman of the Council

Main Role

As the first citizen of Eden District the main role of the Chairman is to act as the non-political, civic and ceremonial head of the District of Eden. There are two specific aspects to the role.

A As Chairman of Council Meetings the Chairman shall:

- chair meetings of the Council;
- uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of members and the interests of the community;
- ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who do not sit on the Executive and who do not hold committee chairs are able to hold the members of the Executive to account;
- promote public involvement in the Council's activities;
- be the conscience of the Council;
- to act as the representative of the District of Eden on other occasions as determined by the Council; and
- attend such civic and ceremonial functions as the Council and he/she determines appropriate.

B As the Ceremonial Head of the Council the Chairman shall:

- communicate with the private and voluntary sector organisations across the District;
- act as official host to visitors to the District;
- represent the District at ceremonial events;
- attend civic events and local community activities;
- carry out all duties in a manner that reflects the position and traditions of the office;
- act as the representative of the District of Eden on other occasions as determined by the Council; and
- attend such civic and ceremonial functions as the Council and he/she determines appropriate.

Generally the Chairman shall:

- undertake the functions of a member;
- take all decisions concerning resources and priorities in accordance with the policy framework and budget set by full Council;
- promote and develop partnership working;
- participate in initiatives to promote electronic communication between members, the Council and its officers and the public;
- attend all meetings of committees and Council, as well as bodies to which appointed, unless there is a valid reason not to;
- promote, and participate in member training; and
- act in a politically neutral and impartial manner when performing all roles as Chairman of the Council.

Vice-Chairman of Council

The Vice-Chairman of Council will carry out all the duties and responsibilities of the Chairman in his or her absence.

2. Chairman of Scrutiny Committees

The statutory term for a Scrutiny body is 'Committee' but it has been decided to name one of the individual Committees a Board to reflect its role,

The Chairman of the Scrutiny Co-ordinating Board shall:

- chair the Co-ordinating Board;
- lead in the co-ordination and monitoring of the work of the scrutiny committees;
- lead in the determination of which committee should have primary responsibility for issues; and
- exercise the roles and functions of the Chair in an impartial and balanced manner in the interests of the Council and the District.

The Chairman of a Scrutiny Committee shall:

- chair the Scrutiny committee meetings;
- lead and co-ordinate the scrutiny activities of the Council to ensure that transparency, efficiency and accountability are of priority;
- present the reports of the Scrutiny committee to the relevant bodies within the Council;
- act as a focus for liaison between the Council and its communities and partners in relation to the scrutiny function;
- consider matters designated as urgent by the Executive; and
- advise Council in relation to the scrutiny function and its operation.

A Member of a Scrutiny Committee shall:

- scrutinise the decisions and policies of the Council and the Executive with regard to the policy framework and budget set by full Council;
- hold decision makers to account by scrutinising decisions which have been made but not implemented;
- undertake external and internal policy reviews by scrutinising decisions which the Council or its Executive are planning to take;
- scrutinise decisions which have been made and implemented as part of a wider policy review and to measure the effect of those decisions;
- monitor the Council's performance and seek to secure continuous improvement; and
- encourage and foster the involvement of the community and the Council's partners in relation to the scrutiny function.

Generally a Chairman shall:

- undertake the functions of a Member;
- take all decisions concerning resources and priorities in accordance with the policy framework and budget set by full Council;
- promote and develop partnership working;
- participate in initiatives to promote electronic communication between Members, the Council and its officers and the public;
- attend all meetings of committees and Council, as well as outside bodies, to which appointed, unless there is a valid reason not to; and
- promote, and participate in, member training.

3. Vice Chairman and Member of Scrutiny Committee

A Vice Chairman of a Scrutiny Committee shall:

- carry out the duties and responsibilities of the Chairman in his or her absence; and
- assist the Chairman in carrying out his/her duties and responsibilities.

4. Chairman of Regulatory Committees

A Chairman of a Regulatory Committee refers to a Chairman of the Planning or the Licensing Committee. A Chairman of either Regulatory Committee shall:

- chair the regulatory committee in accordance with its terms of reference; and
- foster and maintain a disciplined approach by the members involved in Planning or Licensing matters having regard to high standards of procedure, behaviour and ethics.

A Member of a Regulatory Committee shall:

- have regard to Article 6 of the Convention on Human Rights in all decisions and the way those decisions are taken; and
- make all decisions in accordance with any codes or guidance applying to the regulatory area and with regard to all relevant and material considerations.

Generally:

- undertake the functions of a Member;
- take all decisions concerning resources and priorities in accordance with the policy framework and budget set by full Council;
- promote and develop partnership working;
- participate in initiatives to promote electronic communication between Members, the Council and its officers and the public;
- attend all meetings of committees and Council, as well as outside bodies, to which appointed, unless there is a valid reason not to; and
- promote, and participate in, member training in relation to the regulatory concerns of the committee.

5. Vice-Chairman and Member of Regulatory Committee

A Vice Chairman of a Regulatory Committee shall:

- carry out the duties and responsibilities of the Chairman of the Licensing or Planning Committee as appropriate, in his or her absence; and
- assist the Chairman of the regulatory committee in carrying out his/her duties and responsibilities.

6. Standards (the Code of Conduct)

A Chairman of the Committee responsible for Standards matters and of any Panel dealing with a Standards matter shall:

- chair the Committee or Panel; and
- ensure that any hearing is conducted in accordance with the principles of natural justice and with regard to any statutory provisions and guidance.

A member of a Committee or Panel dealing with a Standards matter shall:

- be responsible for establishing and maintaining the highest standards of integrity within the Council at all levels of decision-making.

Generally:

- undertake the functions of a Member of such a Committee or Panel properly and diligently;
- observe and maintain high standards of integrity and probity;
- promote, uphold and maintain the Code of Conduct;
- participate in initiatives to promote electronic communication between Members, the Council and its officers and the public;
- attend meetings of any committee or Panel as requested, unless there is a valid reason not to; and
- promote, and participate in member training particularly in relation to standards matters.

7. Chairman and Member of Accounts and Governance Committee**A Chairman of Accounts and Governance Committee/or a Sub Committee shall:**

- chair the Accounts and Governance Committee or a Sub Committee; and
- meet privately with the External Auditor's Audit Manager.

A member of Accounts and Governance Committee shall:

- be responsible for governance issues, including audit functions.

Generally:

- undertake the functions of a Member of an Accounts and Governance Committee;
- consider the effectiveness of the authority's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements;
- seek assurances that action is being taken on risk-related issues identified by auditors and inspectors;
- be satisfied that the authority's assurance statements, including the Annual Governance Statement, properly reflect the risk environment and any actions required to improve it;
- approve internal audit's strategy, plan and monitor performance;
- review summary internal audit reports and the main issues arising, and seek assurance that action has been taken where necessary;
- receive the annual report of the head of internal audit;
- consider the reports of external audit and inspection agencies;
- ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted;

- review the financial statements, external auditor's opinion and reports to members, and monitor management action in response to the issues raised by external audit; and
- promote, and participate in member training particularly in relation to accounts and governance matters.

8. Chair of any other Committee

To chair the Committee in accordance with its terms of reference to ensure that any hearing is conducted fairly, in accordance with the principles of natural justice and with regard to any applicable code of practice or guidance.

9. Vice Chairman of any other Committee shall

- carry out the duties and responsibilities of the Chairman in his or her absence; and
- assist the Chairman in carrying out his/her duties and responsibilities.

10. A Member of the Council shall:

Generally:

- undertake the functions of a Member (set out below);
- take all decisions concerning resources and priorities in accordance with the policy framework and budget set by full Council;
- promote and develop partnership working;
- participate in initiatives to promote electronic communication between Members, the Council and its officers and the public;
- attend all meetings of committees and Council, as well as outside bodies, to which they are appointed, unless there is a valid reason not to; and
- promote, and participate in, member training.

The Functions of a Member are:

- to collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- to be the advocate of and for his/her communities;
- to contribute to the good governance of the District and actively encourage community participation and citizen involvement in decision making;
- to deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- to balance different interests identified within the ward and represent the ward as a whole;
- to be actively involved in the decision making processes;

- to maintain the highest standards of conduct and ethics and comply with the Members' Code of Conduct and abide by the decisions and rulings of the Accounts and Governance Committee in relation to Standards issues; and
- to treat all people with courtesy and respect.

11. A Political Group Leader shall:

- undertake the functions of a Member and provide Leadership for the political group in accordance with the arrangements existing within that group;
- act as spokesperson for the group of which he/she is leader;
- identify and keep a record of the members of the group;
- notify the Assistant Director Governance of any changes to the membership of the group; and
- notify the Assistant Director Governance of the nominations of the group to the seats allocated to that group.

This page is left intentionally blank

Part 3

Responsibility for Functions

This page is left intentionally blank

Index	Page No
1. General Limitations	77
2. Responsibility for Local Choice - Functions	79
3. Responsibility for Council Functions - Full Council and Committees.....	83
4. Responsibility for Council Functions - Scheme of Delegation to Officers.....	91
5. Designation of Proper Officers	101
6. Responsibility for Executive Functions - The Executive	111
 Schedule 1 - Policy Areas and Executive Functions included in Portfolio.....	 123
Schedule 2 - Executive Functions delegated to Officers.....	129

This page is left intentionally blank

1. General Limitations

1.1 Council Functions

The General limitations on the exercise of delegated powers by Committees, Sub-Committees or officers acting under delegations from Council under s101 of the Local Government Act 1972 as amended, apply as follows:

1. Delegated powers must be exercised in conformity with this Constitution and with any other directions of the Council;
2. For the period between the local elections and the Annual Meeting of the Council provided they are still elected Councillors, any consultations required under the arrangements in this Constitution with chairs, or in their absence vice-chairs, should be with those persons who were chairs and vice-chairs of committees or sub-committees at the time of the election; and
3. Committees and Sub-Committees may not arrange further general delegation of the powers granted to them by Council but they may delegate an individual decision or task to a Sub-Committee or Officer where this is expedient.

These general limitations apply to all persons and bodies exercising delegated powers in respect of Council functions set out in sections 1, 2 and 4 of this Part of the Constitution.

1.2 Executive Functions

Executive functions delegated under s15, 19 or 20 of the Local Government Act 2000 must be exercised in accordance with the Council's policy and budget framework subject to any discretions permitted by, and within any limitations imposed by, the Executive Procedure Rules.

These general limitations apply to persons and bodies exercising delegated powers in respect of executive functions set out in sections 1, 3 and 4 of this Part of the Constitution.

This page is left intentionally blank

2. Responsibility for Local Choice

2.1 Functions

Function	Decision making body and Membership	Delegation of Functions
<p>1. Local Act Functions Cumbria Act 1982</p> <p>Other than a function referred to in regulation 2 of the Functions and Responsibilities Regulations, (imposing conditions or terms upon approvals, licenses, registrations, permissions or consents).</p>	The Executive	Full delegation
<p>2. Local Act Functions Cumbria Act, 1982</p> <p>Any function under a local Act imposing conditions or terms upon licenses, approvals, consents registrations or permissions.</p>	Licensing Committee	Full delegation to the Committee and the Assistant Director Community Services
<p>3. Determination of an appeal against any decision made by or on behalf of the authority.</p> <p>a) Appeals:</p> <ul style="list-style-type: none"> • against dismissal • grievances • other disciplinary procedures • job evaluation <p>b) housing and homelessness determination</p>	<p>Human Resources and Appeals Committee</p> <p>Human Resources and Appeals Committee</p>	<p>Full delegation to the Human Resources and Appeals Committee</p> <p>Full delegation to the Assistant Director Community Services</p>

Function	Decision making body and Membership	Delegation of Functions
c) local Council Tax discounts, discretionary housing payments and discretionary business rate relief appeals	Human Resources and Appeals Committee	Full delegation to Human Resources and Appeals Committee
d) complaints	Human Resources and Appeals Committee	Full delegation to the Human Resources and Appeals Committee
e) licensing	Licensing Committee	Full delegation to the Licensing Committee and Assistant Director Community Services
f) penalty charge notices	Human Resources and Appeals Committee	Full delegation to Human Resources and Appeals Committee and Assistant Director Governance
g) general appeals including freedom of information appeals	Human Resources and Appeals Committee	Full delegation to Human Resources and Appeals Committee/Sub-Committee
4. Functions in relation to contaminated land.	Executive	Full delegation to the Assistant Director Community Services
5. The discharge of functions relating to the control of pollution and the management of air quality.	Executive	Full delegation to the Assistant Director Community Services

Function	Decision making body and Membership	Delegation of Functions
6. Service of an abatement notice in respect of statutory nuisance.	Executive	Full delegation to the Assistant Director Community Services
7. Passing of a resolution under section 8 that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply to the authority's area.	Executive	Full delegation to the Assistant Director Community Services
8. Inspection of the authority's area to detect statutory nuisances.	Executive	Full delegation to the Assistant Director Community Services
9. Investigation of any complaint as to the existence of a statutory nuisance.	Executive	Full delegation to the Assistant Director Community Services
10. Obtaining information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.	Executive	Full delegation to the Assistant Director Planning and Economic Development
11. Obtaining particulars of persons interested in land under Section 16 Local Government (Miscellaneous Provisions) Act 1976.	Executive	Full delegation to the Assistant Director Governance Assistant Director Community Services Assistant Director Planning and Economic Development

Function	Decision making body and Membership	Delegation of Functions
12. Making agreements for the execution of highway works (to the extent the Council has power).	Executive	Full delegation to the Assistant Director Governance
13. Making of Public Space Protection Orders under the Anti Social Behaviour, Crime and Policing Act 2014.	Executive	Assistant Director Governance
14. To act on the Council's behalf in relation to any consideration of an activation of the Community Trigger under the Anti Social Behaviour, Crime and Policing Act 2014.	Executive	Principal Environmental Officer (Environmental Protection) to be the designated single point of contact
15. Appointment of any individual: a) to any office other than an office in which they are employed by the authority;	Council	
b) to anybody other than i) the authority; ii) a joint committee of two or more authorities c) any committee or sub-committee, of such a body; and d) the revocation of any such appointment	Council Council Council Council	

3. Responsibility for Council Functions – Full Council and Committees

Full Council and the Committees listed below have the functions specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations) and subsequent amendments.

3.1 Full Council shall have responsibility:

3.1.1 to adopt a Members' Allowance scheme under Article 2.4;

3.1.2 for Elections and Electoral Registration (except those functions undertaken by the Chief Executive), including:

- i) the appointment of an Electoral Registration Officer;
- ii) the appointment of a Returning Officer for local government elections;
- iii) the appointment of a Deputy Returning Officer for local government elections.

3.1.3 for Parishes including:

- i) dealing with any issues relating to the establishment and review of Parish Councils and their consequent electoral arrangements;
- ii) dissolving small parish councils;
- iii) making orders for grouping parishes, dissolving groups and separating parishes from groups;
- iv) dividing electoral divisions into polling districts at local government elections;
- v) making temporary appointments to parish councils.

3.1.4 for the name and status of areas and individuals including:

- i) changing the name of the District;
- ii) changing the name of a parish;
- iii) conferring the title of Honorary Alderman or admission to be an Honorary Freeman.

3.1.5 for any changes not otherwise dealt with by the Executive, or any Committee of the Council.

3.1.6 for appointments to outside bodies including:

- i) the appointment of any individual;
- ii) those to any office other than an office in which a person is employed by the authority;
- iii) those to any body other than the authority, or to any committee or sub-committee of any such body;

- iv) the revocation of any such appointments; and
- v) determining whether any of the above duties are approved for the purposes of travel and subsistence payments.

3.1.7 to make appointment of Members to committees and the filling of any vacancies;

3.1.8 to undertake those other functions which are set out in Article 4.2 of the Constitution.

3.2 The Licensing Committee shall have responsibility as follows:

10 Elected Members

The Licensing Committee shall exercise the powers and functions of the Council in relation to its licensing activities including the licensing and registration and health and safety at work functions set out in the Functions Regulations.

The Licensing Committee may establish sub committees consisting of three members with full delegated authority to determine any matter and has responsibility for:

Terms of Reference

1. Public entertainments under the Local Government (Miscellaneous Provisions) Act 1982;
2. Private Entertainments under the Private Places of Entertainment (Licensing) Act 1967;
3. The Licensing of the provision of betting facilities on tracks and the registration of pool promoters;
4. The licensing of premises persons under Pet Animals Act 1951, the Animal Boarding Establishments Act 1963, the Breeding of Dogs Act 1973 and the Dangerous Wild Animals Act 1976;
5. The Licensing of Pleasure boats, other boats and boatmen;
6. The licensing of sex establishments under the Local Government (Miscellaneous Provisions) Act 1982;
7. The granting, refusal, revocation or suspension of licences in respect of hackney carriages and private hire vehicles and the drivers and operators of such vehicles and to exercise the powers of the Council under the provisions of the Town Police Clauses Act 1847 with respect to hackney carriages and Part II of the Local Government (Miscellaneous Provisions) Act 1976;
8. Licences relating to Street Collections;
9. Licences under the Hypnotism Act 1952;
10. Authorisations for new processes under Part 1 of the Environmental Protection Act 1990 and any other permissions or licences under that Act;

11. Approval of Council premises for weddings;
12. Caravan Site Licences;
13. Animal Licences;
14. Zoo Licences;
15. Licences for Road Closures;
16. The regulation in accordance with health, safety and welfare legislation of conditions of employment in factories, offices, shops and railway premises and the regulation of hours of employment of young persons;
17. The registration of scrap metal dealers;
18. Except in so far as the subject matter may fall within the duties of any other committee, exercise the powers and duties of the Council with respect to the licensing and registration of persons or properties for any purpose;
19. The Council's function under the Health and Safety at Work etc Act 1974 and related statutory provisions;
20. The exercise of discretions in relation to the repayment of housing grants;
21. The determination of applications to register as a Motor Salvage Operator;
22. The Council's Licensing functions under the Licensing Act 2003 (except for determination of policy); and
23. The Council's functions under the Gambling Act 2005 (except for the determination of policy).

3.3 The Human Resources and Appeals Committee shall have responsibility as follows:

9 Members

(including at least 2 members of the Executive)

The Human Resources and Appeals Committee may establish sub-committees consisting of three members with full delegated authority to hear and determine any appeal falling within its terms of reference. The Human Resources and Appeals Committee may establish a Sub-Committee consisting of three Members and at least two Independent Persons to conduct any hearing in relation to proposed or potential disciplinary action in respect of the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer and advise the Council on any proposal or recommendation to dismiss such an officer other than a dismissal resolved by a differently constituted Sub-Committee.

Terms of Reference

1. To ensure HR policies and procedures are in place for the appointment and dismissal of staff.

2. To consider and determine any disciplinary in relation to the Council's statutory officers, in accordance with HR policies and procedures of the Council.
3. To undertake final interview and appoint Chief Officers, (other than the Head of Paid Service).
4. To consider any other matter concerning Human Resources, which the Council's policies and procedures require should be considered by members of the Council.
5. To appoint three members of the committee to the Joint Consultative Committee.
6. To consider, where appropriate, the recommendations of the Joint Consultative Committee.
7. To interview candidates for and recommend to full Council a person to be appointed as the Head of the Paid Service, in accordance with current employment legislation and best practice.
8. To hear and determine appeals against decisions or actions made by or on behalf of the Council, including:
 - a) any appeal under the Freedom of Information Act 2000 and the re-use of Public Information Regulations;
 - b) any appeal relating to discretionary business rate relief, discretionary housing payments and the award of local Council Tax discounts.
9. To hear and determine any complaint under the Council's complaints procedure.
10. To advise Council upon any proposal or recommendation to dismiss a relevant officer under the Officer Employment Procedure Rules.
11. To nominate a Member of the Committee to participate in the Management of Change Panel, as set out in the draft Management of Change Policy, in relation to officers at Assistant Director level and above.

3.4 The Planning Committee shall have responsibility as follows:

11 Members

The Planning Committee shall exercise the powers and duties of the Council in relation to its planning applications and development control functions, including those relating to town and country planning and development control in the Functions and Responsibilities regulations, except those delegated to officers of the Council.

Terms of Reference

1. To administer the Development Control functions of the Council as Local Planning Authority and determine applications under the provisions of the Town and Country Planning Act 1990, and the Listed Buildings and Conservation Areas Act 1990, insofar as such powers are not delegated to an officer, to include:
 - a) all matters relating to Planning Applications;
 - b) the control of the display of Advertisements;
 - c) applications for Listed Building Consent;
 - d) the making and confirmation of Tree Preservation Orders and any subsequent variation, modification or revocation;
 - e) the felling of trees subject to Tree Preservation Orders and/or located in a Conservation Area;
 - f) all matters in connection with the maintenance and improvement of waste land;
 - g) the service of Enforcement Notices;
 - h) the service of Building Preservation Notices;
 - i) the service of Completion Notices;
 - j) the service of Stop Notices;
 - k) the determination as to whether Planning Permission is required;
 - l) the determination of applications for Lawful Use Certificates;
 - m) the unopposed revocation or modification of Planning Permissions;
 - n) the entering into of planning agreements regulating the development or use of land;
 - o) commenting upon proposed development by Government Departments;
 - p) giving observations on development proposals being considered by Cumbria County Council, the Lake District National Park Authority, the Yorkshire Dales National Park Authority or neighbouring District Councils;
 - q) the exercise of the powers of the Council under the Town and Country Planning General Regulations 1992;
 - r) considering applications for Certificates of Appropriate Alternative Development;
 - s) the service of Listed Building Repairs Notices; and
 - t) the service of Listed Building Urgent Works Notices.

2. Determining applications under Part 8 of the Anti-Social Behaviour Act 2003 (High Hedges).

3.5 The Scrutiny Committees shall have responsibility as follows:

The Scrutiny Committees referred to below shall have the functions vested in the Council by statute in relation to an Overview and Scrutiny Committee.

Scrutiny Committees

The Terms of Reference and membership of the Scrutiny Committees are set out in Article 6 of the Constitution and the Scrutiny Procedure Rules in Part 4 of this Constitution.

The Scrutiny Committees of the Council have full delegated powers to deal with all matters within their terms of reference including making reports to the Council or the Executive as appropriate on any matters within their terms of reference.

3.6 The Accounts and Governance Committee

9 Members

The Accounts and Governance Committee will consist of nine Members and will have specific responsibility for governance issues, including audit functions. The Committee will meet at least quarterly, linked to any appropriate audit/governance reporting timescales.

Terms of Reference

- a)
 - i) The Annual Governance Statement
 - ii) External Audit Reports
 - iii) Internal Audit Reports
 - iv) Final Accounts
 - v) Setting the Council Tax
- b) To consider and approve the annual Statement of Accounts and receive reports thereon from the external auditor.

- c) **Standards**

The terms of reference and powers of the Accounts and Governance Committee in relation to standards of behaviour are set out in Article 9 of this Constitution.

The Committee may establish sub-committees or panels of at least three members to deal with any matter within its terms of reference.

3.7 The Budget Planning Committee

9 Members

The Budget Planning Committee will consist of nine Members, and will have responsibility for overseeing the Council's budget and treasury management

functions throughout the year. This will include the responsibility for scrutinising the Council's Budget and Budget preparation process. This Committee will meet at least quarterly.

Terms of Reference

The Budget Planning Committee is a committee of Council and will make recommendations to the Executive as appropriate within its terms of reference.

The Committee will:

- Provide strategic overview of all matters that could significantly impact upon the finances of the authority;
- Oversee the implementation of any financial reform that will significantly affect the Council;
- Consider the impact of business and housing growth in the district and estimate the financial impact of such growth;
- Be responsible for supporting and scrutinising the budget setting strategy and process for:
 - the general fund;
 - capital programme;
 - assets;
 - treasury management;
 - reserves;
 - investments;
 - recommending the Committee's preferred option, for formal consideration by Executive, in light of the Council's stated priorities.
- Consider quarterly revenue and capital budget monitoring reports;
- Consider the medium term planning horizon, including the Council's medium term financial strategy and plan;
- Consider how the Council responds to changes in the way the council is funded, value for money and other legislative initiatives and reforms;
- Innovate and challenge the way the Council manages its budget and financial affairs.

This page is left intentionally blank

4. Responsibility for Council Functions – Scheme of Delegation to Officers

In accordance with Section 101 of the Local Government Act 1972, certain of the Council's functions are discharged by Officers of the Council in the manner, to the extent and subject to the conditions and reservations set out below.

4.1 Further General Limitations

1. The Council reserves to itself the right at any time (but without prejudice to any action already taken under these arrangements) to amend or revoke these arrangements.
2. The functions to be discharged by Officers are those set out in Schedule 1. The Officers by whom those functions are to be discharged are those specified in the Schedule. Those Officers may arrange in writing for functions to be discharged by their staff.
3. An Officer shall not incur, nor commit the authority to, any expenditure for which there is no estimate provision Capital, Revenue or agency except as set out in the Accounting and Audit rules.
4. So far as any function is itself exercisable under an agreement under Section 101 of the Local Government Act 1972, with another authority (an "agency" agreement) it shall be discharged strictly in accordance with the terms of such agency agreement.
5. Any matter which, in the judgment of the Officer exercising powers under this Scheme, is likely to give rise to unusual difficulty or the circumstances of which are likely to give rise to controversy or other extraordinary consideration, shall be dealt with in consultation with the relevant Chairman of the appropriate Committee and, if the Chairman of the appropriate Committee so directs, shall either be referred to the appropriate Committee or Council for determination or consideration.

4.2 Responsibility for Council Functions - Licensing

Licensing Committee Delegation and Exercise of Functions

The tables below specify the nature of the matters which should be determined by the Committee or an officer.

Matter to be dealt with	Committee	Assistant Director Community Services
Application for personal licence	If a Police objection	If no objection made
Application for personal licence with unspent convictions	All cases	

Matter to be dealt with	Committee	Assistant Director Community Services
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a Police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a Police objection	All other cases
Applications for interim authorities	If a Police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a Police objection to a temporary event notice	All cases	

4.3 Gambling Policy

Licensing Committee Delegation of Functions

Matters to be dealt with	Full Council	Licensing Committee	Assistant Director Community Services
Final approval of three year licensing policy	Each policy		

Matters to be dealt with	Full Council	Licensing Committee	Assistant Director Community Services
Policy not to permit casinos	Each policy		
Fee setting (when appropriate)		All cases	
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		All cases	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		All cases	
Applications for other permits			All cases

Matters to be dealt with	Full Council	Licensing Committee	Assistant Director Community Services
Cancellation of licensed premises gaming machine permits			All cases
Consideration of temporary use notice			All cases
Decision to give a counter notice to a temporary use notice		All cases	

4.4 Delegation of Council Functions to the Council's Officers

1. Town and Country Planning and Development Control.

a) Delegations to Assistant Director Planning and Economic Development:

- i) to determine all planning applications and to make observations on all statutory and other notifications except:
 1. applications for which an approval would be contrary to policy - ie departures and potentially justifiable exceptions;
 2. applications which are considered by the Assistant Director Planning and Economic Development to be of a controversial or sensitive nature, or which have aroused significant public interest on valid planning grounds;
 3. applications for which an objection from a statutory consultee (as set out in the The Town and Country Planning (Development Management Procedure) (England) Order 2015) is received on valid planning grounds and the Assistant Director Planning and Economic Development is inclined to approve the application; the approval of applications subject to a parish council objection on valid planning grounds or the refusal of applications which have received a representation in support from a Parish Council on valid planning grounds;
 4. applications subject to a request by an objector to address the Planning Committee and that objection is based on valid planning grounds;

5. applications subject to a request by a member on valid planning grounds to have the matter determined by the Planning Committee.

Valid planning grounds excludes objections made on any of the following grounds:

- Devaluation of property;
- Loss of view;
- Effect on trade/commercial competition;
- Effect on private or civil rights;
- Personal or financial circumstances or the character of the applicant;
- Third party interest; or
- Matters covered by other legislation or controls including Building Regulations and licensing.

Valid planning grounds include but are not limited to:

- Overlooking/loss of privacy;
- Loss of light or overshadowing;
- Parking;
- Highway safety;
- Traffic;
- Noise;
- Effect on listed building and conservation area;
- Layout and density of building;
- Design, appearance and materials;
- Government policy;
- Disabled persons' access;
- Proposals in the Development Plan;
- Previous planning decisions (including appeal decisions);
- Nature conservation.

ii) to approve or refuse any of the following matters when reserved or made the subject to conditions, in a Planning Consent:

1. the materials to be used externally on buildings
2. the landscaping and tree planting proposals and tree replacements

- 3. the finish of boundary walls and fences
- 4. the finish of parking areas
- iii) to determine applications submitted under Section 64 of the Town and Country Planning Act 1990 (whether planning permission is necessary) and to determine whether development requires an Environmental Impact Assessment under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011;
- iv) to determine applications for Certificates of Lawful Use or Development; to authorise in writing such person or persons as he/she deems fit in order to exercise the right of entry conferred by Section 324 of the Town and Country Planning Act 1990 ie to survey land for the purposes of development in connection with applications for planning permission and the maintaining and servicing of orders or notices under the Act;
- v) to take any action which may be required to be taken by or on behalf of the Council pursuant to its duties and responsibilities under the Hedgerow Regulations 1997 made under the Environment Act 1995; and
- vi) to act as an Appointing Officer under Section 10(8) of the Party Wall Etc Act 1996.

2. Town and Country Planning and Development Control

a) Delegations to the Assistant Director Governance

- i) To institute, defend or participate in any legal proceedings in respect of any matter relating to the functions of the Planning Committee (including the service of any notice or order or the exercise of any power of entry) in any case where such action is necessary to give effect to decisions of the Planning Committee or any officer acting under delegated powers or in any case where the Assistant Director Governance considers that such action is necessary to protect the Council's interests.
- ii) To negotiate and approve any agreement and any amendments or variations to agreements made or to be made under Section 106 of the Town and Country Planning Act in consultation with the Assistant Director Planning and Economic Development
- iii) To approve amendments to Section 106 Agreements.
- iv) To issue any notice, order or other document in respect of any matter relating to the functions of the Planning Committee.
- v) In consultation with the Assistant Director Planning and Economic Development to make and, in the absence of any objections, to confirm Tree Preservation Orders.

3. Town and Country Planning Matters

a) Delegations to the Assistant Director Planning and Economic Development

- i) To exercise the powers and duties of the Council under Sections 211 to 214 of the Town and Country Planning Act 1990 in so far as they relate to responding to notifications of intention to fell trees in Conservation Areas in respect of garden trees and to compiling a register under Section 214 of the said Act;
- ii) To approve or refuse works to trees including felling, pruning and requirements to replant in respect of trees subject to Tree Preservation Orders;
- iii) To respond to notifications to the Local Planning Authority in respect of works which by virtue of the ecclesiastical exemption are exempt from listed building control and conservation area control;
- iv) To determine applications for permission approval or consent, or the requirements for assessments under the Planning (Listed Buildings and Conservation Areas) Act, 1990;
- v) To take any action which is urgent and necessary in relation to a Tree Preservation Order;
- vi) To determine, in consultation with the local ward member, responses to rights of way proposals;
- vii) To respond to consultation on Planning Policy and related issues from outside bodies and neighbouring, sub-regional authorities on behalf of the Council.

4. Licensing and Health and Safety functions (other than functions under the Licensing Act 2003)

a) Delegations to the Assistant Director Community Services

- i) To grant or renew (but not refuse) any licence, registration, permission or consent for which the Licensing Committee is responsible;
- ii) To suspend the licences relating to private hire and hackney carriage drivers and operators in cases of urgency where prompt action is considered to be necessary and in particular where the conditions of licence or other relevant legislation have been contravened. The suspension will be until the next meeting of the Licensing Committee;

- iii) To exercise any function for which the Licensing Committee is responsible, including the service of any notice or order, the exercise of any powers of entry in respect of matters relating to:
 - 1. contaminated land;
 - 2. the control of pollution or the management of air quality;
 - 3. the inspection of the authority's area to detect any statutory nuisance and the investigation of any complaint as to the existence of a statutory nuisance including the service of any abatement notices;
 - 4. health and safety for which the Licensing Committee is responsible including, without prejudice to the generality of the foregoing, the service of any Improvement or Prohibition Notices under the Health and Safety at Work Etc Act 1974;
 - 5. smoke free premises, places and vehicles for which the Licensing Committee is responsible, without prejudice to the generality of the foregoing, the power to enforce offences relating to the display of no-smoking signs; offences relating to smoking in smoke free places; offence of failing to prevent smoking in smoke-free places; and, power to transfer enforcement functions to another enforcement authority all such functions being pursuant to the Health Act 2006 and ancillary Regulations.
- iv) To authorise Environmental Health Officers employed by the Council to be empowered to serve Improvement and Prohibition Notices under the Health and Safety at Work Etc Act 1974 and notices in respect of Statutory Nuisance under the Environmental Protection Act 1990 or any other relevant legislation on being satisfied as to their officers' competence.

b) Powers delegated to the Assistant Director Governance

- i) To institute, defend or participate in any action or legal proceedings in respect of any matter relating to the functions referred to in this paragraph 4) (including, where not delegated to any other officer, the service of any notice or order or the exercise of any power of entry) in any case where such action is necessary to give effect to decisions of the Licensing Committee or any officer acting under delegated powers or in any case where the Assistant Director Governance considers that such action is necessary to protect the Council's interests.

5. Functions under the Licensing Act 2003 and Gambling Act 2005

a) Delegations to the Assistant Director Community Services

- i) To determine applications for a personal licence where no Police objection is made;
- ii) To determine applications for a premises licence and a club premises certificate where no relevant representation is made;
- iii) To determine applications for a provisional statement where no relevant representation is made;
- iv) To determine applications to vary a premises licence or a club premises certificate where no relevant representation is made;
- v) To determine applications to vary the designated premises supervisor in cases where there is no Police objection;
- vi) To determine all requests to be removed as a designated premises supervisor;
- vii) To determine applications for the transfer of a premises licence where no Police objection is made;
- viii) To determine applications for interim authorities where no Police objection is made; and
- ix) To determine whether a complaint is irrelevant, frivolous, vexatious etc;
- x) To determine applications for premises licences where no representations have been received or any representations made have been withdrawn;
- xi) To determine applications for a variation to a licence where no representations have been received or any representations made have been withdrawn;
- xii) To determine applications for the transfer of a licence where no representations have been received from the Gambling Commission;
- xiii) To determine applications for a provisional statement where no representations have been received or any representations made have been withdrawn;
- xiv) To determine applications for club gaming/club machine permits where no representations have been received or any representations made have been withdrawn;
- xv) To determine applications for other permits;
- xvi) To cancel licensed premises gaming machine permits;
- xvii) To consider any Temporary Use Notice.

b) Powers delegated to the Assistant Director Governance under the Gambling Act 2005

- i) To institute, defend or participate in any action or legal proceedings in respect of any matter relating to the functions referred to in this paragraph 5 (including, where not delegated to any other officer, the service of any notice or order or the exercise of any power of entry) in any case where such action is necessary to give effect to the decisions of the Licensing Committee or any sub-committee or officer acting under delegated powers or in any case where the Assistant Director Governance considers that such action is necessary to protect the Council's interests;

6. Electoral Registration and Election Matters

Delegations to the Director of Corporate Services

To undertake all functions and powers relating to elections set out in Schedule 1 of the Functions Regulations and (to the extent that they are the functions of the Council and not the Executive) all functions and powers relating to electoral registration other than those functions and powers reserved to the full Council under Article 4.2.

7. Calculation and Determination of Council Tax Base Matters

Delegations to the Assistant Director Finance

In accordance with Section 101 of the Local Government Act 1972 and all other enabling powers, the powers and functions of the Council in respect of the calculation and determination of the Council Tax Base referred to in Section 67(2A) and all other relevant sections of the Local Government Finance Act 1992, as amended by Section 84 of the Local Government Act 2003.

5. Designation of "Proper Officers"

5.1 The following are the Proper Officers of the Council under the enactments shown below. The alternative Proper Officer is also authorised to act.

Section of the Local Government Act 1972 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
Section 13 To act as a Parish Trustee	Chief Executive	Director of Corporate Services
83 (1) to (4) Witness and receipt of Declarations of Acceptance of Office	Chief Executive	Director of Corporate Services
84 Receipt of Declaration of Resignation of Office	Chief Executive	Director of Corporate Services
88 (2) Convening of meeting of Council to fill casual vacancy in the office of Chairman	Chief Executive	Director of Corporate Services
89 (1) (b) Receipt of notice of casual vacancy from two local government electors	Chief Executive	Director of Corporate Services
115 (b) Receipt of money due from officers	Assistant Director Finance	Director of Corporate Services
146 (1) (a) and (b) Declarations and service with regard to securities	Assistant Director Finance	Director of Corporate Services
151 Responsibility for the proper administration of the Council's financial affairs	Assistant Director Finance	Director of Corporate Services

Section of the Local Government Act 1972 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
191 Functions with respect to Ordnance Survey	Assistant Director Commissioning and Technical Services	Director of People and Place
210 (6) and (7) Charity functions of holders of offices with existing authorities transferred to holders of equivalent offices with new authorities or, if there is no such office, to Proper Officer	Chief Executive	Director of Corporate Services
212 (1) Local Register for Land Charges	Assistant Director Planning and Economic Development	Director of People and Place
225 (1) Proper Officer function - deposit of documents	Chief Executive	Director of Corporate Services
228 (3) Accounts of any Proper Officer to be open to inspection by any Member of the Authority	Assistant Director Finance	Director of Corporate Services
229 (5) Certification of Photographic copies of Documents	Chief Executive	Director of Corporate Services
234 Authentication of Documents	Chief Executive	Director of Corporate Services
234 Officer authorised to sign forms of notice to give effect to planning applications	Assistant Director Planning and Economic Development	Director of People and Place
236 (9) To send copies of byelaws to Parish Council	Assistant Director Governance	Director of Corporate Services

Section of the Local Government Act 1972 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
238 Certification of byelaws	Assistant Director Governance	Director of Corporate Services
Schedule 12, Para 4 (2) (b) Signature of summonses to Council Meetings	Chief Executive	Director of Corporate Services
Schedule 12, Para 4 (3) Receipt of notice regarding address to which summonses to meetings are to be sent	Chief Executive	Director of Corporate Services
Schedule 14, Para 25 (7) Certifying resolutions applying or dis-applying provisions of Public Health Acts 1875-1961	Chief Executive	Director of Corporate Services

Section of the Local Government (Access to Information) Act 1985 amending the Local Government Act 1972 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
S.100B (2) Circulation of papers and reports	Assistant Director Governance	Director of Corporate Services
S.100B (5) Withholding of reports containing exempt information	Assistant Director Governance	Director of Corporate Services
S.100B (7) (c) Supply of papers to press	Assistant Director Governance	Director of Corporate Services
S.100C (2) Summaries of Minutes	Assistant Director Governance	Director of Corporate Services

Section of the Local Government (Access to Information) Act 1985 amending the Local Government Act 1972 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
S.100D Inspection of background papers	Assistant Director Governance	The Chief Officer, as appropriate
S.100F Members' right to papers	Assistant Director Governance	The Director of Corporate Services

5.2 Representation of the People Acts and Regulations made thereunder

Representation of the People Acts and Regulations made thereunder and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
Registration Officer, Returning Officer and Proper Officer functions	Chief Executive	Assistant Director Governance

5.3 Local Government Finance Act 1988

Section of the Local Government Finance Act 1988 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
Section 114 Duty to report etc	Assistant Director Finance	Director of Corporate Services

5.4 Local Government and Housing Act 1989

Section of the Local Government and Housing Act 1989 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
Section 4 Head of Paid Service	Chief Executive	None

Section of the Local Government and Housing Act 1989 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
Section 5 Monitoring Officer	Assistant Director Governance	Deputy Monitoring Officer as appointed by the Assistant Director Governance
Section 19 and regulations made thereunder. Notices of Members' Interests	Chief Executive	Director of Corporate Services
Section 2 and Section 3 Preparation and deposit of politically restricted posts and issue of certificate in respect of politically restricted posts	Chief Executive	Director of Corporate Services

5.5 Party Wall etc Act 1996

Section of the Party Wall etc Act 1996 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
Section 10(8) Appointing Officer	Chief Executive	Assistant Director Commissioning and Technical services

5.6 National Assistance Act 1948, National Assistance (Amendment) Act 1951 and Public Health (Control of Infectious Diseases) Act 1984 and Regulations made thereunder

Section of the National Assistance Act 1948, National Assistance (Amendment) Act 1951 and Public Health (Control of Infectious Diseases) Act 1984 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
Proper Officer functions including the issuing of any notice on behalf of the local authority under Regulations 2, 3 and 6 of the Health Protection (Notification) Regulations 2010 and the making of applications under Section 47 of the National Assistance Act 1948 and functions for the purposes of the Milk and Dairies (General) Regulations 1959 including the issuing of notices on behalf of the authority as provided for by Part VII of those Regulations.	Director of Public Health and the Consultant/ Specialist or Nurse Specialist in Health Protection	

5.7 Local Government Act 2000 and Regulations made thereunder

Local Government Act 2000 and Regulations made thereunder and Proper Officer functions	Proper Officer	Alternative Proper Officer
Proper Officer functions	Chief Executive	Director of Corporate Services

5.8 Freedom of Information Act 2000

Section of the Freedom of Information Act 2000 and Proper Officer Functions	Proper Officer	Alternative Proper Officer
Section 36 the "qualified person"	Assistant Director Governance	Director of Corporate Services

5.9. Miscellaneous

Statutory Provision and Proper Officer Functions	Proper Officer	Alternative Proper Officer
<p>Section 41 Local Government (Miscellaneous Provisions) Act 1976 Certifying true copies of minutes</p>	Chief Executive	Director of Corporate Services
<p>Section 606 Housing Act 2004 Representations and reports on unfit housing</p>	Assistant Director Community Services	Director of People and Place
<p>Section 321 (3) Highways Act 1980 Certifying copies of approved plans</p>	Assistant Director Commissioning and Technical Services	Director of People and Place
<p>Section 2 Planning (Listed Buildings and Conservation Areas) Act 1990 Lists of protected buildings</p>	Assistant Director Planning and Economic Development	Director of People and Place
<p>Housing Grants Construction and Regeneration Act 1996 Award of Disabled Facilities Grants</p>	Assistant Director Community Services	Director of People and Place
<p>Regulatory Reform (Housing Assistance)(England and Wales) Order 2002 Financial assistance towards improvement works</p>	Assistant Director Community Services	Director of People and Place

Statutory Provision and Proper Officer Functions	Proper Officer	Alternative Proper Officer
Officers authorised to issue authorisations to carry out directed surveillance or to use covert human intelligence sources under (Part II of the Regulation of Investigatory Powers Act 2000)	Chief Executive Assistant Director Finance Assistant Director Community Services Director of People and Place	
Monitoring Officer for the Regulation of Investigatory Powers Act 2000	Director of Corporate Services	
Service of Improvement and Prohibition Notices under the Health and Safety at Work etc Act 1974	Assistant Director Community Services	An Environmental Health Officer whom the Council is satisfied is and has been authorised as competent to serve such notices
Regulation of Investigatory Powers Act 2000, Chapter II Designated Person (Access and Disclosure of Communications Data)	Assistant Director Governance	
The Money Laundering Regulations 2003	Assistant Director Finance	Director of Corporate Services

5.10 Public Health Acts 1936 and 1961

Section of the Public Health Act 1936 and the Public Health Act 1961	Proper Officer	Alternative Proper Officer
Proper Officer functions under Sections 84 and 85 of the Public Health Act 1936 and Section 37 of the Public Health Act 1961.	Director of Public Health and the Consultant/ Specialist or Nurse/Specialist in Health Protection	

This page is left intentionally blank

6. Responsibility for Executive Functions - The Executive

- 6.1 The Executive will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution. The Executive is responsible for initiating and developing policy and taking decisions within the budget and policy framework set by the Council for all functions, other than those which are specified as being the responsibility of the Council, the Planning Committee, the Licensing Committee, the Human Resources and Appeals Committee, the Accounts and Governance Committee, or the Scrutiny Committees.
- 6.2 Under Article 7 of this Constitution, it is the responsibility of the Leader to decide on the delegation of executive functions and to maintain a written record setting out which individual members of the Executive, the committees of the Executive, officers or joint arrangements are responsible for the exercise of particular executive functions. A copy of the written record of delegations of executive functions made by the Leader is annexed and forms part of Part 3 of this Constitution.
- 6.3 Functions Delegated by the Council to the

1. Chief Executive

Function
a) To do all such things as are necessary in relation to all routine matters of day to day administration, management and control or which are necessary for the proper performance of the terms of appointment.
b) To ensure the Council's Accounting and Audit Rules and Procurement Rules are complied with.
c) To authorise any action necessary to protect the safety or welfare of individuals or the safety of property.
d) To determine minor restructuring of staff establishments, payments of honoraria, overtime where there are no overall financial implications.
e) To issue to any Director any direction which is considered appropriate in any case where there are reasonable grounds for believing that such Director is so conducting the Council's affairs that there is an actual or prospective breach of Council Policy or that the activities are likely to embarrass the Council or damage its essential interests.
f) To authorise the payment of compensation over £500 under Section 92 of the Local Government Act 2000.

Function
Residual Power
g) In the absence of the Head of Service, a Director or Assistant Director or any other Officer, to exercise any power delegated to that officer.
Delegation in Absence
h) In the absence or unavailability of the Chief Executive, the powers assigned to the post shall be exercisable by the person who has been appointed to act as his/her Deputy or otherwise by such Officer as the Council may appoint for the purpose in consultation with whichever other Chief Officer is appropriate.

2. Assistant Director Finance

Function
a) To do all such things as are necessary in relation to all routine matters on day to day administration, management and control within the Department or which are necessary for the proper performance of the terms of appointment.
b) To do all things necessary to give effect to the Accounting and Audit Rules and the Procurement Rules.
c) To make decisions on cases of exceptional hardship in relation to rent allowances.
d) To deal with and determine applications for Council Tax Reductions in accordance with current Council's local scheme for Council Tax Reduction.
e) In accordance with the Representation of the People Act 1983 power to pay expenses properly incurred by the Electoral Registration Officer.
Delegation in Absence
f) The powers delegated to the Assistant Director Finance are, in the event of absence or unavailability, exercisable by the Director of Corporate Services.

3. **Director of Corporate Services**

Function
a) To do all such things as are necessary in relation to all routine matters on day to day administration, management and control within the Department or which are necessary for the proper performance of the terms of appointment.
b) To do all things necessary to give effect to the Accounting and Audit Rules and the Procurement Rules.
Delegation in Absence
c) In the absence or unavailability of the Director of Corporate Services the powers assigned to the post shall be exercisable by the person who has been appointed to act as his/her Deputy or otherwise by such Officer as the Council may appoint for the purpose in consultation with whichever other Officer is appropriate.

4. **Director of People and Place**

Function
a) To do all such things as are necessary in relation to all routine matters on day to day administration, management and control within the Department or which are necessary for the proper performance of the terms of appointment.
b) To do all things necessary to give effect to the Accounting and Audit Rules and the Procurement Rules.
Delegation in Absence
c) In the absence or unavailability of the Director of People and Place the powers assigned to the post shall be exercisable by the person who has been appointed to act as his/her Deputy or otherwise by such Officer as the Council may appoint for the purpose in consultation with whichever other Officer is appropriate.

5. Assistant Director Governance

Function	
a)	To do all such things as are necessary in relation to all routine matters of day to day administration, management and control within the Department or which are necessary for the proper performance of the terms of appointment.
b)	To do all things necessary to give effect to the Accounting and Audit Rules and the Procurement Rules.
Delegation in Absence	
c)	In the absence or unavailability of the Assistant Director Governance the powers assigned to the post shall be exercisable by the person who has been appointed to act as his/her Deputy or otherwise by such Officer as the Council may appoint for the purpose in consultation with whichever other Officer is appropriate.

6.4 Functions delegated by the Council to the Executive

Preamble

Under Article 7 and the Executive Procedure Rules set out in this Constitution it is the responsibility of the Leader to decide on the delegation of executive functions and to maintain a written record of such delegations. The Leader of the Council is:

Name	Address	Ward
Virginia Taylor	Page Hall, Foster Street, Penrith, Cumbria, CA11 7PD	Penrith West

This scheme of delegation has been prepared by the Leader in accordance with those provisions. The Executive is responsible for initiating and developing policy and taking decisions within the budget and policy framework in respect of all the functions of the local authority other than those which, whether by law or under this Constitution, are not the responsibility of the Executive. Such functions are referred to in this Scheme as "executive functions".

Members of the Executive

The members appointed to the Executive by the Leader are set out below.

Name	Address	Wards
Judith Derbyshire	Sycamore House, Stainton, Penrith, Cumbria, CA11 0EP	Dacre
Karen Greenwood	6 Main Street, Kirkby Thore, Penrith, Cumbria, CA10 1UY	Appleby (Appleby)
Mary Robinson	Gillside, Newbiggin, Brampton, Cumbria, CA8 9DH	Kirkoswald
Mark Rudhall	7 Wordsworth Terrace, Penrith, Cumbria, CA11 7QT	Penrith North
Lissie Sharp	13 Force Cottages, Station Road, Alston, Cumbria, CA9 3JX	Alston Moor
Mike Tonkin	Farthing Cottage, Sleagill, Penrith, Cumbria, CA10 3HD	Morland

Portfolios and areas of responsibility

1. The following Portfolios and areas of responsibility shall be allocated to members of the Executive:

Strategic and Community Leadership	Communities
Economies and Enterprise	Green Growth
Housing and Health	Resources
Services	

2. A full description of the policy areas and executive functions included in each Portfolio is set out in Schedule 1 attached to this Scheme. Any question arising as to whether a policy area or executive function falls within a particular Portfolio will be determined conclusively by the Leader.

Allocation of Portfolios

3. The Portfolios and areas of responsibility for executive functions are allocated as follows:

Portfolio area	Responsible member
Strategic and Community Leadership	Virginia Taylor
Resources	Karen Greenwood
Services	Mike Tonkin
Housing and Health	Judith Derbyshire
Communities	Lissie Sharp
Economies and Enterprise	Mary Robinson
Green Growth	Mark Rudhall

4. In addition, the Leader has appointed Councillor Mary Robinson to be Deputy Leader of the Council to exercise the following powers and duties:

- a) Deputising for the Leader in his absence;
- b) Chairing Executive meetings in the absence of the Leader;
- c) Acting as the Council's spokesperson on all key corporate issues, consistent with the Council's overall policy and budgetary framework, in the absence of the Leader; and
- d) Holding, leading or assisting on any Portfolio which the Leader may allocate.

No deputy will be appointed for any member of the Executive and in his/her absence his/her duties and responsibilities will be undertaken by the Leader and in his/her absence by the Deputy Leader or such other Member of the Executive as the Leader may nominate.

Duties and responsibilities of individual Executive Members

5. **The Leader's specific duties and responsibilities are:**

- a) to provide leadership and strategic leadership for the Council;
- b) to undertake the role of community leader, building a vision for the District and leading the Council and its partners towards that vision;
- c) to represent the Council on strategic key local partnerships;
- d) to chair meetings of the Executive and take responsibility for its performance;

- e) to represent the Council and be accountable for discussions and negotiations with the community and with regional, national and international organisations;
- f) to undertake political executive responsibility for proposing and directing the overall strategy, budget, policy arrangements and service reviews of the Council;
- g) to act as spokesperson for the Council (in consultation with the Leader of other political groups and the Chief Executive as appropriate);
- h) to ensure the work of the Executive is conducted in accordance with the Council's Constitution and with due regard to any statutory provisions;
- i) to facilitate good communication so that people within and outside the Council are able to contribute constructively to the decision making processes of the Council and be aware of its aims and roles;
- j) to maintain effective liaison with the Chairmen of the Scrutiny Co-ordinating Board and committees;
- k) to present an annual budget to Council;
- l) to take the political lead on Emergency Planning and Business Continuity;
- m) to promote the Council and its aims and roles;
- n) to delegate and allocate roles, actions, projects and initiatives to Members of the Executive; and
- o) to be responsible for achieving the priority of a Quality Council and the delivery of the corporate priorities generally.

6. The general roles and responsibilities of each individual Member of the Executive are as follows:

- a) to provide pro-active political leadership for the designated functions and services of the Council set out in the allocated Portfolio;
- b) to exercise any delegated powers and make decisions in respect of the relevant Portfolio area to the extent authorised to do so by the Leader under this scheme of delegation;
- c) to have responsibility for, initiate and promote policies and programmes in respect of the allocated Portfolio both within the Council and externally;
- d) to present and consult on the Council's policies in respect of the allocated Portfolio within the District to Councillors and interested parties, both directly and through appropriate media;

- e) to engage actively and represent the Council in appropriate local, regional and national forums involved with the services and functions set out in the allocated Portfolio;
- f) to make recommendations about the implementation of policies within the allocated Portfolio;
- g) to report to the Executive and the Council on decisions made, actions taken and progress achieved within the allocated Portfolio;
- h) to consult with and report as required to the Executive, the Council and the relevant Scrutiny committees in respect of the Portfolio;
- i) to commission and consider reports/briefs from appropriate officers as required for the efficient discharge of his/her duties/responsibilities;
- j) to keep abreast of national best practice/new initiatives in the areas covered by the Portfolio and to apply them to the Council's service standards and provision as appropriate;
- k) to consider and act on performance data and reports from the Executive and the relevant Scrutiny Committee;
- l) to contribute to the corporate development of the Council's policies and objectives through active engagement of and participation in the Executive;
- m) to work closely with the relevant Chief and senior officers of the Council to help ensure the efficient management of the Council, to uphold high standards of performance and conduct, and to enable officers to exercise any powers delegated to them;
- n) to attend meetings of the relevant Scrutiny Committee as and when required;
- o) to act as spokesperson for the services and functions within the allocated Portfolio; and
- p) to be a member of and attend meetings of the Executive and to share collective responsibility for decisions taken by the Executive.

7. **Joint arrangements and consultative arrangements**

The following joint arrangements and consultative arrangements will operate in respect of executive functions:

- a) Joint consultative arrangements have been established with the trade unions representing the Council's staff to enable an exchange of views on relevant matters affecting the workings of the Council and the interests of its staff. The Resources Portfolio Holder is nominated to attend meetings of the Joint Consultative Committee on behalf of the Executive and delegated to carry out such consultative functions.

- b) A Member Learning and Development Group has been established whose remit is to consider and advise on the training needs of Members and particularly on:
 - i) Member training priorities;
 - ii) the distribution of available resources;
 - iii) a set of core skills and knowledge required to undertake various member roles and responsibilities;
 - iv) the content and timing of an annual Member Training Programme; and
 - v) the content and timing of an Induction Programme for new Members.

The Group comprises the Resources Portfolio Holder and the Leader of each of the political groups. The group will provide cross party feedback to the Executive to assist it in making any decisions for which the Executive is responsible in respect of Members training matters.

8. **All key decisions to be made by the Executive as a whole**

- a) A key decision is defined in Regulations and in Article 12.3 of the Council's Constitution. It is a decision which is likely:
 - i) to result in the incurring of expenditure which is, or the making of savings which are, significant having regard to the authority's budget for the service or functions in question (the Council has resolved that the figure of £60,000 will be considered significant for these purposes); or
 - ii) to be significant in terms of its effect on communities living or working in an area comprising two or more wards in the authority's area.
- b) In addition, decisions will be treated as key if they are likely to have a significant impact on communities in one ward, or if they are made by the Executive in the course of developing proposals to the full Council to amend the policy framework.
- c) All key decisions will, except as mentioned below, be made by the Executive as a whole in accordance with the Executive Procedure Rules in Part 4 of the Constitution. No key decisions are delegated to any individual member of the Executive or any officer, except that:
 - i) to the extent that they may be key decisions, Chief Officers will be authorised to award tenders in accordance with the Procurement Rules;
 - ii) if a key decision is required to be taken urgently and there is insufficient time to call a meeting of the Executive without prejudicing the interests of the Council the relevant Members of

the Executive may take the decision after first consulting, where practicable, with the Leader or Deputy Leader, and after complying with any relevant requirements set out in the Constitution.

9. Non-key decisions - delegations to Portfolio Holders

- a) Each Portfolio Holder is authorised to take non-key decisions in connection with the setting of fees and charges and allocation of grants falling within his/her Portfolio up to a limit of £1,000 in respect of any individual grant, other than the allocation of individual private sector renovation grants, home repair grants and disabled facilities grants and access grants. The allocation of grants in excess of £1,000 (other than those delegated to an officer) will be referred to the Executive for determination.
- b) Each Portfolio Holder is authorised to take any non-key decision in respect of any matter falling within his/her Portfolio area as could be taken by an Officer under Schedule 2, except for:
 - i) the award of tenders;
 - ii) decisions in respect of day to day operational or management matters (and the Leader will determine conclusively whether any decision falls into this category in the event of a disagreement between an officer and a Portfolio Holder); and
 - iii) any decision which has, by law, to be taken by an officer.
- c) Any decisions made by a Portfolio Holder pursuant to the delegated powers shall be subject to the Member's:
 - i) compliance with the conditions and limitations set out in paragraph 1 of Schedule 2 as apply to the exercise of delegated powers by Officers;
 - ii) maintaining a close liaison with and consulting with and considering any advice of the appropriate Officers;
 - iii) complying with all legislative requirements relating to the recording of decisions made by Executive members;
 - iv) the receipt of a written report;
 - v) consulting, where appropriate, with the Chairman of the relevant scrutiny Committee prior to making any decision.

10. Non-key decisions - delegations to officers

- a) Responsibility for decisions in respect of any executive functions which are not key decisions (other than those in respect of grants delegated to Portfolio Holders under paragraph 9a above) is also delegated to the

relevant Officer, subject to complying with the Conditions and Limitations set out in Schedule 2.

- b) The Executive acting as a whole may also take any non key decisions which may be referred to it either by an officer or a Portfolio Holder.

11. **Decisions by the Leader**

For the avoidance of doubt, the Leader may also take any decision which under this Scheme of Delegation is capable of being taken by any Member of the Executive or which he is, by law, entitled to take.

12. **Officers**

- a) The Officers for the purposes of this Scheme of Delegation are:
 - i) Chief Executive (Head of Paid Service);
 - ii) Director of Corporate Services
 - iii) Director of People and Place
 - iv) Assistant Director Finance (Chief Finance Officer);
 - v) Assistant Director Governance (Monitoring Officer);
 - vi) Assistant Director Community Services;
 - vii) Assistant Director Commissioning and Technical Services; and
 - viii) Assistant Director Planning and Economic Development
- b) The Chief Executive shall appoint one of the Officers to act as his/her deputy in the event of his/her absence.

13. **Amendment of Scheme**

This Scheme of Delegation may be amended at any time by the Leader as provided for in the Executive Procedure Rules set out in Part 4 of this Constitution.

This page is left intentionally blank

Schedule 1

Policy Areas and Executive Functions included in Portfolios

1. The Council Leader's Portfolio - Strategic and Community Leadership

Portfolio holder: Council Leader - Councillor Virginia Taylor

Portfolio of responsibilities:

- Strategic direction of the Council and the Corporate Plan
- Strategic leadership
- Council's Declaration of Climate and Ecological Emergency
- Devolution and Local Government reorganisation
- External relations
- Executive oversight
- Strategic partnerships, including Arts & Culture and Equality & Diversity
- Ensuring a balanced budget with the Resources Portfolio Holder
- Emergency planning and business continuity, with the Economic and Enterprise Portfolio Holder
- Responsibility for delivery of the Corporate Priorities
- Council communications
- Planning Policy
- Development Management, with the Green Growth Portfolio Holder

2. Communities Portfolio

Portfolio Holder: Councillor Lissie Sharp

Portfolio of responsibilities:

- Community engagement, resilience and empowerment
- Community development activities
- Community safety, crime and disorder
- Distribution of community grants
- Sports, recreation and leisure
- Parks and open spaces
- Children and young people
- Older person services
- Armed Forces Covenant
- Work with third sector organisations
- Parish and Town Council engagement

3. **Economic and Enterprise Portfolio**

Portfolio Holder: Deputy Leader of the Council - Councillor Mary Robinson

Portfolio of responsibilities:

- An Economic strategy which brings investment into Eden and drives vitality and business development
- Work with the market towns, town centres and the rural areas in the district to bring vitality and viability
- Stakeholder relationships linked to economic activities including Town and Parish Councils, Chambers of Trades, BIDs
- Strategic Partnerships linked to economic investment, viability of services and the Local Industrial Strategy for Cumbria
- Relations with businesses and education providers in the District
- Employment within the district
- The promotion of apprenticeships
- The implementation of broadband and communication facilities and services within the district
- Tourism, tourism development and Tourist Information centres
- Land and asset management and maximising income generation and economic opportunities
- Markets
- Shareholder representative on Heart of Cumbria

4. Green Growth Portfolio

Portfolio holder: Councillor Mark Rudhall

Portfolio of responsibilities:

- Sustainable Development
- Assets & Energy
- Land Use
- Consumption & Waste
- Circular Economy
- Zero Carbon Housing (New Build & Retrofit)
- Sustainable Transport & Cycling
- Low Carbon/Greening Eden Businesses
- Climate Change
- Biodiversity
- Flood prevention and management
- Sustainable Waste Service with Services Portfolio Holder
- Home Improvement Agency with Housing & Health Portfolio Holder
- Building Regulations and Building Control
- Development Management with the Leader
- Environmental Enhancement
- Conservation Areas

5. Housing and Health Portfolio

Portfolio Holder: Councillor Judith Derbyshire

Portfolio of responsibilities:

- Council's responsibilities as local housing authority
- Well-being & public health
- Delivery of housing provision to fit all housing needs, including bringing empty houses back into use
- Delivery of better quality homes, existing and new, for all residents
- Statutory homelessness
- Improving housing stock, reducing energy use and emissions, with Green Growth portfolio holder
- Home Improvement Agency, including Disabled Facilities grant
- Environmental health protection, food safety and housing standards
- Embedding public health aims in wider council functions

6. Resources Portfolio

Portfolio holder: Councillor Karen Greenwood

Portfolio of responsibilities:

- Financial management and planning, including ensuring a balanced budget with the Leader
- Financial Services
- Revenues and Benefits
- Procurement and Procurement Strategy
- Policy on General Fund Reserves
- Land and Asset Management Resource Implications
- Office Accommodation Resource Implications
- Information Technology
- Oversight of establishing other methods of Service Delivery (incl. commercial entities)
- The organisational structure and management processes of the Council
- The Management of Succession
- Legal
- Information Governance, Data Protection and Freedom of Information
- Equality and Diversity
- Human Resources
- Staff and Member Training
- Customer Services
- Democratic Services
- Regulatory and Licensing Policy

7. **Services Portfolio**

Portfolio holder: Councillor Michael Tonkin

Portfolio of responsibilities:

- Waste collection and recycling
- Joint working with the County Council and other authorities on waste
- Devolution of functions to Town and Parish Councils
- Street cleansing and ground maintenance
- Cemeteries and closed churchyards
- Public Toilets
- Off-street parking

This page is left intentionally blank

Schedule 2

Executive Functions Delegated to Officers

a) Conditions and Limitations

- i) These delegations relate to executive functions and shall be in addition to and not in derogation from any powers and duties delegated to any Officer in the Council's Accounting and Audit Rules and the Procurement Rules, or in some other part of the Constitution. They do not authorise an Officer to exercise any powers or functions which are reserved to some other part of the local authority whether by law or under this Constitution;
- ii) Each specified Officer is authorised to discharge the executive functions, act on behalf of and exercise the powers of the Executive in relation to the matters specified in this Scheme, subject to the following conditions and limitations:
 1. Any Officer is prohibited from exercising any executive function or taking any decision which is a key decision which must (except as provided for in this Scheme) be taken by the Executive as a whole.
 2. Any exercise of such delegated powers by an Officer shall be in accordance with:
 - a) the plans, strategies and policies forming the policy framework approved or adopted by the Council;
 - b) the budget approved by the Council;
 - c) the Accounting and Audit Rules and the Procurement Rules of the Council;
 - d) the Council's Codes of Practice and Conditions of Employment;
 - e) any legal constraints relating to the exercise of such powers; and
 - f) be made after taking proper account of advice particularly upon financial, legal, valuation or human resources issues.
 3. An Officer must maintain a close liaison with and consult the appropriate member of the Executive in the exercise of delegated powers and comply with any other constraints set out in this Scheme.
 4. Any matter shall be referred to the Executive for decision if the relevant Executive Member or the Leader so requests or if in the opinion of the relevant Officer it should be referred.
 5. Where an Officer considers that a decision which he/she has taken under delegated authority is significant in terms of its effects, context or implications then that decision and the reasons for taking it must be recorded in writing as soon as reasonably practicable after taking the decision. All such decisions shall be reported to the Executive.

6. Any Officer to whom powers are delegated under this Scheme, if he/she considers it necessary, is authorised to arrange for any matter or power delegated to him/her under this Scheme to be exercised in addition by another officer or officers of suitable qualification, seniority, experience and competence, subject to the same limitations to which the Officer is subject under this Scheme. The Officer shall notify the relevant Member of the Executive and the Chief Executive of any such arrangements so made but shall, notwithstanding any such arrangements, remain responsible for decisions taken in the exercise of such powers.
7. The Chief Executive is authorised to exercise any power or function which is delegated to an Officer under this Scheme

b) Powers Delegated to the Chief Executive, Director of Corporate Services, Director of People and Place and Assistant Directors of Governance, Finance, Planning and Economic Development, Community Services and Commercial and Technical Services (the identified officers)

i) In Connection with Financial Matters

Each of the identified officers shall ensure that Accounting and Audit Rules and the Procurement Rules are observed throughout his/her Department and Section. He/she shall also ensure that all Officers are fully aware of and accept the content of such aspects of financial management, maintaining a record of those officers to whom these regulations have been issued, thus providing a framework of financial administration and control which facilitates compliance with Section 151 of the Local Government Act 1972.

Each of the identified officers shall have authority to:

1. manage buildings and facilities under their control;
2. open and accept tenders or quotations and the placing of orders for goods, materials or the execution or works without tenders or quotations in accordance with Accounting and Audit Rules and the Procurement Rules;
3. incur revenue expenditure within the Council's Departmental Budgets;
4. approve price and other variations under contracts;
5. authorise variation orders under contracts;
6. dispose of surplus or obsolete equipment in accordance with the Accounting and Audit rules;
7. administer contracts awarded by the Council;
8. issue orders and accept tenders for goods, services or works or the acquisition of assets of whatever kind within their areas of responsibility, provided compliance is made with all the relevant Accounting and Audit Rules and the Procurement Rules of the Council;

the expenditure can be met within the budget previously approved by the Council or is within any scheme of virement which may be from time to time approved by the Council and the lowest tender is accepted. Any decision to award other than to the lowest tenderer must be referred to the executive unless this requirement is waived by the Executive or is taken under the urgency provisions set out in the Procurement Rules; and

9. undertake virement in budgets for which they are responsible in accordance with the principles set out in the Accounting and Audit Rules or otherwise approved by the Council from time to time.

ii) **In Connection with Personnel Matters:**

To be responsible for the effective management of all personnel, in particular their recruitment and selection (apart from any case where the appointment shall be made by the Human Resources and Appeals Committee) and their deployment, direction, assessment and development, in accordance with the Council's Policies and Procedures.

Each of the identified officers shall have authority to:

1. engage temporary, Agency or casual staff, to posts graded below Grade H subject to costs being met from existing budgets;
2. authorise overtime for staff below grade H subject to there being sufficient budgetary provision and for staff above grade H subject to there being a specific planned overtime budget;
3. grant leave, including compassionate leave and to determine applications for paid/unpaid leave and holiday purchase;
4. authorise the attendance at training courses falling within the Council's staff training policies and in accordance with the training needs assessment;
5. permit incremental advancement to new entrants on appointments to the Council's service;
6. discipline employees in accordance with the Council's agreed Disciplinary Procedures; and
7. allow officers above Grade G, or the equivalent, to undertake additional employment provided that any such employment does not conflict with, nor could it be seen to be detrimental to, the Council's interests or the National Code of Conduct applicable or in any way weaken public confidence in the conduct of the Council's business.

To the extent that such matters are executive functions and not the responsibility of the Council, some other body or the Head of Paid Service under the Council's Constitution, to be responsible for all matters relating to the effective management of all personnel within their respective service areas of responsibility, and in particular, for their deployment, direction,

assessment and development in accordance with the Council's policies and procedures and to exercise discipline of employees in accordance with the Council's agreed disciplinary procedures.

Without prejudice to the generality of this paragraph, to be responsible for authorising:

- a) exceptional leave of absence in accordance with the Council's policies;
- b) attendance by staff at training courses in accordance with the Council's staff training scheme or at conferences and external meetings;
- c) in consultation with the Chief Executive to implement reorganisations within their service areas of responsibility and to vary the establishment for which they are responsible within approved salaries budgets.

iii) **In Connection with General Matters**

Each of the identified officers shall have authority to:

1. authorise persons to enter land for any statutory purpose;
2. take necessary measures to ensure that appropriate standards of health, safety and welfare are achieved in the activities of the Council and its Departments, in compliance with the Health and Safety at Work etc Act 1974 and the Council's Health and Safety Policy;
3. serve requisitions for information in connection with the exercise of the Council's Statutory Powers;
4. where the instructions of the appropriate Executive Member cannot be expeditiously obtained but emergency action is considered to be necessary in order to protect the interests of the Council, take such action as is required (other than legal action) following such consultation as is appropriate provided that a report is made to the relevant Executive Member as soon as practicable following the taking of the action;
5. deal with lost or uncollected property;
6. approve (in consultation with the Leader) attendance by the Chairman or Vice-Chairman of a committee or a member of the Executive of the Council at any meeting, discussion, conference, seminar, workshop, training event or forum of a like nature where the business is directly connected with the functions of the committee of the Chairman, Vice-Chairman or Executive member concerned;
7. to serve requisitions for information in connection with the exercise of the Council's statutory powers in their areas of responsibility, including requisitions under Section 330 of the Town and Country Planning Act 1990 and Section 16 of the Local Government (Miscellaneous Provisions) Act 1976, but only to the extent that these are executive functions under the Constitution; and

8. authorise the service of any notice, order or other document or proceedings in connection with any executive function falling within the Officer area of responsibility.

c) Specific Delegation to the identified Officers

i) To the Chief Executive

The Chief Executive shall have authority to:

1. take any action, including incurring expenditure, in connection with an emergency or disaster in the District. In the event of an emergency occurring, the Council should have a cascade of delegation to take necessary actions as follows; Chief Executive, Director of People and Place, Assistant Director Planning and Economic Development, Assistant Director Finance, Assistant Director Commercial and Technical Services, Assistant Director Community Services;
2. exercise powers delegated to any chief officer when that officer is unable or unwilling to act;
3. approve, in consultation with the Assistant Director Governance and Assistant Director Finance, the payment of financial compensation not exceeding £500, to resolve a complaint submitted in accordance with the Council's complaints procedure; and
4. to issue authorisation to carry out directed surveillance or to use covert human intelligence sources under Part II of the Regulation of Investigatory Powers Act 2000.

ii) To the Assistant Director Governance

The Assistant Director Governance shall have authority to:

1. institute, defend, appear and be responsible for the conduct of any legal proceedings in any civil or criminal court or tribunal on behalf of and in the name of the Council, including payments to settle proceedings in accordance with determined financial limits;
2. authorise officers to appear in the Magistrates and County Courts;
3. prepare, sign and serve any Notice or Order under any statute on behalf of the Council;
4. sign indemnities where they are required to enable the Council to exercise any of its functions provided that where the giving of an indemnity could have considerable financial implications the Director of Finance shall be required to give his/her approval;
5. make formal applications to H M Land Registry to register and dispense with statutory charges, in respect of private residential properties;

6. give the written consent required under Section 156 (2A) of the Housing Act 1985 in respect of applications for the postponement of the Council's statutory charge on a property where the applicant has applied for an advance or further advance and such advance or further advance is for an "approved purpose" as defined in Section 156 (4A) of that Act;
7. determine, in consultation with the relevant Executive Member and the local Ward Member, requests for consent to the disposal of former Council houses under section 157 of the Housing Act 1985;
8. grant exclusive rights of burial upon payment of the appropriate fee;
9. exercise the functions of the Monitoring Officer for the Council;
10. prepare, sign and serve and confirm any order on behalf of the Council;
11. prepare, sign or seal and serve any document on behalf of the Council;
12. receive and open tenders for the supply of goods, works or services;
13. issue such notices as may be required and to refuse, where appropriate, requests for information under and in compliance with the Freedom of Information Act 2000;
14. amend the Council's Publication Scheme as may be necessary from time to time;
15. grant permission for easements and/or wayleaves where such grant would not, in the view of an independent valuer, materially adversely affect the value of the land;
16. approve any changes which are required to administer the agreements and leases in relation to the New Squares Scheme and to determine any requests from the developer subject to consultation with any other relevant officer and the relevant Executive member/s, where the nature and magnitude of the request so warrants;
17. determine and respond to requests for reuse of information made under the Reuse of Public Sector Information Regulations 2005;
18. make applications to the court for anti-social behaviour orders in relation to such individuals as he/she considers appropriate;
19. appoint an appropriate representative to act on behalf of the Council in connection with any hearing or proceedings subject to the cost of any appointment being met from an existing budget;
20. select contractors and consultants to tender for work or supply services to the authority and to appoint contractors and consultants to carry out projects for the Authority within established Council policies within his/her sphere of responsibility;

21. approve any changes in consultation which are required to administer the agreements and leases in relation to the New Squares Retail Scheme and to determine any requests from the developer subject to consultation with other Chief Officers and the relevant Executive member, where the nature and magnitude of the request so warrants;
22. approve the making of footpath diversion orders;
23. undertake a review of a penalty charge notice served under the Smoke and Carbon Monoxide Alarm (England) Regulations; and
24. act as the Monitoring Officer for the Regulation of Investigatory Powers Act 2000
25. take decisions and actions (including serving of notices and the institution of legal proceedings and making statutory orders) in relation to fire prevention, safety precautions, enclosure of dangerous places, dilapidated buildings and other structures and neglected sites.

iii) **To the Assistant Director Finance**

The Director of Finance shall have authority to:

1. collect all Council revenues and income;
2. determine applications for Council Tax Reduction and applications for Housing Benefits including applications for backdated claims, and to act against fraud in all cases;
3. make all lawful payments complying with the requirements of the Council's Accounting and Audit Rules;
4. enforce the Council Tax and National Non-Domestic Rate Regulations and to recover any amount outstanding to the Council (including the delegation of officers to attend County and Magistrates' Courts);
5. administer the Assisted Car Purchase Scheme of the Council;
6. implement national salary and wage awards;
7. arrange the local authority borrowings as and when required, provided any borrowing complies with CIPFA's Prudential Code;
8. write off for accountancy purposes all bad debts not exceeding £5000 provided always that recovery of the debt shall not thereby be prejudiced and to write off any amount as remitted by the Magistrates on committal applications;
9. manage the Council's investments;
10. negotiate the terms of the Council's banking arrangements;
11. arrange all the Council's insurances;

12. determine the Local Authority mortgage interest rate in accordance with the appropriate legislation;
13. maintain an adequate and effective system of internal audit in compliance with the CIPFA;
14. sanction the use of covert surveillance in respect of external investigations under the Regulation of Investigatory Powers Act 2000;
15. set the Council Tax base;
16. exercise the functions of the Chief Finance Officer for the Council;
17. determine applications for a reduction in Council Tax Liability (local discounts) under section 13A Local Government Finance Act 1992;
18. receive and open tenders for the supply of goods, works or services;
19. determine applications for village hall grants, discretionary business rates and relief and discretionary housing payments in accordance with Council policies;
20. undertake the role of Head of Internal Audit;
21. determine the precept payment dates for major precepting bodies;
22. agree the NNDR1 forecast for National Non-Domestic Rates (Business Rates) to be collected in the forthcoming year;
23. determine Council Tax discounts and premiums, in accordance with agreed policy and guidelines;
24. determine payment dates for instalments of the Business Rates Retention Scheme income to Cumbria County Council; and
25. to issue authorisation to carry out directed surveillance or to use covert human intelligence sources under Part II of the Regulation of Investigatory Powers Act 2000.

iv) **Assistant Director Planning and Economic Development**

The Assistant Director Planning and Economic Development shall have authority to:

1. under the Town and Country Planning General Regulations 1992, seek planning permission in respect of developments proposed to be carried out by the Council and in respect of land vested in the Council, which it is proposed to dispose of;
2. determine all other matters required to be dealt with as part of the management and administration of the Council's development control function and powers, including (but not exclusively):
 - i) amendments to approved plans;
 - ii) details submitted pursuant to conditions;

- iii) matters relating to protected trees;
 - iv) consultation with other bodies on planning matters;
 - v) enforcement of planning control (in consultation with the Assistant Director Governance); and
 - vi) appeals.
3. deal with enquiries and applications under Part 8 of the Anti-Social Behaviour Act (High Hedges);
 4. deal with the payment of historic building and conservation grants in response to applications fulfilling the relevant criteria, subject to finance being available within the current budget;
 5. determine, within budget provision and grant criteria, conservation area based partnership grant scheme applications and amendments;
 6. determine within budget provision and grant criteria Planning (Listed Buildings and Conservation Areas) Act 1990 grant applications and amendments;
 7. decide not to use the powers available under Sections 48 and 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990;
 8. determine within the budget provision and grant criteria, reclamation and enhancement schemes, grant applications and amendments;
 9. determine applications for countryside reclamation schemes, derelict and unkempt land grants up to a value of £1,000 subject to such applications complying with the policies of the Planning Committee and to regular reports being submitted to that Committee for information; and
 10. respond to notifications to the Local Planning Authority in respect of works which by virtue of the ecclesiastical exemption are exempt from listed building control and conservation area control;
 11. approve variations in the fees to be charged for local land searches (including Con 29 enquiries);
 12. manage in accordance with the Council's policies, all resources held by the Council for tourism, town centre and rural areas management;
 13. administer the spending of the tourism, town centres and rural areas management budgets;
 14. administer the spending of the tourism revenue budget;
 15. manage the Council's Information Centres and Markets;
 16. manage in accordance with Council policies all resources held by the Council for economic development purposes subject to this authority excluding the power to dispose of industrial sites and premises;

v) **To the Assistant Director Community Services**

The Assistant Director Community Services shall have authority to:

1. act in accordance with Control of Pollution and Environmental Protection legislation in regulating waste disposal;
2. carry out all action necessary under environmental health and health and safety legislation, including authorising environmental health officers/technicians and licensing officers to enter premises and to carry out their duties;
3. carry out all licensing and registration functions;
4. deal with the management of the Council's duties towards the homeless as defined under legislation;
5. authorise and sign all Notices, including requisitions for information, under the Housing Acts and other legislation for the repairing of houses in the private sector and for the arranging and undertaking of works in default;
6. authorise all action required to repair houses in the private sector, including the administration of the improvement grant scheme, and authorise officers, including Environmental Health officers and Technicians, to enter premises in order to ensure health, safety and welfare in accordance with legislation;
7. arrange the burial of destitute persons and authorise the granting of exclusive rights of burial;
8. issue recycling credits and other income to groups assisting the Council in specific recycling projects;
9. authorise and issue Formal Cautions in accordance with the Council's Health and Safety Enforcement Policy and Food Safety Enforcement Policy;
10. determine applications for mandatory disabled facilities grants;
11. act as the proper officer for the purpose of Section 49(5) of the Food Safety Act 1990 and sign authorisation documents on behalf of the Council;
12. sign authorisation documents on behalf of the Council pursuant to Paragraphs 17 and 20(i) to Schedule 2 of the Health and Safety at Work etc Act 1974 appointing Inspectors of health and safety under section 19(i) of the Act;
13. appoint a public analyst under Section 77 of the Food Safety Act 1990;
14. approve or refuse applications for Accredited Landlords Grants insofar as any grants approved largely meet the agreed criteria for the scheme and adequate budgetary provision is available;

15. exercise the powers conferred on District Councils under the Housing Act 2004 - Part 1, Part 2 and Part 4;
16. appoint an officer as an inspector for the purposes of section 51 of the Animals Act 2006;
17. authorise officers to issue notices under section 59 of the Clean Neighbourhoods and Environment Act 2005;
18. authorise officers to issue notices under section 43 of the Anti-Social behaviour Act 2003;
19. authorise officers to issue notices under section 88 of the Environmental Protection Act 1990;
20. authorise officers to enforce the provisions of Food Hygiene Regulations;
21. appoint authorised officers under the Sunbeds (Regulation) Act;
22. authorise officers under the Water Industry Act;
23. authorise officers under the Public Health (Control of Disease) Act 1984 and regulations made thereunder;
24. issue notices under the Environmental Permitting Regulations;
25. serve Community Protection Notices on behalf of the Council under the Anti Social Behaviour, Crime and Policing Act 2014;
26. determine applications for grants under the Council's scheme to secure alterations to premises to improve facilities and access for disabled persons;
27. award grants for repairs to individual properties or to accredited landlords;
28. serve a remedial notice and serve a penalty charge notice under the Smoke and Carbon Monoxide Alarm (England) Regulations; and
29. issue authorisation to carry out directed surveillance or to use covert human intelligence sources under Part II of the Regulation of Investigatory Powers Act 2000.
30. consider applications under the Licensing Act 2003 in accordance with the delegation of functions contained in the Council's Statement of Licensing Policy;

vi) **To the Assistant Director Commissioning and Technical Services**

The Assistant Director Commissioning and Technical Services shall have authority to:

1. procure independent valuation and estate agency services for the Council;
2. receive and open tenders for the supply of goods, works or services;
3. approve, conditionally approve or refuse submitted Building Regulation applications for domestic properties;
4. approve, conditionally approve or refuse submitted Building Regulation applications for commercial properties;
5. approve, conditionally approve or refuse submitted Building Regulation applications for industrial premises;
6. accept or refuse Initial Notices served by Approved Inspectors;
7. accept or refuse Building Notices;
8. accept or refuse Notices served by Approved Installers;
9. vary the provisions of the Building Regulations;
10. approve or refuse amendments submitted for schemes already approved;
11. serve notices under Section 36 of the Building Act 1984 and the institution of legal proceedings (subject to reporting to Planning Committee on action taken);
12. determine Notices of Intention under the Building Act 1984 in respect of the demolition of buildings;
13. determine whether or not approval of details should be sought when a Notice of Intention under the Building Act 1984 to carry out works of demolition has been received;
14. issue Completion Certificates under the Building Regulations upon satisfactory completion of works;
15. serve notices under Sections 77 and 78 of the Building Act 1984 in respect of dangerous structures;
16. deal with the Council's powers and duties under Section 32 and Section 59 of the Building Act 1984 (drainage of buildings) including the execution of works in default of compliance with statutory notices;
17. vary the standard fee scales of the Local Government Association Model Scheme for charges relating to Building Regulation activities by plus or minus 10%;

18. vary in consultation with the Assistant Director Finance, the standard fee scales of the Local Government Association Model Scheme for charges relating to Building Regulation activities by a percentage of more than 10% subject to a quarterly report being presented to the Planning Committee when this discretion has been exercised;
19. exercise the right of entry into premises conferred by Section 95 of the Building Act 1984;
20. submit observations to the Secretary of State in relation to cases referred for Determination under Section 30 of the Building Act 1984;
21. dispose of land valued at £2,500 or less;
22. carry out the duties of supervising officer to engineering and architectural contracts and assume powers to ensure the safe and efficient completion of works and the general safety of property and highways;
23. in consultation with the Assistant Director Finance, exercise the powers and duties of the Council under the Highways Acts with regard to payments to be made by owners of new buildings in respect of street works, the granting of exemption from such payments and the determination of liability for and the amount of such payments;
24. determine, in consultation with the local ward member, responses to rights of way proposals;
25. consider requests for the maintenance of footway lighting provided through the Crime and Disorder Partnership;
26. determine requests for road closures under the Town Police Clauses Act 1847;
27. reduce the hours of operation in toilets, in consultation with the Parish and Town Councils, where unacceptable levels of vandalism occur;
28. take decisions, in consultation with the relevant Executive member with respect to the resources available to the Cumbria Strategic Waste Partnership;
29. carry out all functions relating to the day-to-day management of the corporate estate and to determine whether or not action should be taken under the Landlord and Tenant and Law of Property Acts in consultation with the Assistant Director Governance;
30. maintain, as the responsible officer, registers of Council land ownerships including the register of Public Bodies Land under Part X of the Planning and Land Act 1980, and to be the responsible officer for the purchase and disposal of land and buildings, including any resultant compensation payments;

31. deal with land and property transactions and with the relevant Executive member in consultation with the Assistant Director Governance;
32. deal with valuations relating to property, including mortgages, legal charges, and other financial charges in land and buildings;
33. act in accordance with appropriate legislation, and Council policy, in respect of the administration, maintenance, improvement and safety of the public highway, street lighting, streets, car parking, buildings, public conveniences, sewerage, leisure, recreation, environmental services and land drainage;
34. procure independent valuation and estate agency services for the Council.

Part 4

Rules of Procedure

This page is left intentionally blank

Index

Page No

A.	Council Procedure Rules	147
B.	Access to Information Procedure Rules	169
C.	Executive Procedure Rules	179
D.	Budget and Policy Framework Procedure Rules.....	197
E.	Committee Procedure Rules	207
F.	Scrutiny Procedure Rules	215
G.	Accounting and Audit Rules	231
H.	Procurement Rules	253
I.	Officer Employment Procedure Rules	267

This page is left intentionally blank

A. Council Procedure Rules

Rule	Page No
1. Annual Meeting of the Council	149
2. Ordinary Meetings.....	150
3. Extraordinary Meetings	150
4. Appointment of Substitutes	151
5. Time and Place of Meetings.....	152
6. Notice and Summons to Meetings	152
7. Chairman of Meeting.....	152
8. Quorum	152
9. Duration of Meeting.....	152
10. Questions by the Public	153
11. Public/Member Participation at Meetings	154
12. Questions by Members	155
13. Motions on Notice	156
14. Motions Without Notice	157
15. Previous Decisions and Motions	158
16. Rules of Debate	158
17. Voting.....	161
18. Minutes	162
19. Record of Attendance	163
20. Exclusion of Public.....	163
21. Members' Conduct.....	163
22. Disturbance by Public	164
23. The Council's Seal	164

24.	Committees and Sub-Committees	164
25.	Operation of Council Procedure Rules.....	165
26.	Public Arrangements - Petitions	166
27.	Disclosure of Personal Interests	166
28.	Effect of Disclosable Pecuniary Interests on Participation	167
29.	Effect of Council-appointed Membership of Outside and Arm's Length Bodies on Participation	168

A. Council Procedure Rules

1. Annual Meeting of the Council

a) Timing and business

The Annual Meeting of the Council shall be held at the Town Hall, Penrith:

In a year when there is an ordinary election of Members, the Annual Meeting will take place within 21 days of the retirement of the outgoing Members.

In any other year, the Annual Meeting will take place on a suitable Thursday in May at 6.45pm.

The Annual Meeting will:

- elect a person to preside if the Chairman of Council is not present;
- elect the Chairman of Council;
- appoint the Vice Chairman of Council;
- approve the minutes of the last meeting of Council and any other meetings which took place during the previous municipal year and have not been formally approved during that municipal year;
- receive any announcements from the Chairman and/or head of the paid service;
- elect the Leader at the Annual Council meeting held after the regular election of District Councillors;
- formally appoint the Members to the Executive as proposed by the Leader;
- appoint at least one scrutiny committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council (as set out in Part 3 of this Constitution) nor are executive functions;
- decide the allocation of seats on committees and sub committees in accordance with the rules relating to political proportionality;
- decide the list of outside bodies on which the Council will seek representation;
- receive nominations of Members to serve on each committee and outside body;
- appoint all members of those committees and outside bodies except where the appointment to those bodies has been delegated by the Council or is exercisable only by the Executive;
- approve a programme of ordinary meetings of the Council for the year; and

- consider any business set out in the notice convening the meeting.

b) **The Chairman of the Council**

The Chairman of the Council shall be elected annually.

No member of the Executive may be elected as the Chairman or Vice-Chairman of Council.

2. Ordinary Meetings

Ordinary meetings of the Council will take place in accordance with the programme decided at the Council's Annual Meeting.

Ordinary meetings will:

- select a person to preside if the Chairman and Vice Chairman are not present;
- approve the minutes of the last meeting;
- receive any announcements from the Chairman, the Leader, members of the Executive or the Head of Paid Service;
- receive any Executive Report for information;
- receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- receive representations, answers to questions and evidence from members of the public and/or Members of the Council at the discretion of the Chairman;
- deal with any business from the last Council meeting;
- receive reports from the Executive and the Council's committees and receive questions and answers on any of those reports;
- receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- consider motions; and
- consider any other business specified in the summons to the meeting, and reports of the Scrutiny Committees for debate.

3. Extraordinary Meetings

a) **Calling extraordinary meetings**

Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:

- i) the Council by resolution;
- ii) the Chairman of the Council;
- iii) the Monitoring Officer; and/or

- iv) any five Members of the Council if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.
- b) the only item which may be considered at an extraordinary meeting is the matter for which the meeting has been called. No questions or notices on motion in addition to this item will be permitted.
- c) the requisition to which rule a) iv) above applies shall set out the nature of the item to be considered at the proposed meeting and why this is urgent.

4. Appointment of Substitute Members of Committees

a) Allocation

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

Pursuant to Section 102 of the Local Government Act 1972, no Member shall be appointed to act as a substitute to any meeting of the Council unless his/her position as a substitute has been approved by the full Council.

b) Number

The Council will appoint for each committee the same number of substitutes in respect of each political group as that group holds ordinary seats on that committee, up to a maximum of four.

c) Powers and duties

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

d) Substitution

In the first instance, every effort should be made to appoint a substitute from the same group as the same Member who will be absent. Only after demonstrable effort has been made to do this, should a member be appointed from a different group, and the reasons for the appointment should be recorded in the minutes of the meeting.

Substitute Members may attend meetings in that capacity only:

- to take the place of a person who has been appointed as an ordinary Member;
- when the Member who will be absent has appointed that member as their designated substitute;
- where the ordinary Member will be absent for the whole of the meeting; and

- after notifying the committee chairman at the start of the meeting of the intended substitution.

5. Time and Place of Meetings

The time and place of meetings will be determined by the Chief Executive and notified in the summons.

6. Notice and Summons to Meetings

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Chief Executive will send a summons signed by him or her by post to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

No report shall appear as an item on the summons for a meeting unless the opportunity has been afforded the Monitoring Officer and the Chief Finance Officer to consider the legal and financial implications of the report and the impact, if any, on the budget and policy framework.

In the event of an urgent matter requiring consideration, the report will be included on the summons or be considered as an urgent item, in accordance with the Access to Information Procedure Rules below, and with the agreement of the Monitoring Officer and the Chief Finance Officer.

7. Chairman of Meeting

The person presiding at the meeting may exercise any power or duty of the Chairman in relation to the conduct of a meeting.

8. Quorum

The quorum of a meeting of Council will be ten Members. During any meeting if the Chairman counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting or extraordinary meeting convened for that purpose.

9. Duration of Meeting

Majority Vote to Continue

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

10. Questions by the Public

a) **General**

A member of the public may ask a question including one of the Leader or a Member of the Executive at any meeting of the Council.

b) **Order of questions**

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

c) **Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Assistant Director Governance no later than midday one clear working day (that is not counting the day of the meeting or the day of delivery) before the day of the meeting. Each question must give the name and address of the questioner.

d) **Number of questions**

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

e) **Scope of questions**

The Assistant Director Governance may reject a question if it:

- is not about a matter for which the local authority has a responsibility or does not affect the District;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past twelve months; or
- requires the disclosure of confidential or exempt information.

f) **Record of questions**

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

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

g) **Asking the question at the meeting**

The Chairman will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, he/she may ask the Chairman, Chief Executive or Assistant Director Governance to put the question on his/her behalf. The

Chairman may ask the question on the questioner's behalf or indicate that a written reply will be given.

h) **Supplemental question**

A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 10e) above.

i) **Written answers**

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer.

j) **Reference of question to a committee**

Any Member may move that a matter raised by a question be referred to the Executive or an appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

The Chairman will invite a Member to respond to the question, if appropriate. Ordinarily the Chairman will invite the Leader or the Member of the Executive with responsibility for the issue concerned to respond to the question.

11. Public/Member Participation at Meetings

- a) Any person, including a Member of the Council, who attends a meeting of the Council, the Executive or its committees or sub-committees may be invited by the Chairman of that meeting to make representations, answer questions or give evidence in relation to any matter for which the Council has responsibility or which falls within the terms of reference of the Executive, a committee or sub-committee of the Council.
- b) Any person who wishes to make representations, answer questions or give evidence to any meeting of the Council or of its Executive or any of its Committees should request to do so in writing to the Assistant Director Governance by no later than midday one clear working day (that is not counting the day of the meeting or the day of delivery) before the day of the meeting.
- c) Any person who wishes to ask a question may do so in accordance with paragraphs 10 or 12 as applicable.
- d) The request should set out the nature of any representations or evidence that the member of the public or Member of the Council wishes to raise before the meeting. The Assistant Director Governance will notify the Chairman of the meeting of the receipt of the request and of its nature. The Chairman of the meeting will decide whether or not to permit the member of the public to make representations give evidence or answer questions and the Assistant Director Governance will notify the individual concerned of the Chairman's decision.

The Chairman's decision shall be at his sole discretion. Ordinarily the Chairman can be expected to agree to the request. The Chairman may refuse a request if the subject matter is considered to be irrelevant, vexatious, frivolous, repetitious, defamatory or is otherwise inappropriate. The Chairman of the meeting may limit the time during which the representations may be made or the evidence given.

- e) Where the Member has a disclosable pecuniary interest in the matter, he/she must withdraw from the meeting immediately after speaking, in accordance with the Members' Code of Conduct.

12. Questions by Members

a) Questions on reports

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

b) Questions on notice at full Council

Subject to Rule 12c) below, a Member of the Council may ask the Leader, the Member of the Executive or the Chairman of any committee a question on any matter in relation to which the Council has powers or duties or which affects the District of Eden.

c) Questions on Notice to Portfolio Holders at Scrutiny Board and Committee Meetings

From time to time, Members of the Executive attend meetings of the Scrutiny Co-ordinating Board and Scrutiny Committees at the invitation of the Chair. Subject to Rule 12d below, a member of a Scrutiny Board or Committee may ask a Member of the Executive a question on any matter related to the Executive Members' published Portfolio Plan and Portfolio responsibilities as outlined elsewhere in this Constitution.

d) Notice of questions

A Member may only ask a question under Rule 12b) if either;

- he/she has given notice by delivering the question in writing or by electronic mail to the Assistant Director Governance no later than midday one clear working day (that is not counting the day of the meeting or the day of delivery) before the day of the meeting; or
- the question relates to urgent matters, he/she has the consent of the Leader or Member of the Executive or Chairman to whom the question is to be put and the content of the question is given to the Assistant Director Governance prior to the meeting.

- e) Any written response to a Member's question should be sent by electronic mail to all Members by not later than 4pm on the day of the meeting.

f) **Variation to arrangements of questions on notice at full Council**

Any variation to the arrangements to questions from Council Members will be at the discretion of the Chairman, seconded by another Member and carried by a majority vote.

g) The Chairman will invite the questioner to put the question to the Member concerned and for the response to be given.

h) **Response**

An answer may take the form of:

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

i) **Supplementary question**

A Member asking a question under Rule 12b) may ask one supplementary question without notice of the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

13. Motions on Notice

a) **Notice**

Except for motions which can be moved without notice under Rule 14 below, written notice of every motion, signed by the member giving the notice, must be delivered to the Assistant Director Governance not later than eight clear calendar days (that is not counting the day of the meeting or the day of delivery) before the date of the meeting. These will be entered in a book open to public inspection.

b) **Motion set out in agenda**

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

c) **Scope**

Motions must be about matters for which the Council has a responsibility or which affect the District of Eden.

d) **Exclusion of notices of motion out of order**

The Chairman, on the advice of the Assistant Director Governance, may exclude from the Council summons any notice of motion which may be out of order, or he/she may make such corrections therein as will bring it into due form with the approval of the mover(s).

In accordance with Rule 15 below, if a motion seeks to vary or reverse a decision made by Council within the previous twelve months it will not be included in the summons.

e) **Motions not moved**

If a motion set out in the summons is not moved by the member(s) who gave notice, it shall be treated as withdrawn and shall not be moved without fresh notice.

f) **Motions to be referred to Committee**

Motions falling within the remit of a committee, shall, after being moved and seconded, be automatically referred to the relevant committee. However the Chairman has the power to allow them to be dealt with at the Council meeting.

14. Motions Without Notice

The following motions may be moved without notice:

- to appoint a Chairman of the meeting at which the motion is moved;
- in relation to the accuracy of the minutes;
- to change the order of business in the agenda;
- to refer something to an appropriate body or individual;
- to require a named vote to be taken under Rule 17e) below;
- to approve or refuse recommendations of committees or officers and any resolutions following from such approval or refusal;
- to grant leave to withdraw a motion;
- to amend a motion;
- to proceed to the next business;
- that the question be now put (other than by a Member who was the last speaker);
- to adjourn a debate;
- to adjourn a meeting;
- that the meeting continue beyond three hours in duration;
- to suspend a particular Council procedure rule in accordance with Rule 25a) below;

- to exclude the public and press in accordance with the Access to Information Rules;
- to not hear further a member named under Rule 21d) or to exclude them from the meeting under Rule 21e); and
- to give the consent of the Council where its consent is required by this Constitution.

15. Previous Decisions and Motions

a) Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of Council within the past twelve months cannot be moved unless the Notice of Motion is signed by at least five Members.

b) Motion similar to one previously rejected

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

16. Rules of Debate

a) No speeches until motion seconded

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

b) Motion in writing

Unless notice of the motion has already been given or the motion is set out as a recommendation, the motion or an amendment, as soon as it is seconded will be written down and agreed by the proposer and read out prior to any discussion.

c) Secunder's speech

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

d) Content and length of speeches

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

e) **When a Member may speak again**

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

- i) to speak once on an amendment moved by another Member;
- ii) to move a further amendment if the motion has been amended since he/she last spoke;
- iii) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- iv) in exercise of a right of reply;
- v) on a point of order; and
- vi) by way of personal explanation.

f) **Amendments to motions**

- i) An amendment to a motion must be relevant to the motion and will either be:
 - (1) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (2) to leave out words;
 - (3) to leave out words and insert or add others; or
 - (4) to insert or add words;
 - (5) as long as the effect of (2) to (4) is not to negate the motion.
- ii) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- iii) If an amendment is not carried, other amendments to the original motion may be moved.
- iv) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- v) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

g) **Alteration of motion**

A member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

A member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

Only alterations which could be made as an amendment may be made.

h) **Withdrawal of motion**

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

i) **Right of reply**

The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.

If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

The mover of the amendment has the penultimate right of reply to the debate on his or her amendment but has no right of reply to the mover of the original motion.

j) **Motions which may be moved during debate**

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

- to withdraw a motion;
- to amend a motion;
- to proceed to the next business;
- that the question be now put;
- to adjourn a debate;
- to adjourn a meeting;
- that the meeting continue beyond three hours in duration;
- to exclude the public and press in accordance with the Access to Information Rules; and
- to not hear further a Member named under Rule 21d) or to exclude them from the meeting under Rule 21e).

k) **Closure motions**

A Member may move, without comment, the following motions at the end of a speech of another member:

- to proceed to the next business;
- that the question be now put;
- to adjourn a debate; or
- to adjourn a meeting.

If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

l) **Point of order**

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

m) **Personal explanation**

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

17. Voting

a) **Majority**

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

b) **Chairman's casting vote**

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

c) **Show of hands**

Unless a ballot or named vote is demanded under Rules 17d) and 17e) below, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

d) **Ballots**

The vote will take place by ballot if five Members present at the meeting demand it. The Chairman will announce the numerical result of the ballot immediately the result is known.

e) **Named vote**

If one member present at the meeting of Council demands a named vote, the Chairman will ask that four Members rise to support it. The names for and against the motion or amendment or abstaining from voting will be taken down in writing by the Assistant Director Governance and entered into the minutes.

Members should stand when a named vote takes place to make the voting entirely clear and enable more effective recording. A demand for a named vote will override a demand for a ballot.

f) **Right to require individual vote to be recorded**

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

g) **Voting on appointments**

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

18. Minutes

a) **Signing the minutes**

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

b) **No requirement to sign minutes of previous meeting at extraordinary meeting**

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

c) **Form of minutes**

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

19. Record of Attendance

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

20. Exclusion of Public

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 22 (Disturbance by Public).

21. Members' Conduct

a) **Smoking at meetings**

There shall be no smoking at meetings of the Council, committees or sub-committees.

b) **Standing to speak**

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

c) **Chairman standing**

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

d) **Member not to be heard further**

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

e) **Member to leave the meeting**

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

f) **General disturbance**

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

22. Disturbance by Public

a) **Removal of member of the public**

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If he/she continues to interrupt, the Chairman will order the removal of that person from the meeting room.

b) **Clearance of part of meeting room**

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

23. The Council's Seal

a) **Custody**

The Common Seal of the Council shall be kept in a safe place in the custody of the Assistant Director Governance.

b) **Affixing**

Except where it is otherwise provided by statute, the Assistant Director Governance, or his/her deputy, will authorise the affixing of the Common Seal of the Council to any documents necessary to give formal effect to any act or decision authorised by the Council or any of its committees.

c) **Attestation**

The seal will be attested by the Chairman of the Council and by the Assistant Director Governance or his/her deputy appointed for this purpose. An entry of every sealing of a document will be made in a book provided.

24. Committees and Sub-Committees

a) **Application of Council Rules of Procedure**

All of the Council Rules of Procedure apply to meetings of full Council. The application of these rules to committees and sub-committees is set out in the Committee Procedure Rules below. None of the rules apply to meetings of the Executive.

b) **Appointment of Committees**

The Council shall at its Annual Meeting appoint such Committees as are necessary to carry out the work of the Council but, subject to any statutory provisions in that behalf.

The following shall be the Committees of the Council and shall consist of the number of members specified opposite each committee:

Committees

Planning Committee	11
Licensing Committee	10
Environment and Economy Committee	9
Housing and Community Committee	9
Scrutiny Co-ordinating Board	9
Accounts and Governance Committee	9
Human Resources and Appeals Committee	9

The powers and duties of each Committee are those set out in the Council's scheme of Delegation to Committees and Sub-Committees.

c) **Election of Chairmen of Committees**

Council will appoint the Chairs of all Committees at the annual meeting. Each committee, will, at the first meeting following the Annual Meeting of the Council, before proceeding to any other business, elect a Vice Chairman for the year. In the absence from the meeting of a Chairman (and the Vice Chairman) a Chairman for that meeting may be appointed.

d) **Attendance of Members**

A Member may attend a meeting of a committee on which he/she does not sit, whether or not he/she attends as a representative of another committee or where business affecting that Member's ward is to be discussed.

25. Operation of Council Procedure Rules

a) **Suspension**

All of these Council Rules of Procedure except Rule 17f) and 18b) may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

b) **Amendment**

Any motion to add to, vary or revoke these Council Rules of Procedure will be on written notice duly given and set out on the Council summons or in committee proceedings accompanying such summons.

c) **Provision to Members**

A copy of these Rules shall be given to every member of the Council upon his/her Acceptance of Office.

d) **Interpretation**

The ruling of the Chairman of the meeting as to the construction or application of any of these Rules or as to any proceedings of the meeting shall not be challenged at any meeting of the Council or its committees.

References in these Rules to statutes shall be deemed to include any statutory modification or re-enactment for the time being in force.

26. Public Arrangements - Petitions

- a) This Standing Order shall apply to ordinary meetings of Council, except the Annual Meeting.
- b) A person who lives, works or studies in the Eden District may present a petition about any matter on which the Council has power to act.
- c) Petitions containing 500 signatures or more will be subject to debate by the full council unless it is a petition asking for a senior council officer to give evidence at a public meeting.
- d) Details of each petition to be submitted to Council should be delivered to the Chief Executive no later than eight clear calendar days (that is not counting the day of the meeting or the day of delivery) before the meeting of the Council concerned.
- e) Only the petition organiser may speak and such speech shall not exceed five minutes inclusive of the reading of the substance of the petition. At the conclusion of the speech the petition will be discussed by councillors for a maximum of fifteen minutes.

27. Disclosure of Personal Interests

- 1) Where a Member has a personal interest in any business of and attends a meeting of the Council at which the business is considered the Member must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- 2) Where a Member has a personal interest in any business of the Council relating to the receipt of hospitality or a gift he/she need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

- 3) Paragraph 1) only applies where a Member is aware or ought reasonably to be aware of the existence of the personal interest.
- 4) Where a Member has a personal interest but sensitive information relating to it is not registered in your authority's register of members' interests a member should indicate to the meeting that interest, but need not disclose the sensitive information to the meeting.
- 5) Where a Member has a personal interest in any business of the Council and has made an executive decision in relation to that business, he/she must ensure that any written statement of that decision records the existence and nature of that interest.
- 6) In this paragraph, 'executive decision' is to be construed in accordance with any regulations made by the Secretary of State under Section 22 of the Local Government Act 2000.

28. Effect of Disclosable Pecuniary Interests on Participation

1. Where a Member has a disclosable pecuniary interest in any business of the Council:
 - a) he/she must withdraw from the room or chamber where a meeting considering the business is being held:
 - i) in a case where sub-paragraph 2) applies, immediately after making representations, answering questions or giving evidence;
 - ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;
unless he/she has obtained a dispensation;
 - b) he/she must not exercise Executive functions in relation to that business; and
 - c) he/she must not seek improperly to influence a decision about that business.
2. Where a Member has a disclosable pecuniary interest in any business of the Council he/she may attend a meeting (including a meeting of the overview and scrutiny committee or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

29. Effect of Council-appointed Membership of Outside and Arm's Length Bodies on Participation

Councillors appointed by the Council to represent the Council on Outside and Arm's Length Bodies in an unpaid role are considered not to have disclosable pecuniary interests. They are therefore not considered to be debarred by the Localism Act 2011 from participating in and voting on Council discussion on matters relating to these Bodies. In deciding whether and how to participate in Council discussions on such bodies appointed Councillors should be aware of the risks of and the public perception of bias, prejudice and predetermination, and be prepared to seek the advice of the Monitoring Officer.

B. Access to Information Procedure Rules

Rule	Page No
1. Scope.....	171
2. Rights to Attend Meetings.....	171
3. Notices of Meeting.....	171
4. Access to Agenda and Reports before the Meeting.....	171
5. Exclusion of Access by the Public to Meetings.....	172
6. Application of Rules to the Executive.....	174
7. Procedure before taking Key Decisions.....	174
8. Scrutiny Committees Access to Documents.....	178
9. Additional Rights of Access for Members.....	178

This page is left intentionally blank

B. Access to Information Procedure Rules

1. Scope

1.1 These rules apply to all meetings of the Council, Scrutiny Board and Committees, regulatory committees, joint committees and public meetings of the executive (together called meetings).

1.2 Additional Rights to Information

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

2. Rights to Attend Meetings

A Member of the public may attend any of the meetings subject only to the exceptions contained in these rules.

3. Notices of Meeting

The Council will give at least five clear days' notice of any meeting by posting details of the meeting at the Town Hall, Penrith (the designated office) and on its website.

4. Access to Agenda and Reports Before the Meeting

4.1 The Council will make copies of the agenda and reports open to the public available for inspection online and at the designated office at least five clear working days before the meeting. If an item is added to the agenda later, a revised agenda will be published and open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is sent to Members.

4.2 Supply of Copies

The Council will supply a copy of:

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

4.3 Access to Minutes After the Meeting

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

- a) the minutes of the meeting, or the record of decisions taken, together with the reasons, for any meeting of the Executive or of any individual Member of the Executive excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;

- b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- c) the agenda for the meeting; and
- d) reports relating to items when the meeting was open to the public.

4.4 **Background Papers**

a) **List of background papers**

The author of any report will set out a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- i) Disclose any facts or matters on which the report or an important part of the report is based; and
- ii) Have been relied on to a material extent in preparing the report other than published works or any document which discloses exempt or confidential information (as defined in Rule 10).

b) **Public inspection of background papers**

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

4.5 **Summary of Public's Rights**

A written summary of the public's rights to attend meetings and to inspect and copy documents (as detailed within this Constitution) is kept and available to the public at the designated office.

5. **Exclusion of Access by the Public to Meetings**

5.1 **Confidential information - requirement to exclude public**

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

5.2 **Exempt information - discretion to exclude public**

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

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

5.3 **Meaning of confidential information**

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

5.4 **Meaning of exempt information**

Exempt information means information falling within the categories below (subject to qualifications):

Categories of Exempt Information

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:
 - a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Qualifications

8. Information falling within category 3) above is not exempt information by virtue of that paragraph if it is required to be registered under:
 - a) the Companies Act 1985;
 - b) the Friendly Societies Act 1974;
 - c) the Friendly Societies Act 1992;
 - d) the Industrial and Provident Societies Acts 1965 to 1978;
 - e) the Building Societies Act 1986; or
 - f) the Charities Act 1993.

9. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992[9].
10. Information which
 - a) falls within any of Categories 1 to 7 above; and
 - b) is not prevented from being exempt by virtue of paragraph 8 or 9 above;
 - c) is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

5.5 Exclusion of Access by the Public to Reports

If the Assistant Director Governance thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

6. Application of Rules to the Executive

6.1 These rules apply to any meetings of the Executive and any of its committees.

6.2 In addition, meetings of the Executive must and will comply with any regulations which specifically apply to the arrangements for and the access to information relating to such meetings.

6.3 Special Urgency in Case of Key Decisions

If by virtue of the date by which a decision must be taken cannot be followed, then the decision can only be taken if the Executive obtains the agreement of the chair of a relevant Overview and Scrutiny committee that the taking of the decision cannot be reasonably deferred. If there is no chair of a relevant overview and scrutiny committee, or if the chair of the relevant scrutiny committee is unable to act, then the agreement of the Chairman of Council or in his /her absence the Vice-Chairman of Council will suffice.

6.4 Reports to Council Concerning Key Decisions

The Leader will submit a report to the next meeting of Council on any executive decisions taken in the circumstances set out in rule 7.4 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

7. Procedure before taking Key Decisions

7.1 Subject to Rule 7.3 (general exception) and Rule 7.4 (special urgency), a key decision may not be taken unless:

- a) a notice (called a Key Decision Notice) has been published in connection with the matter in question;

- b) at least 28 clear days have elapsed since the publication of the Key Decision Notice; and
- c) where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with Rule 3 (notice of meetings) and Rule 4.4 regarding background documents.

7.2 The Key Decision Notice

7.2.1 The Key Decision Notice will contain a statement of reasons with the following particulars insofar as the information is available or might reasonably be obtained:

- a) the matter in respect of which a decision is to be made;
- b) the name and membership of the decision taker;
- c) the date on which, or the period within which, the decision will be taken;
- d) a list of the documents to be submitted to the decision taker for consideration in relation to the matter;
- e) subject to any prohibition or restriction on their disclosure, the address from which copies of, or extracts from, any document listed is available;
- f) that other documents relevant to those matters may be considered by the decision taker; and
- g) if applicable, the procedure for requesting details of those documents as they become available.

7.2.2 Publication of the Key Decision Notice

Subject to the General Exceptions rule and cases of special urgency, the Key Decision Notice must be published at least 28 clear days before the decision is made.

7.2.3 Exempt information need not be included in a Key Decision Notice and confidential information cannot be included.

7.3 General Exception

If a matter which is likely to be a key decision has not been included in the Key Decision Notice, then subject to Rule 7.4 (special urgency), the decision may still be taken if:

It is impracticable to include the intention to take a key decision in a Key Decision Notice in accordance with this Rule subject to the following:

- a) the Proper Officer has informed the Chairman of the relevant Scrutiny Committee, or if there is no such person, each member of that committee by notice in writing, of the matter to which the decision is to be made and the reasons why compliance with this Rule is impracticable;

- b) the Proper Officer has made copies of that notice available to the public at the offices of the Council and published it on the Council's website; and
- c) at least five clear days have elapsed since the Proper Officer complied with a) and b).

7.4 Special Urgency

7.4.1 If by virtue of the date by which a decision must be taken Rule 7.3 (general exception) cannot be followed, then the decision can only be taken if the decision taker or the chairman of the body making the decision, obtains the agreement of the chairman of the relevant scrutiny committee that the taking of the decision is urgent and cannot be reasonably deferred. If there is no Chairman of the relevant Scrutiny Committee, or if the Chairman of the Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice Chairman will suffice.

7.4.2 As soon as is practicable, the proper officer must publish a notice at the Council's Offices and on the Council's website setting out the reasons why the meeting is urgent and cannot be reasonably deferred.

7.5 Report to Council

When a Scrutiny Committee can require a report

7.5.1 If a Scrutiny Committee thinks that a key decision has been taken which was not:

- a) included in the Key Decision Notice; or
- b) the subject of the general exception procedure; or
- c) the subject of an agreement with the relevant Scrutiny Committee Chairman, or the Chairman/Vice Chairman of the Council

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

7.5.2 The Executive will prepare a report for submission to the next available meeting of the Council of any key decision which is taken under the General Exception or special urgency provisions. However, if the next meeting of the Council is within seven days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the subsequent meeting. The report to Council will set out particulars of the decision, the body making the decision, and if the Executive is of the opinion that it was not a key decision the reasons for that opinion.

7.6 Record of Decisions of the Executive

- a) After any meeting of the Executive or any of its committees, whether held in public or private, the Assistant Director Governance will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.
- b) An Executive and Portfolio Holder decision list will also be published and circulated each week, detailing every decision made by the Executive and Portfolio Holder for that particular week, including a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

7.7 Meetings of the Executive Relating to Matters which are not Key Decisions

All meetings of the Executive will be public and the press and public may only be excluded as provided by Rule 5 where confidential or exempt information would otherwise be disclosed.

7.8 Executive Decisions made by Individuals

- a) Reports intended to be taken into account

Where a member of the executive receives a report which he/she intends to take into account in making any decision, then he/she will not make the decision until at least five clear days after the publication of that report.

- b) Record of individual decision

7.8.1 A decision, which may not be a key decision, may be taken by an individual member of the Executive in accordance with these and the Executive Procedure Rules.

7.8.2 A decision by an individual can only be made upon the consideration of a written report by the relevant officer. Any report which is to be considered by an individual, unless it discloses exempt and confidential information, must be published to all members and be available on the Council's website not less than five days before the date on which the decision is to be taken. A report which discloses exempt or confidential information must be marked 'Not for Publication' and must be published and available to all members but may not be disclosed to any member of the public.

7.8.3 Any member may request that he or she should attend a meeting at which a decision is to be made by an individual. The request should be made to the individual concerned and will be allowed unless the circumstances, which shall be specified, render the attendance inappropriate.

7.8.4 As soon as reasonably practicable after an executive decision has been taken by a member of the executive he/she will prepare, or instruct the Assistant Director Governance to prepare a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 4.3 and 4.4 concerning access to minutes and papers

after a meeting, will apply to the making of decisions by an individual member of the Executive provided that this does not require the disclosure of exempt or confidential information.

7.8.5 The decision of the individual shall be published on the Council's website and made available to all members. The decision will be subject to call in in accordance with the Scrutiny Procedure Rules.

8. Scrutiny Committees Access to Documents

a) Rights to copies

Subject to Rule 8 b) below, a scrutiny committee (including any sub-committee) will be entitled to copies of any document which is in the possession or control of the Executive or any of its committees and which contains material relating to:

- i) any business transacted at a public or private meeting of the Executive or its committees; or
- ii) any decision taken by an individual member of the executive.

b) Limit on rights

A scrutiny committee will not be entitled to:

- i) any document that is in draft form; or
- ii) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinize.

9. Additional Rights of Access for Members

a) Material relating to previous business

All Members will be entitled to inspect any document which is in the possession or under the control of the Executive or its committees and contains material relating to any business previously transacted unless it contains information falling within paragraphs 1, 2, 4 or 5, of the categories of exempt information and the councillor in question has no bona fide "need to know";

b) Material relating to key decisions

All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the executive which relates to any key decision unless it contains the advice of a political adviser.

c) Nature of rights

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

C. Executive Procedure Rules

Rule	Page No
1. Procedures General.....	181
2. Form and Content of the Meeting	184
3. Questions by the Public	186
4. Public/Member Participation at Meetings.....	188
5. Questions by Members	188
6. Minutes	189
7. Record of Attendance	190
8. Exclusion of Public.....	190
9. Members' Conduct.....	190
10. Disturbance by Public	190
11. Executive Powers	191
12. Disclosure of Personal Interests	195
13. Effect of Disclosable Pecuniary Interests on Participation	196

This page is left intentionally blank

C. Executive Procedure Rules

1. Procedures General

a) Who may make Executive decisions

The Leader may provide for Executive functions to be discharged by:

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

b) Delegation by the Leader

At the annual meeting of the Council, if there is to be a change from the previous municipal year, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:

- the names, addresses and wards of the people appointed to the Executive by the Leader;
- the extent of any authority delegated to Executive Members individually, including details of the limitation on their authority;
- the terms of reference and constitution of such Executive committees as the Leader appoints and the names of Executive Members appointed to them;
- the nature and extent of any delegation of Executive functions to any other authority or any joint arrangements and the names of those Executive Members appointed to any joint committee for the coming year; and
- the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

c) **Sub-delegation of Executive function**

- i) Where the Executive or a Member is responsible for an Executive function, he/she may delegate further to joint arrangements or an officer.
- ii) Unless the Leader directs otherwise, a Committee of the Executive to whom functions have been delegated by the Leader may delegate further to an officer.
- iii) Even where executive functions have been delegated, that does not prevent the discharge of the delegated functions by the person or body who made the delegation.

d) **The Council's scheme of delegation of Executive functions**

- i) Subject to ii) below, the Council's scheme of delegation of Executive functions will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- ii) The Leader may amend the scheme of delegation relating to Executive functions at any time during the year. To do so, the Leader must give written notice to the Chief Executive and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation and whether it entails the withdrawal of delegation from any person, body, committee or the Executive as a whole. The Chief Executive will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- iii) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when it is served on the Chairman.

e) **Dealing with conflicts of interest and other bars to action - deputies and substitutes**

- i) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- ii) If every Member of the Executive has a conflict of interest this should be dealt with as set out in Article 9 of this Constitution, ie by dispensation sought from the Committee with particular responsibility for Standards issues.
- iii) If the exercise of an Executive function has been delegated to a committee of the Executive, an individual member or an officer, and a conflict of interest arises, then the function will be exercised in the first instance by the person or body by whom the delegation was made and

otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

The procedures for deputisation or substitution due to a conflict of interest or other reason are:

- iv) Where in the Procedure Rules, Executive Procedure Rules, Accounting and Audit Rules, Procurement Rules or any other part of the constitution, the Leader of the Council is required to take any action or make any decision and the Leader is unable to do so by reason of:
 - (1) absence from the District for any reason;
 - (2) ill health;
 - (3) the requirement to make a declaration of interest by reason of the Members' Code of Conduct at Part 5 of this constitution;
 - (4) personal or other reasons which preclude the Member concerned from being able to undertake Council business

then the person appointed as the Deputy Leader of the Council or such other person as may be specifically appointed shall take any such actions or make any decisions required in the place of the Leader of the Council whether for one item of business (a substitution) or for a period of time (a deputisation).

- v) Where the Deputy Leader of the Council or any other Executive Member is required by the Rules or any other part of this Constitution, to take any action or make any decision and is unable to do so by reason of:
 - (1) absence from the District for any reason;
 - (2) ill health;
 - (3) the requirement to make a declaration of interest by reason of the Members' Code of Conduct at Part 5 of this constitution;
 - (4) personal or other reasons which preclude the Member concerned from being able to undertake Council business

then that Executive Member shall notify the Leader of the Council who shall immediately appoint another Executive Member to carry out the duties of the person affected until the disability from acting has ceased, whether that should be for one item of business (a substitution) or for a period of time (a deputisation).

- vi) Where a Member, other than the Leader of the Council, is to act as a substitute or where a deputy is to be appointed under this rule, then the Leader of the Council shall notify the Assistant Director Governance of that substitution or deputisation. The Assistant Director Governance shall make and keep a record of each such notification and advise the relevant Chief Officer of the substitution or deputisation. In the event of

a deputy being appointed for an Executive Member, the Proper Officer will inform the Council in writing of the name of the deputy and the period of the deputisation.

- vii) In relation to conflicts of interest these rules apply only in circumstances where the bar on action is absolute under the Council's Code of Conduct for Members in Part 5 of this constitution.

f) **Executive Meetings**

The Executive will meet at least twelve times per year at times to be agreed by the Leader. The Executive will meet at the Council's principal office or another location to be agreed by the Leader.

g) **Quorum**

The quorum for a meeting of the Executive, or its committees shall be three.

h) **How decisions are to be taken by the Executive**

- i) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- ii) Where Executive decisions are delegated to a committee of the Executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.
- iii) Decisions of the executive will be made in accordance with the Executive Protocol set out in Rule 11b below.

2. Form and Content of the Meeting

a) **Chairman**

The Leader will preside at any meeting of the Executive or its committees at which he/she is present, and in the Leader's absence, the Deputy Leader will do so.

In the absence of the Leader and the Deputy Leader the Executive will appoint, from amongst its members, a person to preside at the meeting.

The person presiding at the meeting may exercise the powers and duties of the Leader where these powers and duties relate to the Chairmanship of the meeting of the Executive.

b) **Access**

All meetings will be public meetings unless the press and the public are excluded in accordance with the Categories of Exempt Information in Part 4 of the Constitution.

c) **Agenda**

At each meeting of the Executive the following business will be conducted:

- i) consideration of the minutes of the last meeting;
- ii) declarations of interest, if any;
- iii) matters referred to the Executive (whether by a scrutiny committee or by the Council) for reconsideration in accordance with the provisions contained in the Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- iv) consideration of reports from a scrutiny committee; and
- v) matters set out in the agenda for the meeting.

d) **Putting items on the Executive agenda**

- i) Subject to the ensuing paragraphs the Leader will decide upon the agenda for the meetings of the Executive. He/she may put on the agenda of any Executive meeting any matter whether or not authority has been delegated to the executive. The Chief Executive will comply with the Leader's requests in this respect.
- ii) The Chief Executive will make sure that an item is placed on the agenda of the next available meeting of the Executive where a relevant scrutiny committee or the full Council have resolved that an item be considered by the Executive. The Chief Executive will notify the Chair of the relevant scrutiny committee of the date of the meeting which will consider the reference from the Council or the committee and the Chair will be entitled to attend the meeting and speak to the item.
- iii) Any Member of the Council may ask the Leader to put an item on the agenda of the Executive meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting. The notice of the meeting will give the name of the Member who asked for the item to be considered. The Member will be invited to attend the meeting, whether or not it is a public meeting.
- iv) The monitoring officer and/or the chief financial officer may require an item to be included for consideration on the agenda of an Executive meeting and may require the Chief Executive to call such a meeting to consider a particular matter in pursuance of their statutory duties.
- v) In other circumstances, where any two of the head of paid service, chief financial officer and monitoring officer are of the opinion that a meeting of the Executive needs to be called to consider a matter which requires a decision, they may jointly include an item on the agenda of an Executive meeting. If there is no meeting of the Executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

e) **Consultation**

- i) All reports to the Executive from any Member of the Executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant scrutiny committee and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.
- ii) The executive may consult any committee of the Council upon any matter within the functions of the executive before exercising its decision making powers. This right is exercisable regardless of whether a scrutiny committee has asked to be consulted or has investigated a particular matter.

3. Questions by the Public

a) **General**

A member of the public may ask a question including one of the Leader or a member of the executive at any meeting of the Executive in accordance with the following provisions.

b) **Order of questions**

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

c) **Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Assistant Director Governance no later than midday one clear working day (that is not counting the day of the meeting or the day of delivery) before the day of the meeting. Each question must give the name and address of the questioner.

d) **Number of questions**

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

e) **Scope of questions**

The Assistant Director Governance may reject a question if it:

- is not about a matter for which the local authority has a responsibility or does not affect the District;
- is defamatory, frivolous or offensive;

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

f) **Record of questions**

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

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

g) **Asking the question at the meeting**

The Leader will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, he/she may ask the question or ask the Chief Executive or Assistant Director Governance to put the question on his/her behalf. The Leader may indicate that a written reply will be given.

h) **Supplemental question**

A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Leader may reject a supplementary question on any of the grounds set out in 3) above.

i) **Written answers**

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.

j) **Reference of question to a committee**

Any member may move that a matter raised by a question be referred to a meeting of the Council or an appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

k) **Response**

Ordinarily the Leader will respond to a question or invite the Member of the Executive with responsibility for the issue concerned to respond to it.

The response may take the form of:

- a direct oral answer;
- where the desired information is in a publication of the Council or other published work, a reference to that publication; or

- where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

4. Public/Member Participation at Meetings

- a) Any person, including a Member of the Council, who attends a meeting of the Executive may be invited by the Leader to make representations, answer questions or give evidence in relation to any matter for which the Council has responsibility or which falls within the terms of reference of the Executive.
- b) Any person who wishes to make representations, answer questions or give evidence to any meeting of the Executive should request to do so in writing to the Assistant Director Governance by no later than midday one clear working day (that is not counting the day of the meeting or the day of delivery) before the day of the meeting.
- c) Any person who wishes to ask a question may do so in accordance with paragraphs 3 or 5 as applicable.
- d) The request should set out the nature of any representations or evidence that the member of the public or Member of the Council wishes to raise before the meeting. The Assistant Director Governance will notify the Leader of the receipt of the request and of its nature. The Leader will decide whether or not to permit the member of the public to make representations give evidence or answer questions and the Assistant Director Governance will notify the individual concerned of the Leader's decision. The Leader's decision shall be at his sole discretion. Ordinarily the Leader can be expected to agree to the request. The Leader may refuse a request if the subject matter is considered to be irrelevant, vexatious, frivolous, repetitious, defamatory or is otherwise inappropriate. The Leader may limit the time during which the representations may be made or the evidence given.
- e) Where any Member has a disclosable pecuniary interest in the matter, he/she must withdraw from the meeting immediately after speaking, in accordance with the Members' Code of Conduct.

5. Questions by Members

a) Questions on reports

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

b) Questions on notice

Subject to Rule 5c) below, a Member of the Council may ask the Leader, the Member of the Executive or the Chairman of any committee of the Executive a question on any matter in relation to which the Council has powers or duties or which affects the District of Eden.

c) **Notice of questions**

A Member may only ask a question under Rule 5b) if either;

- he/she has given notice by delivering the question in writing or by electronic mail to the Assistant Director Governance no later than midday one clear working day (that is not counting the day of the meeting or the day of delivery) before the day of the meeting; or
- the question relates to urgent matters, he/she has the consent of the Leader and the content of the question is given to the Assistant Director Governance prior to the meeting.

d) **Variation to arrangements of questions on notice**

Any variation to the arrangements to questions from Council Members will be at the discretion of the Leader.

e) **Response**

An answer may take the form of:

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

f) **Supplementary question**

A Member asking a question may ask one supplementary question without notice of the member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

6. Minutes

a) **Signing the minutes**

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

b) **Form of minutes**

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

7. Record of Attendance

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

8. Exclusion of Public

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 10 (Disturbance by Public).

9. Members' Conduct

a) Smoking at meetings

There shall be no smoking at meetings of the Executive.

b) Leader standing

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

c) Member not to be heard further

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

d) Member to leave the meeting

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

e) General disturbance

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

10. Disturbance by Public

a) Removal of member of the public

If a member of the public interrupts proceedings, the Leader will warn the person concerned. If he/she continues to interrupt, the Leader will order the removal of that person from the meeting room.

b) Clearance of part of meeting room

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

11. Executive Powers

a) **Extent of Executive powers**

- i) Subject to vii) below no Executive decision whether by the Executive Member individually or by the Executive may be taken unless it falls within the policy framework and budget set by Council.
- ii) The Executive does not have decision making powers in relation to any matter which by law or by resolution of the Council has been retained by the Council or falls wholly within the decision making powers of the Council or of any Committee of the Council or within the General Scheme of Delegation to Officers of functions of the Council.
- iii) Executive Members shall act within the Protocol for the Operation of Executive forming part of this Rule.
- iv) Subject to any other instruction from the Leader of the Council, an Executive Member is fully empowered to take decisions relating to issues with a financial value below £60,000, provided the decision falls wholly or mainly within the parameters of their portfolio. An Executive Member must liaise with any Executive Member whose portfolio is also partially affected by such a decision.
- v) The Executive has granted delegated powers to the Officers in the circumstances set out in the Scheme of Delegation to Officers in relation to Executive Functions in part 3 of this Constitution. In addition, an individual Executive Member may delegate power to an Officer, in particular circumstances, to make a decision.
- vi) The Executive shall consider whether to consult the relevant scrutiny committee:
 - (1) before recommending a change in the Council policy framework;
 - (2) to identify whether existing policies are effective in achieving the objectives set for them by the Council;
 - (3) on any aspect of policy development within the remit of the committee;
 - (4) on any other issue within the remit of the committee on which the executive needs guidance, advice or support whether on policy formulation or otherwise.
- vii) **Virement and Supplementary Estimates**

The procedure for Virements and Supplementary Estimates is as laid out in the Accounting and Audit Rules.

b) **Protocol for the operation of the Executive**

i) **Justification**

Generally individual Executive Members have full executive powers to act. This Executive protocol has been devised to delimit the extent of Executive Member powers.

An executive decision, made by an Executive Member within the terms of this protocol constitutes a final decision authorising officers to act once it has been validated.

ii) **Shared responsibility**

The Executive will make collective decisions when meeting in full Executive. Executive Members will share responsibility for individual decisions of all other members of Executive. To secure shared responsibility all Members of Executive will receive all agenda and reports for each other's decision making meetings.

Collective responsibility will apply. This requires that any Executive Member who wishes to express reservations or disassociate himself/herself from a decision made by the Executive is expected to tender his/her resignation to the Leader immediately.

iii) **Collective decisions**

The following issues require a collective decision:

- (1) those reserved by the Executive for collective decisions at the beginning of each municipal year;
- (2) those where the Leader (or Deputy Leader in absence) instructs the individual Executive Member to bring them to Executive whether on the Leader's or a Deputy Leader's own initiative or whether following representations from another Executive Member;
- (3) those which clearly (and significantly) affect two or more portfolios;
- (4) those above the levels of expenditure agreed by Council in the executive arrangements for individual decisions. The Executive will decide whether to make the decision or to refer the matter back to the relevant Executive Member for decision following discussion in the Executive.

iv) **Executive support**

The Executive Member should usually take individual decisions but there may be occasions when the Member may feel the need to put an item on the Executive agenda in order to take a view from colleagues. The agenda should identify such issues namely:

- (1) those instigated by the individual Member, where that Member seeks the Executive's view; and
- (2) where there is a disagreement between the Executive Member and the relevant Chief Officer

v) **Making and recording of Executive decisions**

No Member may exercise powers delegated to him/her to make a decision on any matter unless he/she has first considered a written report containing:

- (1) technical advice from the relevant Chief Officer;
- (2) legal advice from the Assistant Director Governance or an assurance from the Assistant Director Governance that no legal issue is involved;
- (3) financial advice from the Assistant Director Finance or an assurance from the Director that no financial issue is involved;
- (4) advice from the Head of Paid Service if any member of staff is or may be affected by the decision to be made.

Decisions should generally be made in the presence of senior officers except in specific circumstances, such as clear urgency, when they must then be recorded by the individual member; and

- (1) telephone and video conferencing conversations constitute being "in the presence";
- (2) "senior officers" are Chief Officers and Directors, Assistant Directors and Heads of Service;
- (3) Protocols will be established within each department to ensure the relevant Member knows which officers are authorised to make recommendations. Both Members and relevant officers should be aware of who is authorised to make recommendations.

vi) **Recording decisions**

- (1) It shall be the responsibility of every Member, or Officer making executive decisions specifically delegated to him/her, to ensure the accuracy of the record of the decision taken.
- (2) No decision which a Member takes shall be valid unless it is formally recorded and notified to the Assistant Director Governance and complies with legal requirements under the Access to Information Rules and the Protocol on Recording of Decisions. The proper and formal recording of executive decisions is obligatory in all circumstances.

- (3) Decisions of Members acting under delegated powers must be notified to the Assistant Director Governance as soon as possible and in any event within 24 hours of the decision being made and shall be recorded and, if lawful, validated as soon as possible, and in any event within one working day, and published.
- (4) The publication of decisions will accord with the Access to Information Rules at Part 4 of this constitution.

c) **Financial thresholds for key decisions**

- i) The Council has fixed the following thresholds for deciding whether an Executive decision is a key decision:

- (1) Expenditure of £60,000
- (2) Savings of £60,000

This relates to both Capital and revenue.

Decisions in relation to emergency events are as set out in the Accounting and Audit Rules.

- ii) In calculating whether expenditure is at the threshold level:
 - (1) a decision which commits expenditure for a specific period will be aggregated to ascertain the expenditure level. Where expenditure is recurring it shall be evaluated as five times the annual value;
 - (2) expenditure may not be artificially disaggregated so that it appears to be below the threshold;
 - (3) where expenditure by the Council is pooled with expenditure of other agencies the aggregate figure is not to be used unless the funds from partner agencies will first be paid over to the Council and may therefore properly count as expenditure of the executive;
 - (4) where a series of decisions is being taken on a major capital project ancillary decisions do not need to be considered key decisions unless the decision to progress the project cannot be made until an ancillary decision has been made and acted upon. This does not include applications for planning permission but does include, for example, expenditure related to applications for grant funding to support projects which would not otherwise progress.
- iii) Savings are planned reductions in an agreed capital or revenue budget not under-spends against a budget. Savings which will accumulate over time will not be aggregated to ascertain the level of saving. The saving in the first whole financial year alone is to be used.

- iv) Income is not a saving and is to be disregarded for this purpose, but may involve making a key decision under 11(d) below.

d) **Other thresholds for key decisions**

The Council has decided that in determining whether an executive decision may be a key decision regard will be had to the effect on communities living or working in more than one ward of the District. If the effect might or will be significant on communities living or working in more than one ward, then it is to be treated as a key decision.

e) **Reports of statutory officers**

- i) Where the Monitoring Officer or Chief Finance Officer intervene in an executive action under their statutory powers (eg because the proposal is considered to be unlawful) then all action to which the report relates must be suspended until the report has been considered by the Executive.
- ii) If the relevant Scrutiny committee decides, having seen the report of the Monitoring Officer or Chief Finance Officer that it wishes to hold an inquiry prior to the consideration of the report by the Executive, the Executive shall delay consideration of the report until it receives a report of the relevant overview and scrutiny committee which shall be no more than 28 days from the date of issue of the report by the Monitoring Officer or Chief Finance Officer.
- iii) After considering the report of the Monitoring Officer or Chief Finance Officer the Executive must report in writing to the Council and the Monitoring Officer or Chief Finance Officer explaining what action, if any, is to be taken in consequence of the report and the reasons for that action or for no action.

12. Disclosure of Personal Interests

1. Where a Member of the Executive has a personal interest in any business of and attends a meeting of the Executive at which the business is considered the Member must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
2. Where a Member has a personal interest in any business of the Executive relating to the receipt of any hospitality or a gift, he/she need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
3. Paragraph 1) only applies where a Member is aware or ought reasonably to be aware of the existence of the personal interest.
4. Where a Member has a personal interest but sensitive information relating to it is not registered in the authority's register of Members' interests a Member

should indicate to the meeting that interest, but need not disclose the sensitive information to the meeting.

5. Where a Member has a personal interest in any business and has made an executive decision in relation to that business, he/she must ensure that any written statement of that decision records the existence and nature of that interest.
6. In this paragraph, 'executive decision' is to be construed in accordance with any regulations made by the Secretary of State under Section 22 of the Local Government Act 2000.

13. Effect of Disclosable Pecuniary Interests on Participation

1. Where a Member has a disclosable pecuniary interest in any business of the Executive:
 - a) he/she must withdraw from the room or chamber where a meeting considering the business is being held:
 - i) in a case where sub-paragraph 2) applies, immediately after making representations, answering questions or giving evidence;
 - ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;unless a dispensation has been obtained;
 - b) he/she must not exercise Executive functions in relation to that business; and
 - c) he/she must not seek improperly to influence a decision about that business.
2. Where a Member has a disclosable pecuniary interest in any business of the Executive he/she may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

D. Budget and Policy Framework Rules

Rule	Page No
1. The Framework for Executive Decisions.....	199
2. Process for Developing the Framework.....	199
3. Finalising the Plan/Strategy or Budget and Conflict Resolution	200
4. Decisions Outside the Budget or Policy Framework	202
5. Urgent Decisions Outside the Budget or Policy Framework	202
6. Virement and Supplementary Estimates.....	203
7. In-Year Changes to Policy Framework	203
8. Disputing Decisions as Outside the Budget or Policy Framework	203
9. Amendments to a Plan or Strategy comprised in the Policy Framework.....	205

This page is left intentionally blank

D. Budget and Policy Framework Procedure Rules

1. The Framework for Executive Decisions

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

The rules set out below apply to the plans and strategies listed in Article 4 and forming the policy framework and to “the budget”.

2. Process for Developing the Framework

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

b) Initial Proposals

i) **General Provisions:** At least three months before any plan/strategy which forms part of the policy framework needs to be adopted, the Executive will publish its proposals. Any representations made to the Executive shall be taken into account in formulating the proposals, and shall be reflected in any report dealing with them. If the matter is one where a scrutiny committee has already carried out a review of policy, then the outcome of that review will be reported to the Executive and considered in the preparation of initial proposals.

ii) **The Budget:** In the case of the budget, constraints outside the Council’s control preclude proposals being issued three months before the budget must be set in February. Accordingly budget proposals will be published for the ensuing financial year and available for scrutiny by the first working day after 14 December. However, the Resources Plan, including the Medium Term Financial Strategy, will be issued in September of each year and will be subject to scrutiny as a plan or strategy under these rules.

c) Referral to Scrutiny

i) **General Provisions:** The Executive’s proposals shall stand referred to the relevant scrutiny committee for further advice and consideration. The Scrutiny Committee may canvass the views of local stakeholders, if it considers it appropriate, having particular regard not to duplicate any consultation carried out by the Executive. The scrutiny committee will report to the Executive on the outcome of its deliberations.

ii) The Scrutiny Committee shall have five weeks to respond to the proposals of the Executive unless the Executive considers that there are special factors which make this timescale inappropriate. If it does, it will inform the scrutiny committee of the time for response when the proposals are referred to it. A response on the budget will be required by the first working day after 21 January.

iii) Where budget proposals or proposals on a plan or strategy are referred to a Scrutiny Committee the relevant executive Member has the right to

attend any and all meetings of the committee which consider those proposals, both to be questioned by members of the committee and to contribute to the discussion. Attendance of the Executive Member or any Officer will be as of right and not on summons in these circumstances. Executive Members will be expected to attend but may choose not to do so. If their attendance is needed the scrutiny committee may issue a summons requiring attendance.

- iv) Having considered the report of a Scrutiny Committee as appropriate, the Executive, if it considers it appropriate, may amend the proposals before submitting them to the Council. It will also report on how it has taken into account any recommendations from the Scrutiny Committee, in framing the proposals submitted to the Council.

3. Finalising the Plan/Strategy or Budget and Conflict Resolution

- a) This rule applies before the Council:
 - i) amends a draft plan or strategy;
 - ii) approves any plan or strategy (whether or not in draft form) for the purpose of its submission to the Secretary of State or any Minister of the Crown for approval or approves any part of such a plan or strategy which is required to be so submitted;
 - iii) adopts a plan or strategy with or without modification;
 - iv) makes a calculation whether originally or by way of substitute in accordance with Section 32-37 or 43-49 of the Local Government Finance Act 1992 (“the budget estimates”).
- b) In considering a plan or strategy, the Council shall have before it the Executive’s proposals and any report from any relevant Scrutiny Committee.
- c) Unless the Council accepts the proposals of the Executive without amendment the Council’s view on a matter concerning the policy framework will be published by issuing a separate minute of the decision within five clear working days of the Council meeting. The Chairman shall be consulted to confirm the accuracy of the draft minute. A copy of the minute showing the date of the decision will be given to the Leader. The minute will:
 - i) detail the Council’s objections and the reasons for objecting to the proposals or any part;
 - ii) instruct the Executive to reconsider their proposals in the light of the objections made by the Council;
 - iii) require the Executive to report back to the Council within 20 working days of the original Council meeting.

d) **Conflict resolution**

- i) The Leader may submit to the Council a revision of the draft plan or strategy together with the Executive's reasons for the amendments made: and/or
- ii) If the Executive disagrees with any objections of the Council, the Leader shall give written notice to the Chief Executive to that effect, which must state the reasons for the disagreement.
- iii) The Chief Executive shall convene a further meeting of the Council to reconsider the plan or strategy within 20 working days of the original Council meeting and place on the agenda the Leader's written response including the details set out in (i) and (ii) above.
- iv) At that Council meeting, the view of the Council shall be reconsidered in the light of any revisions to the plan/strategy and any disagreement of the Executive with the Council's objections together with the reasons given for any amendments made by the Executive and the reasons for any disagreement with the Council's objections. All this information must be taken into account by the Council in reaching their final decision.
- v) **At the Council meeting:**
 - (1) the Council may approve the revised plan/strategy in the form proposed by the Executive; and/or
 - (2) the Council may change its earlier decision to reflect the views of the Executive and if that resolution is made, even if it does not wholly and completely reflect the views of the Executive, the decision is final and the plan or strategy approved may be implemented immediately; or
 - (3) the Council may confirm its original decision and that decision is final and the plan or strategy approved may be implemented immediately.

e) **The Budget:** the budget estimates for the following financial year shall be submitted by the Executive to the Council by the end of February in any year.

- i) Any amendments to the budget estimates put forward at the Council meeting which are accepted by the Leader at the time will form part of the Executive's proposed budget in accordance with usual procedural formalities.
- ii) If the Council approves any amendments to the Budget which the Leader does not accept, then the budget will be referred back to the Executive before re-submission to Council.
- iii) Within two weeks a further Council will be held at which the Executive will present its revised budget.

- iv) The Council meeting which receives the Leader's report referred to above must take into account every aspect of the Leader's report in making its decision. Provided that it does so, the Council may:
 - (1) approve the Leader's report and set the Council's budget for the ensuing financial year which may be on the basis of the original budget estimates or estimates, revised in whole or in part; or
 - (2) subject to any report which may be made by the Chief Finance and/or Monitoring Officer and to having put its objections in detail to the Leader at the original Council meeting, set the estimates based on the view expressed at the original meeting.
- v) When making its decision at the Council meeting which receives the Leader's report referred to above, a named vote must be taken in accordance with the Local Government Finance Act 1992.

4. Decisions Outside the Budget or Policy Framework

- a) Subject to the provisions of rules for virement and supplementary estimates (contained in the Accounting and Audit Rules) and the Executive Procedure Rules executive powers may only be exercised in line with the budget and policy framework. If an executive decision maker wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full council, then that decision may only be taken by the Council, subject to Rule 5 below.
- b) If the Executive, wants to make such a decision, it must take advice from the monitoring officer and/or the chief financial officer as to whether the decision it wishes to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget and not in compliance with the Executive Procedure Rules. If the advice of either of those officers is that the decision would be contrary to the existing budget and/or policy framework or the Executive Procedure Rules, then the decision must be referred to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 5 (Urgent decisions outside the budget and policy framework) shall apply.

5. Urgent Decisions Outside the Budget or Policy Framework

- a) The Leader and relevant Executive Member acting together may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
 - i) if neither the Leader nor the relevant Executive Member is able to refer the matter to Council because of the utmost urgency with which the matter must be dealt; and
 - ii) if both the Leader and the relevant Executive Member are available to make the decision themselves; and

- iii) if the Chair of the relevant scrutiny committee agrees that the decision is a matter of utmost urgency;

The consent of the Chair of the relevant Scrutiny Committee to the decision being taken as a matter of utmost urgency must be noted on the record of the decision. In the absence of the Chair or Vice Chair of the relevant Scrutiny Committee the consent of the Chairman of Council must be obtained.

- b) Following the decision, the Leader will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of utmost urgency.
- c) A decision to spend beyond the supplementary estimate permitted under the Accounting and Audit Rules is a matter for the Council under all circumstances.

6. Virement and Supplementary Estimates

The rules on virement and supplementary estimates in the exercising of executive or other powers are set out in the Accounting and Audit Rules in this Part of the Constitution.

7. In-Year Changes to Policy Framework

- a) The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Executive must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by the Executive except those changes, which are:
 - i) necessary to ensure compliance with the law, ministerial direction or government guidance;
 - ii) specifically authorised at any time by Council.

8. Disputing Decisions as Outside the Budget or Policy Framework

- a) Where a Scrutiny Committee is of the opinion that an Executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget and outside virement powers under the Accounting and Audit Rules or the Executive Procedure Rules or is otherwise outside the powers of the Executive set out in this Constitution; then it shall seek advice from the Monitoring Officer and/or Chief Financial Officer.
- b) The Monitoring Officer and/or Chief Financial Officer shall respond to a request for advice and no further action may be taken in respect of the decision by any Member or Officer until the officers have reported. The only exception occurs when a decision has not been acted on, or has yet to be made and, in advance of a report of the monitoring officer and/or chief financial officer, the Leader is satisfied that the Executive would be exceeding its powers, then he/she may so advise the Chair of the relevant scrutiny committee, the monitoring and/or chief financial officer and the executive decision maker concerned and so resolve any dispute. The decision will then be dealt with in accordance with the Constitution.

- c) In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Chief Financial Officer's report shall be made to the Executive with a copy to every member of the Council. Any such report must be considered by the Executive as a whole regardless of whether the decision is delegated in order to decide what action to take.
- d) If the decision has yet to be made, or has been made but not implemented, then:
 - i) if on considering a report from the Monitoring Officer and/or Chief Financial Officer the Executive accepts the report then the dispute will be resolved and the decision dealt with in accordance with the Constitution;
 - ii) if the advice from the Monitoring Officer and/or the Chief Financial Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, then, if the Executive wishes the question to be considered by the Council, the matter will be referred to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter;
- e) The Council shall meet within seven working days of the request by the Executive. At the meeting it will receive a report of the decision or proposal, the report of the Monitoring Officer and/or the Chief Financial Officer and any views of the Executive. The Council may either:
 - i) amend the Council's budget or policy concerned to incorporate the decision or proposal of the Executive and agree to the decision being made with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
 - ii) accept that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and not amend the existing framework or budget to accommodate it. In this case, the executive must act in accordance with the advice already received from the Monitoring Officer and/or Chief Financial Officer.
- f) The Leader shall prepare a report to the next Council meeting in the event that the report of the Monitoring Officer or Chief Financial Officer concludes that a decision which has been acted on was a departure. The report will explain to the Council how the decision came to be made and implemented and the steps the Leader has taken or is taking to prevent a recurrence.
- g) The Executive may respond in writing to or by attendance at the scrutiny committee where the Monitoring Officer/Chief Financial Officer conclude that the decision was not a departure from the policy framework or the budget.

9. Amendments to a Plan or Strategy Comprised in the Policy Framework

A plan or strategy which is comprised in the policy framework may be revised, up-dated or amended from time to time to account for any changes in legislation or guidance or any variations which are considered to be necessary. Each plan and strategy will be reviewed periodically and updates, revisions or amendments will be proposed by the Executive for consideration and adoption by the Council. For the avoidance of doubt any amendment to an existing and adopted policy or strategy in accordance with this rule will not be subject to the process for developing the policy framework set out in rule 2 unless significant and major variations are proposed.

This page is left intentionally blank

E. Committee Procedure Rules

Rule	Page No
1. How do the Committees Operate?	209
2. Meetings	209
3. Chairman	209
4. Quorum and Attendance	209
5. Who can put Items on the Agenda of a Committee.....	210
6. Duration of the Meeting.....	210
7. Public and Member Participation	210
8. Motions on Notice	210
9. Decisions	211
10. Named Vote.....	211
11. Council Procedure Rules	211
12. Questions by the Public	211
13. Scope of Questions.....	212
14. Record of Questions	212
15. Asking the Question at the Meeting	212
16. Supplementary Question	212
17. Written Answers.....	213
18. Accounts and Governance Committee	213

This page is left intentionally blank

E. Committee Procedure Rules

1. How do the Committees Operate?

Decisions of the committees will be taken by the committee as a whole.

2. Meetings

Meetings will be held on the occasions set out in the calendar of meetings agreed by the Council and at such other times as they are required to deal with matters arising.

The time and place of meetings will be notified in the summons.

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules.

At least five clear days before a meeting the Chief Executive will send a summons signed by him or her by post to every member of the committee or leave it at their usual place of residence.

The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.

Meetings will take place in public except in circumstances described in the Access to Information Procedure Rules as set out in Part 4 of this Constitution.

3. Chairman

The appointed Chairman will preside at meetings of the committee and in his/her absence the Vice-Chairman will preside. In the absence of the Chairman and Vice-Chairman the committee will appoint, from amongst the permanent Members of the committee, a person to preside at the meeting.

The person presiding at the meeting may exercise the powers and duties of the Chairman where these powers and duties relate to the Chairmanship of the committee.

4. Quorum and Attendance

The quorum for committees will be three.

A substitute of a committee will be only those specifically appointed as standing deputies and substitutes by the Council.

A substitute will have the same powers and duties as a Member of the committee during the meeting at which he or she is substitute.

A member may attend a meeting of a committee on which he/she does not sit, whether or not he/she attends as a representative of another committee or where business affecting that Member's ward is to be discussed.

5. Who can put Items on the Agenda of a Committee

The Chairman of a committee may put on the agenda of the relevant committee any matter which he/she wishes, provided that it is relevant to the business of that committee.

Any Member of a Committee may request that an item is placed on the agenda for a meeting. The item will be placed on the agenda for a meeting provided the Chairman of the Committee agrees to the item's inclusion. In the event that the Chairman does not agree to the item being placed upon the agenda any three Members of the relevant committee may require that an item be placed upon the agenda. Any such requirement must be made either at the meeting or to the Chief Executive in writing and signed by the three Members.

A Member of the Scrutiny Committee may request that an item be placed on the agenda for a meeting.

Any chief officer may place an item on the agenda that he/she considers the committee needs to consider or take a decision on.

The Chief Executive, Monitoring Officer and Chief Finance Officer may require that a meeting is convened in pursuance of their statutory duties.

The Chief Executive will ensure that an item is placed on the agenda of the next available meeting of the committee if Scrutiny Committee or full Council has resolved that an item must be considered by the Committee.

6. Duration of the Meeting

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

7. Public and Member Participation

Rules 10, 11 and 12 of the Council Procedure Rules will apply to committees and sub-committees of the Council.

8. Motions on Notice

a) Notice

Except for motions which can be moved without notice under the provisions set out in the Council Procedure Rules above, written notice of every motion, signed by the member giving the notice, must be delivered to the Deputy Chief Executive not later than five clear working days (that is not counting the day of the meeting or the day of delivery) before the date of the meeting. The written notice of the motion will be entered in a book open to public inspection.

b) **Motion set out in agenda**

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

c) **Scope**

Motions must be about matters for which the Committee concerned has a responsibility and which affect the District of Eden.

d) **Exclusion of notices of motion out of order**

The Chairman, on the advice of the Assistant Director Governance may exclude from the summons any notice of motion which may be out of order, or he/she may make such corrections therein as will bring it into due form with the approval of the mover(s).

In accordance with Rule 15 of the Council Procedure Rules, if a motion seeks to vary or reverse a decision made by any committee of the Council or the Council within the previous twelve months it will not be included in the summons.

e) **Motions not moved**

If a motion set out in the summons is not moved by the Member(s) who gave notice, it shall be treated as withdrawn and shall not be moved without fresh notice.

9. Decisions

A committee will decide those matters delegated to it by Council. It will make decisions in accordance with any budget and policy framework set by full Council. Decisions will be taken at a meeting convened in accordance with the Access to Information Procedure Rules.

10. Named Vote

Any Member present at the meeting of a committee can demand that the names for and against the motion or amendment or abstaining from voting will be taken down in writing by the Assistant Director Governance and entered into the minutes. A demand for a named vote will override a demand for a ballot.

11. Council Procedure Rules

The Rules 10, 11, 12, 13, 14, 15, 16 17 (except 17e) see Rule 10 above) 18a), 18c), 19, 20, 21a), 21d), 21e), 21f), 22, 25d), 27 and 28 as set out in the Council Procedure Rules above also apply to committees.

12. Questions by the Public

A member of the public may ask a question at a meeting of any committee in accordance with this rule.

The question must be about a matter which falls within the committee's terms of reference and be a matter about which the Council has a responsibility or which affects the District of Eden.

The member of the public should give at least one clear day's notice in writing or by electronic mail of the question to the Assistant Director Governance. The notice should be given no later than midday on the day prior to the meeting.

Each question must identify the name and address of the questioner.

No person may submit more than one question at a meeting and no more than two questions may be asked by or on behalf of the same organisation.

13. Scope of Questions

The Assistant Director Governance may reject a question if it:

- is not about a matter for which the Committee has a responsibility or does not affect the District;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Committee in the past twelve months; or
- requires the disclosure of confidential or exempt information.

14. Record of Questions

The Assistant Director Governance will enter each question in a book open to public inspection and will immediately send a copy of the question to the Member to whom it is to be put if applicable. Rejected questions will include reasons for rejection.

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

15. Asking the Question at the Meeting

The Chairman will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, he/she may ask the Chairman, Chief Executive or Assistant Director Governance to put the question on his/her behalf. The Chairman may ask the question on the questioner's behalf or indicate that a written reply will be given.

16. Supplementary Question

A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 13 above.

17. Written Answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer.

Ordinarily the Chairman of the Committee will respond to the question.

18. Accounts and Governance Committee

The Accounts and Governance Committee may require any Member, any Chief Officer and any Senior Officer (as defined in paragraph 13b of the Scrutiny Procedure Rules) to attend before it to answer any questions and provide any information or explanation relating to the consideration of any matter within that Committee's terms of reference and included within its items of business for any meeting.

This page is left intentionally blank

F. Scrutiny Procedure Rules

Rule	Page No
1. What will be the number and arrangements for overview and scrutiny committees?	217
2. Membership of the Overview and Scrutiny Committee	217
3. Co-opted Advisors	218
4. Meetings of the Overview and Scrutiny Committee	218
5. Quorum.....	218
6. Who chairs scrutiny committee meetings?.....	218
7. Work Programme.....	218
8. Agenda Items.....	218
9. Policy Review and Development.....	219
10. Reports from the Overview and Scrutiny Committee	219
11. Making sure that Scrutiny Reports are considered by the Executive	220
12. Rights of Scrutiny Committee Members to Documents.....	221
13. Members and Officers Giving Account.....	221
14. Attendance by Others	222
15. Call-In	222
16. Procedure at Scrutiny Committee Meetings.....	225
17. Call for Action - Reference to the Overview and Scrutiny Committee	226
18. Crime and Disorder Matters.....	228

This page is left intentionally blank

F. Scrutiny Procedure Rules

1. What will be the number and arrangements for the Overview and Scrutiny Committee?

- a) The Council will have the scrutiny committee with the terms of reference and functions set out in Article 6 and will appoint to it as it considers appropriate from time to time. The Overview and Scrutiny Committee may appoint sub-committees which will be appointed for fixed periods.
- b) The Council will have one Overview and Scrutiny Committee comprising of 12 Members. The terms of reference of the Overview and Scrutiny Committee will be:
 - i) to approve an annual overview and scrutiny work programme, including the programme of any sub-committees it appoints, to ensure that there is efficient use of the committee's and sub-committees' time, and that the potential for duplication of effort is minimised;
 - ii) where matters fall within the remit of more than one scrutiny sub-committee, to determine which of them will assume responsibility for any particular issue, and to resolve any issues of dispute between scrutiny committees;
 - iii) to receive requests from the executive and/or the full Council for reports from the Overview and Scrutiny Committee;
 - iv) to put in place and maintain a system to ensure that referrals from scrutiny to the Executive, either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution;
 - v) at the request of the executive, to make decisions about the priority of referrals made in the event of reports to the executive exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of executive business or jeopardises the efficient running of Council business.

2. Membership of the Overview and Scrutiny Committee

Members of the Executive may not be members of the Overview and Scrutiny Committee. No Member may be involved in scrutinising a decision in which he/she has been directly involved. The committee will be politically balanced.

3. Co-opted Advisors

Each Overview and Scrutiny Committee shall be entitled to recommend to Council the appointment of up to two people as non-voting advisors.

An Advisor may be appointed as a member for specified tasks or reviews provided that:

- the number of co-opted members shall not exceed two per committee;
- the committee shall determine the term of office of co-opted members which shall not be beyond the next annual meeting;
- co-optees appointed under this rule shall be non voting.

4. Meetings of the Overview and Scrutiny Committee

There shall be at least six meetings of the committee in each year. There shall be at least one ordinary meeting of the Overview and Scrutiny Committee in each quarter. In addition, extraordinary meetings of the committee meeting may be requisitioned by the proper officer if he/she considers it necessary or appropriate. A requisition shall specify the matter or matters to be considered within the Terms of Reference. Members requisitioning a meeting shall provide the Chief Executive with the reasons for their request in writing.

5. Quorum

The quorum for the Overview and Scrutiny Committee is three.

6. Who chairs scrutiny committee meetings?

Chairs of overview and scrutiny committee/sub-committees will be drawn from among the councillors sitting on the committee/sub-committee, and will be appointed by Council.

7. Work Programme

The Overview and Scrutiny Committee/sub-committees will, subject to any requests from the Council, be responsible for setting their own work programme and in doing so they shall take into account wishes of members on the Committee who are not members of the largest political group on the Council.

8. Agenda Items

Any member of the Overview and Scrutiny Committee or sub-committee shall be entitled to give notice to the Chief Executive that he/she wishes an item relevant to the functions of the committee or sub-committee to be included on the agenda for the next available meeting of that committee or sub-committee. On receipt of such a request the proper officer will ensure that it is included on the next available agenda.

Any five Members of the Council who are not members of the Overview and Scrutiny Committee may give written notice to the proper officer that they wish an item to be included on the agenda. If the Chief Executive receives such a notification, then he/she will include the item on the first available agenda of the relevant scrutiny committee for consideration.

The Overview and Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Council and if they consider it appropriate the Executive to review particular areas of Council activity. Where they do so, the Committee shall report their findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the Committee within one month of receiving it.

9. Policy Review and Development

- a) The role of the Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in the Budget and Policy Framework Procedure Rules.
- b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Committee or sub-committees may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- c) The Overview and Scrutiny Committee may hold enquiries and investigate the options for policy development and may appoint advisers and assessors to assist in this process. It may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. It may ask witnesses to attend to address it on any matter under consideration and may pay to any advisers, assessors and witnesses reasonable expenses for doing so.

10. Reports from the Overview and Scrutiny Committee

- a) Once it has formed recommendations on proposals for development, the Committee will prepare a formal report and submit it to the Chief Executive for consideration by the Executive (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (eg if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- b) If the Committee cannot agree on one single final report to the Council or Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Executive with the majority report.
- c) The Council or Executive shall consider the report of the Committee within six and four weeks respectively of its being submitted to the proper officer.

11. Making sure that Scrutiny Reports are Considered by the Executive

- a) Once the Overview and Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its final report to the Chief Executive who will allocate it to either or both the Executive and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework.
 - i) If the Chief Executive refers the matter to Council, he/she will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Executive will have four weeks in which to respond to the scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from the Overview and Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Executive to the scrutiny proposals.
 - ii) If the Chief Executive refers the matter to the Executive it shall be included on the agenda of the next available meeting of the Executive unless the matter which is the subject of the report is scheduled to be considered by the Executive within a period of four weeks from the date the report was adopted by the scrutiny committee. In such cases, the report of the Overview and Scrutiny Committee shall be considered by the Executive when that matter is scheduled to be considered by the Executive. If for any reason the Executive does not consider the scrutiny report within four weeks then the matter will be referred to Council for review, and the Chief Executive will call a Council meeting to consider the report and make a recommendation to the Executive.
- b) Where the Overview and Scrutiny Committee or sub-committee prepares a report for consideration by the Executive in relation to a matter where the Leader has delegated decision making power to another individual member of the Executive, then the Overview and Scrutiny Committee will submit a copy of its report to that individual member for consideration. At the time of doing so, the Overview and Scrutiny Committee shall serve a copy on the Chief Executive and the Leader. If the member with delegated decision making power does not accept the recommendations of the Committee then he/she must then refer the matter to the next available meeting of the Executive for debate before exercising his/her decision making power and responding to the report in writing to the Overview and Scrutiny Committee. The Executive member to whom the decision making power has been delegated will respond to the Committee within four weeks of receiving it. A copy of his/her written response to it shall be sent to the Chief Executive and he/she will attend a future meeting at which the response is considered.

- c) Where the Overview and Scrutiny Committee's report is to be considered by the Executive then the chair shall be entitled to be present at the meeting to discuss the report. If the report is to be considered by an individual Executive Member or officer then he/she will arrange to meet the chair of the committee to discuss the report.

12. Rights of Scrutiny Committee Members to Documents

- a) In addition to their rights as councillors, members of scrutiny committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- b) Nothing in this paragraph prevents more detailed liaison between the Executive and Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

13. Members and Officers Giving Account

- a) The Overview and Scrutiny Committee or a sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require, any member of the Executive, the head of paid service and/or any senior officer as defined below to attend before it to explain in relation to matters within their remit:
 - i) any particular decision or series of decisions;
 - ii) the extent to which the actions taken implement Council policy; and/or
 - iii) their performance.

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

- b) For the purposes of paragraph 13(a) the expression "senior officer" means any officer who is employed by the Council at not below Principal Officer level and shall not normally be below the level of Head of Service unless he/she has a particular expertise or knowledge which is of assistance to the Overview and Scrutiny Committee or sub-committee.
- c) Officer attendance by request at a scrutiny committee will normally be by officers at chief officer level unless there are special reasons to require the attendance of more junior staff. Any such special reasons must be set out in writing in the request for attendance of that officer. A chief officer shall always be entitled to attend with the officer requested. It is within the discretion of a chief officer to send a more senior officer along instead of a named officer provided that is justified to the committee.
- d) Where any member or officer is required to attend a scrutiny committee under this provision, the chair of that committee will inform the Chief Executive. The Chief Executive shall inform the member or officer in writing giving at least five clear working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced

for the committee. Where the account to be given to the committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

- e) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the scrutiny committee shall in consultation with the member or officer arrange an alternative date for attendance.

14. Attendance by Others

The Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may wish, for example, to hear from residents, stakeholders and members and officers in other parts of the public sector.

15. Call-In

- a) Call-ins should only be used in exceptional circumstances. In order to ensure that Call-in is not abused and does not cause unreasonable delay, certain limitations are placed on its use. These are:
 - i) a Call-in may only be requested if the proposed decision is considered to be contrary to the Council's budget or the policy framework or Article 12 of the Constitution;
 - ii) decision making bodies can only be asked to reconsider a decision once;
 - iii) any three Members of the Council can request and sign a call-in;
 - iv) the request for a call-in must state the reasons why it is considered a proposed decision should be called-in;
 - v) a decision of the Licensing Committee or the Planning Committee on an individual application may not be the subject of a call in. However, the Chairman or any other Member of the Licensing Committee or the Planning Committee may be invited to attend a meeting of the Overview and Scrutiny Committee to explain the reasons for decisions on any particular applications and why, in particular, decisions were made which appear to be contrary to established policy and, in addition, any senior officer may also be called to attend a meeting of the Overview and Scrutiny Committee to explain recommendations in reports in relation to those particular applications. The call-in procedure and hearing procedure will apply to any such invitation to attend to explain decisions as if the matter was being called in. In such a circumstance the Overview and Scrutiny Committee may express its concerns about a decision to the Licensing or Planning Committee, refer its concerns to Council or make such recommendations for consideration by a committee, the Council or an officer as may be appropriate. This provision cannot be applied in relation to one decision and can only be applied where it is alleged that more than one decision has been made which appears to be contrary to policy.

- vi) the call-in procedure will not apply where a proposed decision is determined to be urgent in accordance with c) below;
 - vii) decisions made by Officers under the Schemes of Delegation in Part 3 of this Constitution are not subject to call in procedure. Decisions being made by Officers under a specific delegation may be subject to the call-in procedure.
- b) When a decision is made by the Executive, an individual Member of the Executive or a committee of the Executive:
- i) the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two working days of being made. The chairs of the Overview and Scrutiny Committee will be sent copies of the records of all such decisions electronically within the same timescale, by the person responsible for publishing the decision;
 - ii) that notice will bear the date on which it is published and will specify that the decision may be implemented, on the expiry of five clear working days after the publication of the decision, unless a call-in is made;
 - iii) during that period, the Chief Executive shall call-in a decision for scrutiny by the Overview and Scrutiny Committee if so requested by any three members of the committee, and shall then notify the decision-maker of the call-in. He/she shall call a meeting of the committee as soon as practicable on such date as he/she may determine, where possible after consultation with the chair of the committee, and in any case within ten clear working days of the decision to call-in;
 - iv) if, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. A decision may be referred to full Council only if it is considered to be contrary to the budget or the policy framework. If referred to the decision maker he/she shall reconsider it within a further five clear working days, amending the decision or not, before adopting a final decision;
 - v) if following an objection to the decision, the Overview and Scrutiny Committee does not meet in the period set out in paragraph b), iii) above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny Committee meeting, or the expiry of that further five clear working day period, whichever is the earlier;
 - vi) if the matter was referred to full Council and the Council does not object to the proposed decision, then no further action is necessary and the decision will be effective in accordance with the provisions below.

However, if the Council does object, the Council may refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision or make the decision itself provided that this is in accordance with the policy framework and budget. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the executive as a whole or a committee of it, a meeting will be convened to reconsider within five clear working days of the Council request. Where the decision was made by an individual, the individual will reconsider within five clear working days of the Council request;

- vii) if the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

c) **Call-in and urgency**

The call-in procedure set out above shall not apply where the decision being taken is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public will state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The chairman of the Overview and Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the head of paid service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Overview and Scrutiny Committee, together with the reasons for urgency.

d) **Procedure for a call-in hearing**

- i) The hearing of any call-in will be conducted in accordance with the following procedure:
 - (1) The Chairman shall identify the witnesses and outline the resolutions the Committee must choose between after deliberation.
 - (2) One of the Members shall present the case for calling in the matter.
 - (3) Each of the witnesses may, if they wish, make an oral statement to the Committee lasting no more than five minutes without the consent of the Chairman.
- ii) The Chairman shall first invite the Members who submitted the call-in to ask any questions of the witnesses.

- iii) The Chairman shall invite any other Member of the Committee to ask the witnesses or any of the Members any question.
 - iv) All witnesses shall withdraw from the meeting room when there are no further questions.
 - v) The Assistant Director Governance or his/her Deputy shall summarise the issues and arguments raised and address any legal points.
 - vi) The Committee shall deliberate the call-in request.
 - vii) The Committee shall resolve either:
 - that the decision is in its view contrary to the policy framework or budget and to refer the decision to Council; or
 - that it has 'concerns' and to refer the matter back to the decision making body for re-consideration. The Committee must specify its concerns; or
 - to take 'no further action'.
 - viii) The witness shall be recalled to the meeting to be informed of the resolution.
- e) **The party whip**

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

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

16. Procedure at Scrutiny Committee Meetings

- a) The Overview and Scrutiny Committee and sub-committees shall consider the following business:
 - i) minutes of the last meeting;
 - ii) declarations of interest (including party whip declarations);
 - iii) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
 - iv) responses of the Executive to a report of a scrutiny committee; and

- v) the business otherwise set out on the agenda for the meeting.
- b) Where the Overview and Scrutiny Committee or a sub-committee conducts investigations (eg with a view to policy development), the committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:
 - i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
 - iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis;
 - iv) when officers appear before the committee, questions to them should, so far as possible, be confined to those which should elicit responses of fact and advice or opinion within their professional expertise;
 - v) officers may be asked to explain the relevant policies, the justification and objectives of those policies as the executive or the Council sees them, the extent to which those objectives may have been achieved, and how administrative factors may have affected both the choice of policy measures and the manner of their implementation.
- c) Following any investigation or review, the committee/sub committee shall prepare a report, for submission to the Executive and/or Council as appropriate and shall make its report and findings public.

17. Call for Action - Reference to the Overview and Scrutiny Committee

Reference of a Matter

Any Member of the Overview and Scrutiny Committee may refer any matter which is relevant to the functions of the scrutiny committee to that committee. Similarly, a Member of a sub committee may refer any matter which is relevant to the functions of the sub committee to that sub committee.

A Member of the Council may refer any matter to the Overview and Scrutiny Committee of which he is not a Member which:

- i) is relevant to the functions of that committee;
- ii) relates to the discharge of any function of the Council;
- iii) affects all or part of the ward for which that Member is elected or any person who lives or works in that ward and;
- iv) is not a matter which is excluded by virtue of any regulations. A Member who wishes to refer a matter to the Overview and Scrutiny Committee or a sub committee may request that that matter is included upon the agenda for a meeting of the committee or sub committee. The inclusion of the item on the

agenda will be subject to the provisions relating to access to information so that, unless the matter is urgent, the referral of the matter must be received by the Chief Executive in sufficient time for it to be included upon the agenda for that meeting and dispatched in accordance with the statutory timescales. If a matter is received after the dispatch of the agenda, unless it is an urgent matter which the Chairman of the committee is willing to consider, the matter will be deferred to the next meeting of the Committee or sub committee. In deciding whether or not to refer a matter to a Committee the Member concerned shall have regard to any guidance which is issued upon the subject.

In deciding what action, if any, to take in relation to the referral by a Member, the committee or sub committee will consider:

- a) whether the member concerned may exercise any powers in relation to the matter;
- b) any representations which the Member may make as to why it would be appropriate for the committee to exercise any of its powers;
- c) any guidance issued by the Secretary of State.

If the committee or sub committee decides not to exercise any of its powers in relation to the matter it must notify the Member concerned of its decision and the reason for it.

In the event of the committee or sub committee makes a report or recommendations to the Council or the Executive the Member concerned will be provided with a copy of that report or the recommendations.

If the committee or sub committee decides to make a report or recommendations to the Council or the Executive the Committee may decide to publish that report or recommendation. The Committee shall have regard to the cost and implications of publishing the report or the recommendations.

In making a report or recommendations to the Council or the Executive the committee must in writing require the Council or the Executive:

- a) to consider the report or recommendations;
- b) to respond to the committee indicating what action the Council or the Executive proposes to take;
- c) to publish the Council's or the Executive's response if the committee has published its report or recommendations;
- d) to provide the Member with a copy of the response.

The committee shall require the Authority or the Executive to respond to it within two months beginning with the date upon which the report or recommendation is received by the Council or the Executive.

Any report or recommendation which the committee wishes to refer to the Council or Executive shall be presented to the Chief Executive who will ensure that the report or the recommendation is considered by the Council or the Executive at its next meeting in accordance with the requirement for the matter to be considered within a period of two months.

The Council will adhere to and comply with the procedure which has been adopted by all of the Cumbrian Local Authorities in relation to the Councillor Call for Action in connection with the referral of a matter to the Executive or the Council. This procedure is contained in Part 5 of the Constitution.

18. Crime and Disorder Matters

The Overview and Scrutiny Committee will exercise the functions of a Crime and Disorder Panel. Any Member of the Council who is not a Member of Overview and Scrutiny Committee may refer a local Crime and Disorder matter to that committee.

A local Crime and Disorder matter means a matter which concerns:

- a) Crime and Disorder including anti-social behaviour or behaviour which adversely affects the local environment; or
- b) the misuse of drugs, alcohol or other substances which affect all or part of the ward for which the Member is elected or any person who lives or works in that ward.

A Member who wishes to refer a matter to the Crime and Disorder Committee may request that that matter is included on the agenda for and is discussed at a meeting of the Overview and Scrutiny Committee. The committee will consider whether or not to make a report or a recommendations to the Local Authority on the matter. If the committee decides not to make a report or make a recommendation it will notify the Member of this decision and the reasons for it. If the committee makes a report or recommendations to Council it will provide a copy of that report or recommendations to the Member of the Council who referred the matter in question to the committee and provide a copy of the report and of the recommendations to the responsible authorities and the corporating persons and bodies as it considers appropriate.

The Council upon receipt of the report or recommendation must consider it and respond to the Overview and Scrutiny Committee indicating what action, if any, it proposes to take and have regard to the report or recommendations in exercising its functions.

G. Accounting and Audit Rules

Rule	Page No
1. General	231
2. Budget	232
3. Accounting	233
4. Virements.....	233
5. Supplementary Estimates	234
6. Advance Accounts	235
7. Internal Audit.....	235
8. Banking Arrangements, Cheques and BACS	238
9. Contracts for Building, Construction, Engineering or Consultancy Work	238
10. Land and Property	240
11. Income	240
12. Insurances	241
13. Inventories	242
14. Write-Offs and Losses	242
15. Investments, Borrowings and Trust Funds.....	242
16. Payment of Accounts	242
17. Lost Property	243
18. Salaries.....	244
19. Security.....	244
20. Stocks and Stores.....	245
21. Travelling and Subsistence Allowances.....	245
22. Agency Services	245
23. Code for Treasury Management	246
24. Determination of Borrowing Requirement	246
25. Reporting of Fraud, Theft and Corruption	247

26.	Management of Partnerships	247
27.	Emergency Events.....	248
28.	Annual Revision	249
29.	Effective Date	249

G. Accounting and Audit Rules 2019

1. General

- 1.1 These Rules, in conjunction with the Procurement Rules, comply with the requirements for Standing Orders under Section 135 of the Local Government Act 1972.
- 1.2 The purpose of the Rules is to ensure that the Council's financial affairs are conducted with openness, probity and accountability. The Assistant Director Finance is responsible to the Council for the proper administration of the financial affairs of the Council, as required by Section 151 of the Local Government Act 1972.
- 1.3 In these Rules the following definitions apply:

Chief Officer	One of the following: Chief Executive, Director of Corporate Services, Director of People and Place
Contract	Any form of contract, agreement, or other arrangement, for the supply of goods, services, or works
Assistant Director Finance	Chief Finance Officer, includes the Chief Finance Officer's appointed deputy.
Executive Member	A member of the Council's Executive
Leader	The Leader of the Council, as appointed by full Council
Management Team	The senior leadership team comprising the Chief Executive, Director of Corporate Services and Director of People and Place.
Senior Manager	A Chief Officer, Assistant Directors and any Heads of Service.
Services	Includes all services which the Council purchases, or obtains, including advice, specialist consultancy work and agency staff
Virement	Where one or more budgets are reduced to fund an increase in another budget(s). There is no net change in the total budget arising from a virement. Also includes grossing up of budgets where additional income is received.
Works	Covers all construction and property-related procurement

- 1.4 Each Senior Manager shall consult the Assistant Director Finance with respect to any matter which is liable to affect the approved income or expenditure contained in the annual budget of the Council.
- 2. Budget**
- 2.1 The form of capital and revenue estimates shall be determined by the Assistant Director Finance.
- 2.2 Estimates of capital and revenue income and expenditure shall be prepared by each Senior Manager, in conjunction with the Assistant Director Finance, who shall collate the estimates for consideration by Management Team and the relevant Executive Members and submit them to the Executive. The Executive shall submit a draft budget to the Scrutiny Co-ordinating Board at the latest by the first working day after 14 December each year. The Scrutiny Co-ordinating Board shall respond by the first working day after 21 January each year. The Executive shall consider the response of the Scrutiny Co-ordinating Board and then recommend a budget to the Council at a meeting by the end of January each year.
- 2.3 Upon approval by the Council of the capital estimates, each Senior Manager, in conjunction with the Assistant Director Finance, shall be authorised:
- a) to take steps to enable land required for the purposes of the programme to be acquired in due time; and
 - b) to prepare a scheme and estimate, including a financial appraisal, for approval by the appropriate Executive Member.
- 2.4 Any proposals which commit future budgets to a level of expenditure greater than that provided for in the current year shall be reported by the relevant Senior Manager to the appropriate Executive Member and the Executive. The Assistant Director Finance shall be consulted on the draft report.
- 2.5 Each Senior Manager shall ensure that the authorised budget holders in his or her department monitor the revenue and capital budgets for which they are responsible. The Assistant Director Finance shall ensure that the Financial Management System is up-to-date and that all authorised budget holders are appropriately trained in its use.
- 2.6 Where there is, or may be, any material variation (over 10%) in the actual expenditure, or income against the approved estimate, for any service or business unit, it shall be the duty of the Senior Manager concerned to consult with the Assistant Director Finance and to report to the Executive Member as appropriate. There is no authority for officers to overspend. When an overspend is projected, a virement or supplementary estimate must be identified.

3. Accounting

- 3.1 All accounting procedures and records of the Council and its officers shall be determined by the Assistant Director Finance. Such procedures shall have regard to current statutory requirements. Where such procedures and records are maintained in a department other than that of the Assistant Director Finance, the Assistant Director Finance shall, before making any changes, consult the relevant Senior Manager of the department concerned.
- 3.2 The duties of providing information regarding sums due to, or from the Council, or of calculating, checking and recording these sums, shall, as far as possible, be separated from the duty of collecting or disbursing them.

4. Virements (see definition in paragraph 1.3)

4.1 Revenue

4.1.1 Virements can relate to either:

- the current budget only; or
- to the base recurring budget.

This should be clearly stated on the virement form (see 4.1.6 below).

4.1.2 Virements can relate to non-staff costs and staff costs (but see 4.1.5 below).

4.1.3 Any virement requested must be appropriately approved as follows:

Value of Virement	Virement Between			
	Expenditure Codes within a Business Unit or Service	Business Units or Services within a Portfolio	Portfolios	Any Property Maintenance Budgets
Less than £10,000	Budget Manager	Budget Manager	Relevant Executive Members (Portfolio Holders)	Budget Manager
£10,000 or more but less than £20,000	Relevant Senior Manager	Relevant Senior Manager	Relevant Executive Members (Portfolio Holders)	Relevant Senior Manager
£20,000 or more but less than £50,000	Relevant Senior Manager	Relevant Executive Member (Portfolio Holder)	Relevant Executive Members (Portfolio Holders)	Relevant Executive Members (Portfolio Holders)
£50,000 or more	Relevant Senior Manager	Full Council	Full Council	Full Council

No virement request will be processed by the Financial Services Section until evidence of approval, as above, is received (see 4.1.6 below).

4.1.4 Virement resulting from tender submissions will not require Executive Member approval where such virement:

- a) results from a tender being in excess of budget provision; and
- b) does not exceed 10% of the agreed budget for the scheme; and
- c) can be funded from uncommitted schemes within the same portfolio. Any such virement shall be reported to the relevant Executive Member.

4.1.5 When a recurring virement increases the permanent staffing establishment by more than a 0.5 full time equivalent, the virement must be approved by the Executive.

4.1.6 To make a virement the relevant budget holder should e-mail a completed virement form to the Financial Services Section (Fin.Man@eden.gov.uk). The form is available on SharePoint: Corporate Centre/Financial Services Forms and Procedures/Virement Form. Where the approval of the relevant Senior Manager or the relevant Senior Manager and the Executive Member is required by these Rules, the virement form should be forwarded by the budget holder for approval by e-mail. After the final approval by the relevant Senior Manager or the Executive Member, the virement form and covering e-mail should be forwarded to the Financial Services Section (Fin.Man@eden.gov.uk).

4.1.7 Virements should not be artificially disaggregated.

4.1.8 The virement rules can be applied to grossing up of income and expenditure budgets, for example, on receipt of additional grant, external contributions or draw down from an earmarked reserve (unless specific delegations are in place). Where this is the case, the limits for expenditure codes within a business unit or service should be applied unless greater than £50,000 in which case Portfolio Holder approval should be sought.

4.2 **Capital**

4.2.1 The provisions, as set out in 4.1, shall apply to capital.

5. **Supplementary Estimates**

5.1 A supplementary estimate is an addition to the Council's agreed budget. Supplementary estimates can be one-offs, or recurring. In either case, supplementary estimates should only be considered after all other options, such as virements, or savings, have been considered.

5.2 All supplementary estimates, either revenue or capital, require the approval of the Executive. Referral to Council is not required if the value of a supplementary estimate is less than £50,000. For this purpose, a recurring supplementary estimate is evaluated as five times the annual value.

5.3 Once approved by the Executive, or Council, the Financial Services Section will amend the budgets held within the Financial Management System.

6. Advance Accounts

- 6.1 The Assistant Director Finance shall provide such advance accounts as he/she considers appropriate for such officers of the Council as may need them. Advance accounts for petty cash purposes shall be maintained on the Imprest system. Arrangements for safe custody of Imprest advances shall be subject to the approval of the Assistant Director Finance.
- 6.2 No income received on behalf of the Council may be paid into an advance account, but must be banked or paid to the Council as provided elsewhere in these Rules.
- 6.3 Payments shall be limited to minor items of expenditure (less than £50) and to such other items as the Assistant Director Finance may approve and shall be supported by receipted vouchers.
- 6.4 An officer responsible for an advance account shall, if so requested, give to the Assistant Director Finance a certificate as to the state of his/her advance account.
- 6.5 On leaving the employment of the Council, or otherwise ceasing to be entitled to hold an advance, an officer shall account to the Assistant Director Finance for the amount advanced to him/her.

7. Internal Audit

- 7.1 This section is based on the 2017 Public Sector Internal Audit Standards (PSIAS) issued by the Relevant Internal Audit Standard Setters which includes the Chartered Institute of Public Finance and Accountancy (CIPFA) for UK Local Government Authorities. It also complies with the provisions of the Accounts and Audit Regulations 2015.
- 7.2 Internal Audit shall annually undertake an objective assessment of the framework of risk management, control and governance processes within the Council.
- 7.3 The Assistant Director Finance will maintain an adequate and effective system of Internal Audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control. Such proper internal control practices for Internal Audit are those included in the PSIAS. The Assistant Director Finance will also conduct an annual review of the effectiveness of the system of internal control.
- 7.4 The Assistant Director Finance shall be Head of Internal Audit (or Chief Audit Executive as defined in the PSIAS). He/she is responsible for overseeing the work of the in-house Auditor and the external contractor, as well as submitting various reports to the Accounts and Governance Committee, as detailed in 7.5 and 7.8 below. He/she must also ensure that there are established policies and procedures to guide the Internal Audit activity.
- 7.5 The Assistant Director Finance must deliver an annual Audit Opinion and report for consideration by the Council to inform the Annual Governance Statement. The annual internal Audit Opinion must conclude on the overall adequacy and

effectiveness of the Council's framework of governance, risk management and control. The annual report must include the Opinion, a summary of the work that supports the Opinion and a statement on conformance with the PSIAS and the results of the quality assurance and improvement programme.

- 7.6 When any non-conformance with the PSIAS impacts on the overall scope or operation of the Internal Audit activity, the Assistant Director Finance must disclose the non-conformance and the impact of this to Management Team and the Accounts and Governance Committee. If the deviation is significant, consideration must be given to including it in the Annual Governance Statement.
- 7.7 The Assistant Director Finance also has some operational responsibilities for some of the functions that are audited. Given Eden's small size, it is not practicable to comply with PSIAS 1130.A2, which requires that such work is overseen by a party outside the Internal Audit activity. To ensure that as much independence and objectivity as possible is maintained in such circumstances, the Assistant Director Finance as Head of Internal Audit, does not undertake any actual audit assignments. The Senior Auditor and external contractor are given full authority to report directly to the Chief Executive, the Director of Corporate Services or the Accounts and Governance Committee, if they have any concerns about suppression of audit evidence, or the conduct of the Assistant Director Finance.
- 7.8 Those functions of an audit committee relating to Internal Audit shall be undertaken by the Accounts and Governance Committee. These responsibilities are:
- a) to consider the Strategic Internal Audit Plan report. This shall be submitted each year after consideration by the Council's Management Team. This will also consider the adequacy of audit resources;
 - b) to consider internal audit reports. Summaries of individual audit reports are to be submitted after agreement of the final report with management. This will also detail any recommendations rejected and any failure to implement recommendations from the previous audit;
 - c) to consider the annual Internal Audit report and annual Internal Audit Opinion. These shall be submitted within three months of the end of each financial year;
 - d) to monitor the implementation of agreed audit recommendations. Such monitoring shall be reported to each meeting;
 - e) to consider any other audit and financial investigation reports;
 - f) to approve the Internal Audit Charter. This shall be submitted each year after consideration by the Council's Management Team. The Internal Audit Charter is a formal document that defines Internal Audit's purpose, authority and responsibility. Key requirements of the Charter are included in these Rules;
 - g) to receive reports on the results of external and periodic internal assessments of the Internal Audit service.
- 7.9 Senior Managers are responsible for ensuring that appropriate and adequate

internal controls exist, independently of any Internal Audit activity. Senior Managers must establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their performance targets.

- 7.10 When an Internal Audit report is issued, it is for management to decide whether to accept and implement audit findings and recommendations. Any decision to reject a formal recommendation must be justified, in writing, on the Schedule of Recommendations issued by Internal Audit within the audit report at the end of each audit assignment. It is the Head of Internal Audit's duty to consider taking matters to a higher level of management or to the Accounts and Governance Committee, if non-acceptance of a recommendation would lead to an unacceptably high risk.
- 7.11 The Assistant Director Finance and all Internal Audit staff shall have authority at all reasonable times to:
- a) enter lawfully on any Council premises or land;
 - b) have access to all records, documents and correspondence relating to any financial or other transactions of the Council;
 - c) require and receive such explanations from all officers and Members of the Council as deemed necessary concerning any matter under examination; and
 - d) require any officer or Member of the Council to produce cash, stores, or any other Council property under his or her control.
- 7.12 Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores, or other property of the Council, or any suspected financial irregularity in the exercise of the functions of the Council, the Senior Manager concerned shall, forthwith, notify the Assistant Director Finance or Internal Audit, who shall ensure that such steps have been, or are taken, as he/she considers necessary, by way of investigation and report. The Assistant Director Finance will keep the relevant Senior Manager appropriately informed of any matter under investigation.
- 7.13 Internal Audit has the right to report directly to the Chief Executive, the Director of Corporate Services, external audit, the Accounts and Governance Committee, or the Leader of the Council, if warranted by the circumstances.
- 7.14 An internal and external protocol shall co-ordinate its work with the appointed external auditor for the benefit of the Council and to avoid duplication of effort. An Internal Audit protocol shall be maintained to set out the basis for the managed audit arrangements between the Council's Internal Audit service and the external auditor.
- 7.15 The performance of Internal Audit will be monitored on an ongoing basis as part of the routine policies and practices used to manage the activity. Periodic assessments will be conducted to evaluate conformance with the Definition of Internal Auditing, the Code of Ethics and the Standards contained within the PSIAS.

- 7.16 External assessments of the Internal Audit service must be conducted at least once every five years by a qualified, independent assessor, or assessment team from outside the Council. This assessment may take the form of a full external assessment or a self-assessment with independent external validation.
- 7.17 Internal Audit will co-ordinate the Council's response to the National Fraud Initiative and investigate a sample of returned matches, in particular, 'key' and 'recommended' matches. Matches will also be investigated by other sections with responsibility for their associated match categories.
- 7.18 Senior Managers or other managers entering into agreements with third parties shall include a requirement that the Council's Internal Audit Section has a right of access to all documentation and records in which the Council has a financial interest.

8. Banking Arrangements, Cheques and BACS

- 8.1 All arrangements with the Council's bankers shall be made by the Assistant Director Finance, who shall be authorised to operate such banking accounts as he may consider necessary.
- 8.2 All cheques shall be ordered only on the authority of the Assistant Director Finance, who shall make proper arrangements for their safe custody.
- 8.3 Cheques on the Council's main banking accounts shall be signed by the Assistant Director Finance, or other officer authorised to do so. All cheques drawn for an amount of £10,000 or more shall be countersigned by an authorised officer of the Assistant Director Finance's Section.
- 8.4 The use of BACS should be maximised both for payments and income.

9. Contracts for Building, Construction, Engineering, or Consultancy Work

- 9.1 These Rules apply to the accounting treatment of contracts after they have been awarded. The tendering and award of contracts for building, construction, engineering, or consultancy work, is covered by the Procurement Rules. Nothing in these Rules shall detract from duties or responsibilities of the officers, or consultant, as specified in the contract.
- 9.2 A written agreement specifying conditions of engagement, including the basis of remuneration, shall be entered into with every consultant appointed for the purpose of any contract work. The agreement shall specify that any consultant engaged by the Council will be subject to the requirements of these Rules.
- 9.3 Where contracts provide for payment to be made by instalments, the officer responsible for the contract shall maintain a record of the state of account of the contract. Once the final account is agreed, the Assistant Director Finance should be notified.

- 9.4 Payments to contractors on account of contracts for works shall be made only on a certificate issued by the relevant Senior Manager of the department concerned, officer, or consultant engaged by the Council, as may be appropriate. Each certificate shall show as follows:
- a) the amount of the contract;
 - b) the value of the work executed to date;
 - c) the total amount previously certified;
 - d) the retention money; and
 - e) the amount to be certified for payment. All certificates shall be issued and payments on account to contractors shall be made promptly.
- 9.5 Subject to the provisions of the contract, in each case, every extra provision or variation shall, unless otherwise evidenced to his or her satisfaction, be authorised in writing by the relevant Senior Manager.
- 9.6 The relevant Senior Manager may issue variations for constructional reasons and those arising from unforeseen circumstances occurring during the period of the contract, from errors in the preparation of contract documents, or from subsequent legislation, provided that any extra provisions or variations which, together with previously approved extra provisions or variations, will cause the contract sum to be exceeded by 10%, or £50,000, whichever is the lower, shall be reported to the appropriate Executive Member, as soon as is practicable. The report shall also show the cumulative effect of approved extra provisions and variations on the original tender figure;
- 9.7 Variations not covered by paragraph 9.6 above, for example, improved finishes, specifications, services, or extra accommodation, and so on, may be issued by the relevant Senior Manager in respect of any variation which involves additional expenditure and the estimated cost of which exceeds 5% of the contract sum, or £5,000, whichever is the higher, provided that such variation shall be reported to the appropriate Executive Member as soon as practicable.
- 9.8 In any contract where price fluctuations are a contractual commitment, the following shall apply:
- a) when tenders are reported, an estimate of total price fluctuations shall be included in the report so that the Executive Member may have a realistic assessment of the final cost; and
 - b) during the contract, actual and estimated price fluctuations shall be monitored regularly.
- 9.9 Senior Managers responsible for contracts must ensure that suitable procedures are followed for the effective cost control of all contracts. A cost statement shall be prepared quarterly for each contract exceeding £50,000 in value, taking into account all known factors, for example, variations, adjustment of prime cost sums, provisional sums and other items.

- 9.10 The Assistant Director Finance shall have the opportunity to examine the final measurement and valuation of all relevant documents prior to issue of the final certificate by the Council. The relevant Senior Manager in charge of the contract shall ensure that adequate site records relating to items, such as day works and instructions to the contractor, are maintained.
- 9.11 The Assistant Director Finance shall, to the extent he/she considers necessary, examine final accounts for contracts and he/she shall be entitled to make all such enquiries and receive such information and explanations as he/she may require in order to satisfy himself as to the accuracy of the accounts.
- 9.12 Where the completion of the contract is likely to be delayed, it shall be the duty of the relevant Senior Manager to take any necessary action and to report to the Executive Member concerned.
- 9.13 Disputed or contentious claims not clearly within the terms of the contract shall be referred to the Assistant Director Governance for consideration of the Council's legal liability, and to the Assistant Director Finance for financial consideration, before a settlement is reached. Any such settlement shall be reported to the appropriate Executive Member.
- 9.14 Every three months the Executive Member will receive a 'contracts' report. This will detail progress, including financial, on each contract within his/her portfolio.

10. Land and Property

- 10.1 The Assistant Director Governance shall maintain a terrier of all land and property owned or controlled by the Council, recording the holding portfolio, purpose for which held, location, extent and plan reference, purchase details, particulars of nature of interest and rents payable and particulars of tenancies granted.
- 10.2 The Assistant Director Governance shall notify Management Team of details of rights and liabilities in respect of properties coming into the ownership or control of the Council. The Assistant Director Governance shall also notify Management Team of the disposal of properties.
- 10.3 The Assistant Director Governance shall keep all title deeds securely.
- 10.4 The Assistant Director Finance shall maintain a register of all of the Council's assets, in compliance with the requirements of CIPFA. This is to include any plant and machinery of a value of £10,000 or more.

11. Income

- 11.1 The collection of all money due to the Council shall be under arrangements approved by the Assistant Director Finance.
- 11.2 Each Senior Manager shall arrange for the input of details to the financial management system (or spreadsheet where agreed with the Assistant Director Finance) for work done, goods supplied, or services rendered, to enable the correct

recording of all sums due to the Council and to ensure that invoices are sent out expeditiously.

- 11.3 Except where the Assistant Director Finance has otherwise agreed, all receipt forms, books, tickets and other similar items (including electronic formats) shall be ordered and supplied to departments by the Assistant Director Finance, who shall satisfy himself/herself as to the arrangements for their control.
- 11.4 All monies received by an officer on behalf of the Council shall be paid promptly to the Assistant Director Finance, or to the Council's bank account. No deduction may be made from such money, save to the extent that the Assistant Director Finance may specifically authorise.
- 11.5 Personal cheques shall not be cashed out of the money held on behalf of the Council.
- 11.6 Every transfer of Imprest, petty cash, and so on, from one member of staff to another, shall be evidenced in the records of the departments concerned, by the signature of the receiving officer.
- 11.7 The Assistant Director Finance shall, in conjunction with the Senior Manager concerned, submit to the relevant Executive Member, as part of the annual budget cycle, a report on fees and charges for the forthcoming year, except where setting charges has been delegated to him. Non-delegated fees and charges are:

Communities Portfolio Holder - Leisure Charges

Services Portfolio Holder - Cemetery Charges

Services Portfolio Holder - Car Parking Charges

12. Insurances

- 12.1 The Assistant Director Finance shall arrange all insurance cover and negotiate all claims in consultation with other officers where necessary.
- 12.2 Senior Managers shall give prompt notification to the Assistant Director Finance of all new risks and the acquisition of properties, vehicles, plant and equipment which require to be insured and of any alterations affecting existing insurances.
- 12.3 Senior Managers shall immediately notify the Assistant Director Finance and then confirm in writing any loss, liability, or damage, or any event likely to lead to a claim, and inform the Police where necessary.
- 12.4 The Assistant Director Finance shall, annually, or at such other shorter period as he may consider necessary, review all insurances in consultation with other Senior Managers as appropriate.
- 12.5 Senior Managers shall consult the Assistant Director Finance and the Assistant Director Governance in respect of the terms of any financial indemnity which the Council is requested to give.

13. Inventories

- 13.1 Inventories shall be maintained by all departments of all items of office furniture, fittings and equipment with a purchase value of £250 or over. The form in which the inventories shall be kept shall be determined by the Assistant Director Finance.
- 13.2 A register of IT equipment, including personal computers, will be maintained by the shared IT Services Manager.
- 13.3 Each Senior Manager shall carry out an annual check of all items on the inventory, for taking action in relation to disposals, or obsolete equipment and amending the inventory accordingly. Any disposals must be in accordance with the guidelines published on SharePoint.
- 13.4 The Council's Insurance Officer will annually ask departments for an updated copy of the inventory lists.
- 13.5 The Council's property shall not be removed, otherwise than in accordance with the ordinary course of the Council's business, or used otherwise than for the Council's purposes.

14. Write-Offs and Losses

- 14.1 Each Senior Manager shall inform the Assistant Director Finance, in writing, of proposed write-offs and losses of any assets (stock, equipment, and so on).

15. Investments, Borrowings and Trust Funds

- 15.1 All investments and borrowing must be in compliance with the Council's Treasury Management Strategy (see also section 23).
- 15.2 All investments of the Council's money shall be made in the name of the Council by the Assistant Director Finance.
- 15.3 All negotiable instruments, bonds and securities in the name of the Council, or its nominees, shall be held in custody of the Assistant Director Finance.
- 15.4 All borrowings shall be effected in the name of the Council, by the Assistant Director Finance, in accordance with the statutory requirements in force at the time of the borrowing.
- 15.5 The Assistant Director Finance shall be the Council's registrar of stocks, bonds and mortgages and shall maintain records of all borrowing of money by the Council.
- 15.6 All trust funds shall, wherever possible, be in the name of the Council.

16. Payment of Accounts

- 16.1 The Assistant Director Finance shall be responsible for making all payments of monies due from the Council, with the exception of payments from approved petty

cash or advance accounts, or approved corporate credit/procurement cards. This requirement relates to supplier invoices, Housing Benefit, Council Tax and National Non-Domestic Rates refunds.

- 16.2 The Senior Manager issuing the order shall be responsible for examining, verifying and certifying the related invoice(s). A list of officers authorised by each Senior Manager to raise orders and authorise invoices, claim forms and other vouchers on his behalf, shall be agreed by Management Team on an annual basis.
- 16.3 Before authorising an invoice, the authorising officer shall have satisfied himself that:
- a) the work, goods or services to which the account relates have been received, carried out, examined and approved;
 - b) the prices, calculations, discounts, other allowances, credits and tax are correct;
 - c) the relevant expenditure has been properly incurred, is within the relevant estimate provision and is correctly coded;
 - d) appropriate entries have been made in inventories, stores, records or stock books as required; and
 - e) the account has not been previously passed for payment and is a proper liability of the Council.
- 16.4 Accounts shall be authorised on the electronic creditors' system, without delay. The certification details shall be fully completed in line with the electronic creditors' system. The 'description of work' field shall include a readily understood description. This is part of the information required by the Code of Data Transparency and is published on the Internet.
- 16.5 Any amendment to an account shall be made through the electronic creditors' system, stating briefly the reasons where they are not self-evident. VAT tax invoices may not be amended. Adjustments to any invoice must be made by the issue of a credit note or supplementary invoice and must be agreed with the supplier.
- 16.6 Each Senior Manager shall, on request, notify the Assistant Director Finance of all outstanding expenditure relating to the previous financial year.

17. Lost Property

- 17.1 The Assistant Director Finance shall determine how lost property is dealt with. Detailed guidance is available on the Corporate Section of SharePoint.
- 17.2 Private property is not covered by the Council's insurance.

18. Salaries

- 18.1 The payment of all salaries, compensation and other emoluments to all employees, or former employees of the Council, shall be made by the Assistant Director Finance, or under arrangements approved and controlled by him/her.
- 18.2 Each Senior Manager shall inform the Human Resources Section, in the prescribed form, of all matters affecting the payment of such emoluments and in particular:
- a) appointments, resignations, dismissals, redundancies, retirements, deaths, suspensions, secondments and transfers;
 - b) absences from duty for sickness, or other reason, apart from approved leave;
 - c) changes in remuneration, other than normal increments and pay awards and agreements of general application; and
 - d) information necessary to maintain records of service for superannuation, income tax, national insurance, statutory sick pay, and so on; and
 - e) engagement of any temporary staff.
- 18.3 The Human Resources Section will pass the information referred to in 18.2 to the Financial Services Section. If this is received by the seventh day of the month, it will be paid in that month.
- 18.4 Appointments of all employees shall be made in accordance with the Council's approved establishment and its Pay Policy.
- 18.5 All time records or other pay documents shall be in a form prescribed or approved by the Assistant Director Finance, authorised by the Senior Manager of the department concerned. The names of officers authorised to sign such records shall be sent to the Financial Services Section by each Senior Manager.
- 18.6 When temporary staff are engaged, prior to any payment being made, a completed IR35 assessment will be forwarded to finance confirming whether the engagement will be on or off payroll. This applies equally to engagement of non-temporary staff through third party companies.

19. Security

- 19.1 Each Senior Manager is responsible for maintaining proper security, at all times, for all buildings, stocks, stores, furniture, equipment, cash and all things under his or her control. The Assistant Director Finance shall be consulted in any case where security in regard to cash or financial arrangements is thought to be defective, or needing special security arrangements. Relevant Senior Managers shall also inform the Chief Executive of the existence of any special security risks, or the need for improvement in security arrangements.
- 19.2 Keys to safes and similar receptacles are to be either carried on the person of those responsible, or secured in a locked key cupboard. The loss of any such keys shall be reported to the relevant Senior Manager forthwith.

19.3 Each Senior Manager shall be responsible for maintaining proper security and privacy of all personal information held within his or her department.

20. Stocks and Stores

20.1 Each Senior Manager is responsible for the care and custody of the stocks and stores in his or her department.

20.2 Stocks shall not be in excess of normal requirements.

20.3 Senior Managers shall arrange for periodic examinations of stocks and shall ensure that all stocks are checked at least once in every year.

20.4 The Assistant Director Finance shall be entitled to receive from each Senior Manager such information as he/she requires in relation to stores for the accounting, costing and financial records, including a certificate signed by a Senior Manager as to the level of stocks and stores under his or her control. Any surplus requirements shall be disposed of.

21. Travelling and Subsistence Allowances

21.1 As far as possible, all claims for payment of car allowances, travelling, subsistence and incidental expenses, shall be submitted electronically via the Transfare system by the deadline date which is posted on the Transfare system each month. Any claims submitted on paper claims to be submitted by the seventh of the month for payment in that particular month. All claims, either electronic or manual, shall be authorised by an authorised officer.

21.2 The certification by, or on behalf of the relevant Senior Manager, shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.

21.3 Subject to 21.4 claims by Senior Managers (other than the Chief Executive) shall be authorised by another Senior Manager with more seniority.

21.4 Claims by the Chief Executive shall be certified by the Director of Corporate Services. Claims by the Assistant Director Finance shall be certified by the Chief Executive or Director of Corporate Services. Claims by the Director of Corporate Services or Director of People and Place shall be certified by the Chief Executive or Assistant Director Finance.

21.5 Officers' claims submitted more than three months after the expenses were incurred will be paid only with the express approval of the Assistant Director Finance.

22. Agency Services

22.1 These Rules shall apply to services carried out by the Council on behalf of another public body, except where the body concerned has financial regulations in force which apply to the works or services carried out on its behalf.

23. Code for Treasury Management

- 23.1 This Council has adopted the key recommendations of CIPFA's Treasury Management in the Public Services: Code of Practice (the Code), as described in Section 5 of the Code:
- 23.2 This Council will create and maintain as the cornerstones for effective treasury management:
- a) a Treasury Management Policy Statement, stating the policies, objectives and approaches to risk management of its treasury management activities; and
 - b) suitable Treasury Management Practices (TMPs), setting out the manner in which the Council will seek to achieve those policies and objectives and prescribing how it will manage and control those activities.
- 23.3 The content of the Treasury Management Policy Statement and TMPs will follow the recommendations contained in the Code, subject only to amendment, where necessary, to reflect the particular circumstances of this Council. Such amendments will not result in the Council materially deviating from the Code's key principles;
- 23.4 The Council will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual Strategy and Plan in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in its TMPs;
- 23.5 The Council delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to the Scrutiny Co-ordinating Board. The Council delegates responsibility for the execution and administration of treasury management decisions to the Assistant Director Finance, who will act in accordance with the Council's Treasury Management Policy Statement and TMPs.
- 23.6 The Council nominates the Scrutiny Co-ordinating Board to be responsible for ensuring effective scrutiny of the Treasury Management Strategy and policies.
- 23.7 The Treasury Management Policy Statement will set out how the Council guards against Money Laundering.
- 23.8 Full Council will review its treasury management policies twice a year.
- 23.9 The Council will consider an annual Strategy and Plan in advance of the year, reviewed after six months and an annual report after its close in the form prescribed in its TMPs. The Scrutiny Co-ordinating Board will review the Council's treasury investments at each of its scheduled meetings.

24. Determination of Borrowing Requirement

- 24.1 Under the CIPFA Prudential Code for Capital Accounting (which is an approved practice under the Local Government Act, 2003), the Council is required to determine its borrowing limits each year. The Assistant Director Finance will include

this as part of the annual update of the Treasury Management Strategy. This shall be taken to Council annually.

25. Reporting of Fraud, Theft and Corruption

- 25.1 Whenever any matter arises which involves, or is thought to involve, fraud, theft or corruption, the matter shall be reported immediately (via the relevant Senior Manager if preferred) to the Assistant Director Finance or, in his/her absence, the Senior Auditor, who shall take such steps as he/she considers necessary by way of investigation and report, as detailed, in the Anti-Fraud, Theft, Bribery and Corruption Strategy (this is available on Corporate Centre page of SharePoint).

Senior Managers shall, meanwhile, take any appropriate action to prevent further loss and secure records and documentation against removal or alteration. Definitions are given below as a guide:

Theft	Dishonestly appropriating property belonging to another, with the intention of permanently depriving them
Fraud	The intentional distortion of financial statements, or other records, by persons, internal or external to the organisation, carried out to conceal the misappropriation of assets, or otherwise, for gain
Corruption	The offering, giving, soliciting, or acceptance of an inducement, favour or reward, which may influence the actions taken by the Council, its Members, or officers. It also includes using personal relationships to influence actions
Bribery	The offering, promising, or giving of a financial or other advantage, to a person with the intention of bringing about another's improper performance of an activity, or rewarding such improper performance. Bribery can arise where the acceptance of an advantage, in the knowledge that it is offered, promised, or given, constitutes an improper performance of an activity.

26. Management of Partnerships

- 26.1 The Council has a Protocol for Partnership Arrangements. This can be found on the Corporate Centre page of SharePoint. Any officer considering entering into any partnership shall comply with the Protocol.
- 26.2 Prior to entering into any formal partnership arrangements, the Assistant Director Finance and the Assistant Director Governance shall be consulted.
- 26.3 The Assistant Director Finance will maintain a database of all partnerships that have either a significant legal or financial commitment. This will be updated on an annual basis.

27. Emergency Events

- 27.1 In an emergency, it is important to balance the need to respond promptly and the need to retain accountability. Part of properly dealing with financial matters is to ensure that the appropriate organisation pays for goods and services in the first instance and that records are such as to enable the billing of third parties and the claiming of Government emergency funds.
- 27.2 In the initial stages of an emergency there may be a need to commit expenditure very rapidly. The Assistant Director Finance, or if he/she is unavailable, any other Senior Manager, or the Assistant Director Finance's appointed Deputy, can authorise any reasonable expenditure.

As soon as possible, the Assistant Director Finance will liaise with the Chief Executive or the Director of Corporate Services (or, if unavailable, any other member of Management Team) and the Leader (or, if unavailable, the Deputy Leader or any other Executive Member) to agree:

- a) an initial emergency budget; and
 - b) an emergency scheme of budget delegation: the normal delegated levels may not give the required level of flexibility in responding to any emergency. Any such emergency delegation scheme should be for a limited life. The Eden Emergency Response Plan sets out a pro-forma delegation which should be followed.
- 27.3 Unless anticipated gross expenditure is in excess of £500,000, the budgets and expenditure against them will be reported to the next normal meeting of the Executive, or Council, whichever comes first.
- 27.4 If the anticipated gross expenditure is in excess of £500,000, a special Council will be convened, as soon as practicable, to agree the budgets set up and the financial implications of the emergency.
- 27.5 The detailed codes set up by the Financial Services Section should be used for all expenditure and income associated with the emergency.
- 27.6 If the Financial Management System is available, orders should be placed using the system. However, if speed is of the essence, orders may be placed by telephone, with the Financial Management System being used as a confirmation; and
- 27.7 If the Financial Management System is not available, telephone orders can be made, with an appropriate note being sent through to the Financial Services Section.

28. Annual Revision

28.1 These Accounting and Audit Rules shall be reviewed annually by the Assistant Director Finance as part of the annual review of the Constitution.

29. Effective Date

29.1 This revision is effective from 12 April 2019.

This page is left intentionally blank

H. Procurement Rules

Rule	Page No
1. General	253
2. Orders for all Work.....	254
3. Procurement Exercises under £60,000	255
4. Procurement Exercises of £60,000 or more.....	256
5. Procurement Guidance for Officers.....	263
6. Diversity	263
7. Emergency Situations	263
8. Conflict of Interest.....	263
9. Annual Revision	263
10. Effective Date	263

This page is left intentionally blank

H. Procurement Rules 2019

1. General

- 1.1 The Rules, in conjunction with the Accounting and Audit Rules, comply with the requirements for Standing Orders under S135 of the Local Government Act 1972.
- 1.2 Procurement is the process by which the Council manages the acquisition of all its goods, services and works: land acquisition and disposal are excluded.
- 1.3 These Procurement Rules provide a corporate framework for the procurement of all goods, services and works for the Council. The Rules are designed to ensure that:
- all procurement activity is conducted with openness, probity and accountability and compliance with Public Procurement Legislation; and the Council obtains value for money and the required level of quality and performance in all its procurement.
- 1.4 In these Rules the following definitions apply:

Authorised Officer	Any officer who, by the nature of his or her job, or as directed by a manager, is authorised to undertake procurement activity
Chief Officer	One of the following: Chief Executive, Director of Corporate Services, Director of People and Place
Contract	Any form of contract, agreement, or other arrangement, for the supply of goods, services, or works
Assistant Director Finance	Includes the Assistant Director's appointed deputy
Executive Member	A Member of the Council's Executive
Goods	All supplies and materials that the Council purchases, or obtains
Guidance	The Council's Procurement Procedures
Leader	The Leader of the Council, as appointed by full Council
Management Team	The senior leadership team comprising the Chief Executive, Director of Corporate Services and Director of People and Place.
Senior Manager	A Chief Officer, Assistant Directors and Heads of Service.
Senior Auditor	The Council's in-house Internal Auditor

Services	Includes all services which the Council purchases, or obtains, including advice, specialist consultancy work, agency staff, and so on
Works	Covers all construction and property-related procurement

- 1.5 All values referred to in the Rules are exclusive of VAT.
- 1.6 Throughout these Rules the Assistant Director Finance shall deputise for the Senior Auditor in his absence, and vice versa.
- 1.7 Every procurement made by, or on behalf of the Council, shall comply with these Rules and no exception from any of the provisions is allowed, except by agreement of:
- a) procurement exercises less than £60,000 - the relevant Director or Assistant Director;
 - b) procurement exercises of £60,000 or more, but less than £100,000 - the Executive; and
 - c) procurement exercises of £100,000 or more - Council.
- 1.8 The specified limits apply to contracts with a fixed or known value.

2. Orders for all Work, Goods and Services

- 2.1 Official orders shall be in the manner approved by the Assistant Director Finance and shall be issued only by authorised officers. A list of authorised officers shall be submitted by each Senior Manager to the Assistant Director Finance on an annual basis.
- 2.2 Official orders shall be issued for all work, goods, or services to be supplied to the Council, except for supplies of public utility services, periodical payments, such as rents or rates, petty cash purposes, or where a formal contract is entered into, or such other exceptions as the Assistant Director Finance may approve.
- 2.3 No order shall be issued for work, goods, or services, unless the cost is covered by an approved budget, or by special financial provision. Under no circumstances shall personal goods/requirements be ordered via an official Council order.

3. Procurement Exercises Under £60,000

- 3.1 The following apply where any individual purchase or contract is less than £60,000 in total. Artificial breaking down of any procurement exercise so that individual elements are less than this limit is not permitted.
- 3.2 Purchases of less than £5,000 do not require competitive quotes. However, officers are encouraged to obtain comparisons and should be satisfied that the purchase gains value for money for the Council. This can be done by contacting suppliers directly and using catalogues, or various internet sites. Other relevant sources are trade magazines and recommendations from other staff/councils. It is suggested that, where the value of the procurement exercise is greater than £500, a record is made of why the supplier was chosen.
- 3.3 A Senior Manager shall obtain at least two competitive quotations where the estimated cost of the goods or services exceeds £5,000, but is less than £10,000.
- 3.4 For procurement exercises of a value from £10,000 or more but less than £25,000, a minimum of three quotations should preferably be sought and for £25,000 to £60,000 a minimum of four written quotations should be sought where the opportunity is advertised it shall be published on The Chest. Less than three quotations may be sought in special circumstances where it is not practicable to do otherwise. In such cases, the relevant Senior Manager shall keep a written record detailing the reasons for waiving the rules. For quotes of £25,000 or more but below the EU threshold the use of The Chest is considered best practice (see 4.6.1.2 below).
- 3.5 An exception to the above is where use is made of a framework arrangement or Cumbria County Council's Corporate Procurement and Contract Management Team (the County Council's purchasing organisation). In such cases, while no further quotes are required, the Authorised Officer should be satisfied and able to demonstrate that they are achieving value for money. The use of frameworks is another means of securing procurement. Where suppliers are part of a framework, then only these suppliers need be contacted.
- 3.6 In general, where it is a price only tender, the lowest price should be accepted. It is assumed that the quotation process will have been clear on setting out the required specification. However, each Senior Manager can approve a written request from an Authorised Officer, with stated reason, to accept a quotation other than the lowest, where there is good reason to do so. Such approved requests shall be recorded and all relevant documents and correspondence retained by the relevant Senior Manager.
- 3.7 Procurement (corporate credit) cards can be used for purchases. All procurement cards must be specific to individual officers, with an individual total credit limit, as authorised by the Assistant Director Finance.
- 3.8 Any purchase of goods, works, or services which requires the Council to enter into a formal written agreement with the supplier, shall not take place until the

terms of that agreement have been referred to the Assistant Director Governance and approved by him/her.

4. Procurement Exercises of £60,000 or more

- 4.1 When the estimated value of the goods, works, or services to be procured is £60,000 or more, the relevant Senior Manager shall invite competitive tenders on the following basis:

Numbers of Tenders to be Sought

The following should normally be the minimum number of tenders sought:

Tender Value £	Number of Tenders To Be Sought
	Minimum
More than £60,000 but less than EU Procurement threshold	4
Procurements above the EU procurement threshold must be tendered in line with the Public contracts Regulations 2015.	

The relevant Senior Manager shall have authority to accept a tender and direct that a contract be entered into on the basis set out in paragraphs 4.10 and 4.11 below.

- 4.2 The relevant Senior Manager shall determine which one of the following tender procedures is adopted:

a) Open Tendering

At least thirty days' notice is to be given on The Chest stating the nature, purpose and extent of the proposed contracts, inviting tenders and stating the date by which tenders must be received.

b) Special List

In appropriate circumstances and subject to compliance with the Public Contracts Regulations if applicable, the relevant Senior Manager may compile a Special List of tenderers for the procurement of works, goods or services, provided that:

- i. the estimated value of the works, or the supply of goods or services, does not exceed £100,000;

- ii. the tenderers shall be persons who, in the professional judgement of the relevant Senior Manager, have the skills and capacity to efficiently complete the work, the goods, or services; and
- iii. prior to the invitation to tender, the relevant Senior Manager shall have recorded the list of tenderers, together with his/her reasons for using a Special List and inclusion of specific tenderers thereon and shall have such action approved by the Assistant Director Finance.

When a Senior Manager considers that a Special List would be appropriate for the carrying out of works, goods, or services, but the estimated value is £100,000 or more, such a Special List must be approved by Council, or the Executive

All procurement activity must be conducted in line with the Public Contracts Regulations 2015, having regard to how they apply the and any particular circumstance.

4.3 **Sub-Contracts and Nominated Suppliers**

The relevant Senior Manager shall have authority to include sub-contractors and/or nominated suppliers within a larger overall contract, providing that the selection, tender and subsequent award have been in accordance with these Rules.

4.4 **Work, Goods, or Services Undertaken by Consultants**

Any architect, engineer, surveyor, or other consultant (not being an officer of the Council), who is appointed by the Council for the purchase or carrying out any work, or the provision of goods, or services, shall ensure throughout the appointment that he/she shall:

- a) comply with these Rules;
- b) at any time during the carrying out of the contract, produce to the relevant Senior Manager, or his/her representative, on request, all the records maintained by him in relation to the contract; and
- c) on completion of a contract, transmit all such records, as requested, to the relevant Senior Manager.

4.5 **Exceptional Cases**

4.5.1 The Executive may decide that only one tender shall be sought where the goods, works, or services to be executed:

- a) constitute an extension of the existing contract, provided that the relevant Senior Manager may authorise an extension to a cost up to 10% above the approved allocation, or £100,000, whichever is the lesser; or

- b) constitute the continuation of a programme of works commenced by a contractor and the relevant Senior Manager certifies that there are exceptional circumstances why he/she should seek, or negotiate, a tender from that contractor only.

4.5.2 More than one tender need not be sought where:

- a) the goods to be supplied are proprietary articles, or are sold only at a fixed price and no satisfactory alternative is available; or
- b) the relevant Senior Manager certifies that the works to be executed, or the goods to be supplied, are required so urgently as not to permit the invitation of more than one tender; or
- c) the works to be executed, or the goods to be supplied, consist of repairs to, or the supply of parts of, existing proprietary machinery or plant.

4.5.3 Procurement can be made using a framework agreement, or Cumbria County Council's Corporate Procurement and Contract Management Team (the County Council's purchasing organisation).

4.6 **Forms of Tendering**

4.6.1 **Electronic Tendering**

4.6.1.1 All procurement processes must be conducted electronically, either via e-mail or through the Council's electronic tender system is the North West e-Tendering portal, 'The Chest'. Detailed guidance is available in the Procurement Procedures.

4.6.1.2 Any invitation to quote or tender should include a Specification detailing the Council's requirements to be published on the system.

4.6.1.3 Use of The Chest prevents tenders being opened until after the expiry of the published closing date. When a procurement exercise is being carried out via The Chest, tenders submitted by any other means and opened prior to the return deadline will be excluded from the process.

4.6.2 **Opening of Tenders**

4.6.2.1 Electronic tenders shall be released by the appointed verifier. Appointed verifiers are allocated the responsibility by the system.

4.7 **Tenders**

4.7.1 It is a requirement for records of procurement activity, including all quotations and tenders received to be stored securely in electronic format. Tender submissions, quotations received, evaluation documents and any final reports detailing the selection outcome should be stored centrally within the procurement section of SharePoint.

A record of all Tenders received should be made as soon as they are opened and the record kept by the Procurement Officer.

A record of all documentation to be kept electronically is listed in the Procurement Procedures.

4.8 **Late Tenders**

4.8.1 Any tender submitted in competition received after the specified time may be viewed to ascertain the name of the tenderer, but no details of the tender shall be disclosed. The tenderer shall be notified that the Council will be unable to accept the late submission.

4.8.2 Notwithstanding these provisions, the Senior Auditor and the relevant Senior Manager shall have discretion to determine that any such tender can be considered if:

- a) there is evidence of submitting in time for delivery by the due date in the normal course of delivery; or
- b) in special circumstances, the reason presented is viewed as legitimate by the Senior Auditor and relevant Senior Manager; and
- c) that, in their opinion, the late tender has not prejudiced the tendering process.

providing always that the other tenders have not then been opened and the circumstances justifying any such acceptance reported by them to the next available Member meeting.

4.9 **Errors**

4.9.1 Where examination of tenders reveals errors or discrepancies which would affect the tender evaluation in an otherwise successful tender, the tenderers shall be given the details of such errors and discrepancies and afforded an opportunity of confirming or withdrawing the offer. If the tenderer withdraws, the next tender in competitive order shall be examined and dealt with in the same way. Any exception to this procedure may be authorised only by, or on behalf of the Executive or Council, after consideration of a report by the relevant Senior Manager.

4.10 **Basis of Acceptance**

4.10.1 Tenders should be sought on one of two bases:

- a) Most Economically Advantageous Tender (MEAT); or
- b) the lowest price.

The basis of any criteria for acceptance must be made clear in the tender documentation.

- 4.10.2 In general, MEAT is likely to be the more appropriate basis. An award on the basis of lowest price should be reserved for commodities such as gas, paper, where it is possible to precisely specify the good, or supply, to be procured.
- 4.10.3 If the basis is MEAT, the assessment of how this will be done should be set out in the tender documents. This should state:
- a) the categories of assessment;
 - b) any weighting for each category; and
 - c) how the assessment is to be carried out.
- 4.10.4 Further detail on the methods of assessment are set out in the Procurement Procedures and standard Instructions for Tenderers.
- 4.10.5 Unless there are specific reasons to provide otherwise, the weighting given to price should be between 60% and 100%. A figure lower than 60% will require the approval of the appropriate Executive Member.
- 4.11 **Acceptance**
- 4.11.1 Tenders sought in accordance with these Rules may be accepted by the relevant Senior Manager, subject to:
- a) the works or goods being included in an approved revenue or capital programme;
 - b) the tender to be accepted not exceeding (as opened) by more than 10%, the cost figure approved by the appropriate Member for the works, goods, or services;
 - c) if the budget is exceeded, the excess can be met by virement through the procedures laid down by the Accounting and Audit Rules: the relevant Senior Manager shall formally record the virement by filling in a virement request form; and
 - d) where the accepted sum is £100,000 or more, the acceptance shall be reported to the appropriate Executive Member.
- 4.11.2 The proposed acceptance of any tender not in accordance with this section shall be referred for consideration by the Executive (if less than £500,000), or Council. The provisions above also apply where goods, or the rights to operate income-generating services, are being sold.

4.12 **Form of Contract**

4.12.1 A contract shall be drawn up in writing in a form approved by the Assistant Director Governance and shall specify:

- a) the goods or services to be procured (including any appropriate technical specification[s]);
- b) the price to be paid, with a statement of discounts, or other deductions;
- c) the times, or times at, or by which, the contract is to be performed; and
- d) all other material items.

4.13 **Assignment**

4.13.1 In every written contract for the execution of the work, or the supply of goods or materials, the following clause shall be inserted:

'The contractor shall not transfer or assign, directly or indirectly, to any other person, any part of this contract without the express written permission of the Council. A sub-letting of any part(s) of the contract, except to the extent permitted in writing by the Council officer concerned, is prohibited'.

4.14 **Liquidated Damages**

4.14.1 Liquidated damages are a pre-estimate of the loss that may arise if the contractual provisions of a contract are not met. It may be appropriate to include liquidated damages in some contracts. The amount to be specified in each such contract shall be determined by the relevant Senior Manager.

4.15 **Performance Bonds**

4.15.1 Where a contract is for the execution of the works or is estimated to be £100,000 or more in value or amount, the relevant Senior Manager shall consider whether the Council should require security for its due performance and shall either certify that no such security is necessary or, in consultation with the Assistant Director Finance, shall specify in the conditions of tender the nature and amount of the security to be given. In the latter event, the Council shall require and take a bond or other sufficient security for the due performance of the contract.

4.16 **Specifications and Standards**

4.16.1 All tenders shall include a written specification of the proposed works, goods, or services.

4.16.2 Where an appropriate standard, as formulated by a European Standards body and implemented by a British Standard specification, is current, all goods and materials used or supplied and workmanship shall be required to conform with

that standard, or other equivalent European Standard, as a minimum requirement.

4.17 Cancellation

- 4.17.1 In every written contract, a clause shall be inserted to secure that "the Council shall be entitled to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation if the contractor shall have offered, or given, or agreed to give to any person, any gift or consideration of any kind, as an inducement or reward for doing, or forbearing to do, or for having done or forborne to do, any act in relation to obtaining, or the execution of the contract, or any other contract with the Council, for the showing or forbearing to show, favour or disfavour to any person in relation to the contract, or any other contract with the Council, or if the like acts shall have been done by any person employed by him or acting on his behalf (whether with or without the knowledge of the contractor) or, if in relation to any contract with the Council, the contractor or any person employed by him, or acting on his behalf, shall have committed any act of dishonesty or corruption."

4.18 Health and Safety

- 4.18.1 All contracts entered into shall comply with the provisions within the Council's General Health and Safety Policy and procedures in relation to contracts and contractors.

4.19 Public Procurement Requirements

- 4.19.1 On procurement exercises over the European Union financial thresholds, the Public Procurement Regulations may apply and must always be followed. The current thresholds for specified categories of goods and services are set out in the Procurement Procedures.
- 4.19.2 The Public Procurement Regulations shall also be considered and the principles used as guidance for procurement exercises under the European Union financial thresholds.
- 4.19.3 For procurement exercises above European Union financial thresholds, under UK law the opportunity must be advertised on the UK Government Contracts Finder system.

4.20 Project Management Arrangements

- 4.20.1 All procurement exercises with an expected lifetime cost in excess of £1,000,000, or involving substantial organisational change, must be conducted in accordance with PRINCE II (see Guidance) and both the project mandate and the project brief must be agreed by Management Team.

5. Procurement Guidance for Officers

- 5.1 The detailed implementation of these rules is supported by Guidance which is available in the Procurement section of SharePoint. All officers undertaking procurement exercises should be familiar with the Procurement Procedures.

6. Diversity

- 6.1 All procurement exercises shall be undertaken in a non-discriminatory way and promote equality of opportunity.
- 6.2 Supporting detail on achieving diversity is set out in the Procurement Procedures.

7. Emergency Situations

- 7.1 In the acute phase of an emergency, goods and services may be procured on the process that best fits the situation. As far as possible, the approval of the Assistant Director Finance, Chief Executive, Director of Corporate Services or Emergency Co-ordinator (under the Eden Emergency Response Plan), shall be obtained. A note shall be kept of the procurement basis and sent at a convenient time to Financial Services.
- 7.2 After the acute phase is over, Procurement Rules should be followed wherever practicable. If this is not considered appropriate in particular instances, dispensation can be obtained from the Assistant Director Finance, or the Chief Executive, or Director of Corporate Services. They will forward details to Financial Services for record purposes. Dispensations from Procurement Rules will be reported to the next Executive meeting.

8. Conflict of Interest

- 8.1 If it comes to the knowledge of a Member or an employee of the Council that a contract in which he or she has a disclosable pecuniary interest has been, or is proposed to be entered into by the Council, he or she shall immediately give written notice to the Council's Chief Executive. The Chief Executive shall report any such declarations to the Executive and Accounts and Governance Committee.

9. Annual Revision

- 9.1 These Procurement Rules shall be reviewed annually by the Assistant Director Commissioning and Technical Services as part of the annual review of the Constitution.

10. Effective Date

- 10.1 This revision is effective from 12 April 2019.

This page is left intentionally blank

I. Officer Employment Procedure Rules

Rule	Page No
1. Recruitment and Appointment	267
2. Recruitment of Head of Paid Service, Chief Officers, Deputy Directors and Assistant Directors	267
3. Appointment of Head of Paid Service	268
4. Appointment of Chief Officers and Deputy Chief Officers	269
5. Appointment of Officers below Chief Officer and Deputy Chief Officer	270
6. Disciplinary Action in respect of the Head of Paid Services, Monitoring Officer and Chief Finance Officer	270
7. Disciplinary Action and Dismissal in respect of Chief Officers and Deputy Chief Officers	271
8. Dismissal of and Disciplinary Action against other Officers	272

This page is left intentionally blank

I. Officer Employment Procedure Rules

1. Recruitment and Appointment

a) Declarations

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

b) Seeking support for appointment

- i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Member for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- ii) No Member will seek or canvass support for any person for any appointment with the Council.

2. Recruitment of Head of Paid Service, Chief Officers, Assistant Directors and Heads of Service

- a) Where the Council proposes to appoint a Chief Officer or an Assistant Director including the Head of Paid Service (other than on an acting basis) and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:
 - i) draw up a statement specifying:
 - (1) the duties of the officer concerned; and
 - (2) any qualifications or qualities to be sought in the person to be appointed;
 - ii) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
 - iii) make arrangements for a copy of the statement mentioned in paragraph i) above to be sent to any person on request.

3. Appointment of Head of Paid Service

- a) The Human Resources and Appeals Committee will consider and make a recommendation to Council on the appointment of a person as the Head of Paid Service to the Council.
- b) When considering the appointment of the Head of Paid Service the Human Resources and Appeals Committee must have in its membership at least one Executive Member.
- c) The Human Resources and Appeals committee shall undertake a recruitment process to determine who should be recommended to be appointed as the Head of Paid Service. At the conclusion of the recruitment process:
 - i) the Human Resources and Appeals Committee must notify the Proper Officer of the name of the person to whom the Committee wishes to recommend to be appointed and of any other particulars which are relevant to the appointment;
 - ii) the Proper Officer must notify every Member of the Executive of the Council of:
 - (1) the name of the person whom the Committee wishes to recommend to be appointed;
 - (2) any other particulars relevant to the appointment which the Committee has notified to the Proper Officer; and
 - (3) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Executive to the Proper Officer; and
- d) An offer of an appointment as the Head of Paid Service can only be made following consideration by Council if
 - (1) the Leader has, within the period specified in the notice under sub-paragraph c)(ii) notified the Committee that neither he/she nor any other Member of the Executive has any objection to the making of the offer;
 - (2) the Proper Officer has notified the Committee that no objection was received by him/her within that period from the Leader; or
 - (3) the Committee is satisfied that any objection received from the Executive Leader within that period is not material or is not well-founded.
- e) Full Council must consider and approve the appointment of a person as the Head of Paid Services before an offer of appointment is made to such a person. The report to Council from the Committee on the appointment of the Head of Paid Service must set out the details of the proposed appointment and the outcome of the consultation with the Leader.

4. Appointment of Chief Officers and Deputy Chief Officers

a) Chief Officers

The Human Resources and Appeals Committee will appoint any Chief Officer other than the Head of Paid Service and any deputy chief officer. The current Chief Officers are the Director of Corporate Services and the Director of People and Place in addition to the Head of Paid Service.

b) Assistant Directors and Heads of Services

The Assistant Directors and Heads of Service report to the Chief Officers and act as their deputies. The Assistant Directors and Heads of Service will be appointed by the Human Resources and Appeals Committee. The Assistant Directors are those for Governance, Finance, Commissioning and Technical Services, Planning and Economic Development and Community Services. The Heads of Service are Revenues and Benefits, Transformation and Customers and Policy and Human Resources. The Assistant Directors and Heads of Service are the Council's Deputy Chief Officers.

c) The Appointment Process for Chief Officers and Deputy Chief Officers

The Human Resources and Appeals Committee shall undertake a recruitment process to determine who should be recommended to be appointed as the Chief Officer or Deputy Chief Officer. The Committee or Sub-Committee must have in its membership at least one Executive Member.

d) An offer of appointment as a Chief Officer or Deputy Chief Officer must not be made by the Committee until:

- i) the Committee has notified the Proper Officer of the name of the person to whom the Committee wishes to recommend to be appointed and of any other particulars which are relevant to the appointment;
- ii) the Proper Officer has notified every Member of the Executive of the Council of:
 - (1) the name of the person to whom the Committee wishes to recommend to be appointed;
 - (2) any other particulars relevant to the appointment which the Committee has notified to the Proper Officer; and
 - (3) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Executive to the Proper Officer; and

e) An offer of an appointment as a Chief Officer or a Deputy Chief Officer can only be made following consideration by Council if

- (1) the Leader has, within the period specified in the notice under sub-paragraph c)(ii) notified the Committee that neither he/she nor any other Member of the Executive has any objection to the making of the offer;

- (2) the Proper Officer has notified the Committee that no objection was received by him/her within that period from the Leader; or
- (3) the Committee is satisfied that any objection received from the Executive Leader within that period is not material or is not well-founded.

5. Appointment of Officers below Chief Officer and Deputy Chief Officer

The appointment of any officer below the level of a Chief Officer or Deputy Chief Officer is the responsibility of the Head of Paid Service or an officer nominated by him/her and may not be made by Members.

6. Disciplinary Action in respect of the Head of Paid Services, Monitoring Officer and Chief Finance Officer

- a) The Council's Head of Paid Services, Monitoring Officer and Chief Finance Officer (the relevant officers) may not be dismissed other than in accordance with the procedure set out in these rules and Schedule 3 to the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
- b) The Human Resources and Appeals Committee and any Sub-Committee which may be established is appointed to and shall advise the Council on matters relating to any proposal or recommendation to dismiss any of the relevant officers.
- c) The Human Resources and Appeals Committee or any Sub-Committee which may be established shall include at least two independent persons whenever it is considering any matter relating to the proposed or prospective dismissal of any of relevant officers.
- d) The Human Resources and Appeals Committee or any Sub-Committee which may be established may provide advice, views and recommendations to the Council in relation to the proposed or prospective dismissal of any relevant officer.
- e) The Council, in considering whether or not to approve the dismissal of any relevant officer, must consider:
 - i) any advice, views and recommendations of the Human Resources and Appeals Committee on the proposed dismissal;
 - ii) the conclusions of any investigation into the proposed dismissal; and
 - iii) any representations made by the relevant officer.
- f) Any relevant officer may be suspended on full pay for the purpose of investigating alleged misconduct; and such suspension must terminate no later than on the expiry of two months beginning on the day on which the suspension takes effect, unless the Human Resources and Appeals Committee or any Sub-Committee which it may establish directs that it may continue beyond that period. The Council must approve any dismissal of any relevant officer before notice is given to that person of dismissal.

- g) Notice of dismissal may not be given until:
 - i) the Proper Officer has been notified of the name of the person whom it is proposed should be dismissed together with any other relevant particulars;
 - ii) the Proper Officer has notified every Member of the Executive of the name of the person the Council proposes to dismiss and of any other relevant particulars and of the period within which any objection to the dismissal may be made by the Leader; and
 - iii) either
 - (1) the Leader has notified the Proper Officer that neither he nor any other Member of the Executive has any objection to the proposed dismissal; or
 - (2) the Proper Officer has notified the Council that no objection was received by him in the relevant period; or
 - (3) the Council is satisfied that any objection received from the Leader is not material or not well founded.
- h) The Proper Officer for these purposes is the Monitoring Officer in relation to a proposal to appoint or dismiss the Head of Paid Service or the Chief Finance Officer and the Head of Paid Service in relation to a proposal to discuss the Monitoring Officer.

7. Disciplinary Action and Dismissal in respect of Chief Officers and Deputy Chief Officers

Notice of the dismissal of a Chief Officer or a Deputy Chief Officer must not be given until:

- a) the person or Committee (dismissor) undertaking the function of disciplinary action has notified the Proper Officer of the name of the person it is proposed should be dismissed and any other particulars which the dismissor considers to be relevant to the dismissal;
- b) the Proper Officer has notified every member of the Executive of
 - i) the name of the person whom the dismissor proposes should be dismissed;
 - ii) any other particulars relevant to the dismissal which have been notified to the Proper Officer by the dismissor; and
 - iii) the period within which any objection to the dismissal is to be made to the Proper Officer by the Executive Leader on behalf of the Council.
- c) either
 - i) the Executive Leader has notified the dismissor, within the period specified, that neither he/she nor any member of the Executive has any objection to the dismissal.

- ii) the Proper Officer has notified the dismissor that no objection has been received from the Executive Leader within the specified period;
- iii) the dismissor is satisfied that any objection received from the Executive Leader within the specified period is not material or is not well-founded.

8. Dismissal of and Disciplinary Action against other Officers

- 8.1 The dismissal of or the taking of disciplinary action against any officer of the Council apart from the Head of Paid Service, a statutory Chief Officer, a non-statutory Chief Officer and a Deputy Chief Officer must be discharged by the Head of Paid Service or by an officer nominated by him/her.
- 8.2 Members will not be involved in the disciplinary action against any officer except where such involvement is necessary for any investigation or inquiry into the alleged misconduct is specifically provided for under any part of these Officer Employment Procedure Rules or is in accordance with the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of a specified form of disciplinary action.

Part 5

Codes and Protocols

This page is left intentionally blank

Index

Page No

A.	Members Code of Conduct and Guidance on the Code of Conduct	277
B.	Protocol on Public and Member Participation in Meetings	297
C.	Officers' Code of Conduct.....	299
D.	Code of Planning Conduct and Practice	307
E.	Protocol on Member and Officer Relations	325
F.	Filming, Photography, Recording and Use of Social Networking at Council Meetings Policy	333
G.	Protocol for the relationship between the Leader of the Council and the Chief Executive	335
H.	Protocol for the Monitoring Officer	343
I.	Protocol for the Independent Persons.....	349
J.	Protocol for the Chairman of the Council	355

This page is left intentionally blank

A. Members Code of Conduct

	Page No
For Members and Co-opted Members of the Authority.....	279
Registering and declaring disclosable pecuniary and other registrable interests.....	280
Seven General Principles of Conduct.....	281
Guidance on Code of Conduct	282
Code of Conduct.....	282
When does the Code apply to you?.....	282
General Obligations under the Code	282
• Respect.....	285
• Equality	285
• Impartiality and integrity of officers of the authority	285
• Register of Interests.....	287
• Disclosable Pecuniary Interests.....	287
• Notification of other interests	289
• What is a 'body exercising functions of a public nature'?.....	289
• Gifts and Hospitality.....	290
• Changes to interests	291
• Disclosure of interests.....	291
• Sensitive interests.....	291
• Non-participation in case of disclosable pecuniary interest.....	292
• Leaving the room	292
• Dispensations	292
• Offences	293
• Bias and Predetermination.....	293

This page is left intentionally blank

A. Members' Code of Conduct

For Members and Co-opted Members of the Authority

1. The Eden District Council ('The Authority') has adopted the following code dealing with the conduct that is expected of Members and co-opted members of the Authority ('Members') when they are acting in that capacity as required by section 27 of the Localism Act 2011 ('the Act').
2. The Council has a statutory duty under the Act to promote and maintain high standards of conduct by Members and the Code sets out the standards that the Council expects Members to observe.
3. The Code is not intended to be an exhaustive list of all the obligations that are placed on Members. It is the responsibility of individual Members to comply with the provisions of the Code as well as such other legal obligations as may apply to them from time to time. Failure to do so may result in a sanction being applied by the Council. Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and a fine of up to £5,000 and/or disqualification from office for a period of up to five years.
4. The Code is intended to be consistent with the seven principles as attached to this Code and applies whenever a person is acting in his/her capacity as a Member of the Council or co-opted Member in the conduct of the Council's business or acting as a representative of the Council.
5. When acting in your capacity as a Member:
 - 1) You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend, a close associate, an employer or a business carried on by you.
 - 2) You must not place yourself under a financial or other obligation to outside individuals or organisations that may influence you in the performance of your official duties.
 - 3) You must not disclose any information given to you as a Member in breach of any confidence.
 - 4) You must not bring your office or your Authority into disrepute.
 - 5) You must treat others with respect and promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage or civil partnership, pregnancy and maternity. You should respect the impartiality and integrity of the authority's statutory officers and its other employees.
 - 6) When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits on merit.

- 7) You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.
- 8) You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.
- 9) You must declare any private interests, both disclosable pecuniary interests and any other registerable interests, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner which conforms with the procedures set out below.
- 10) You must ensure, when using or authorising the use by others of the resources of your authority, that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 11) You must promote and support high standards of conduct when serving in your office.

Registering and declaring disclosable pecuniary and other registerable interests

1. You must, within 28 days of taking office as a member or co-opted member, notify your authority's Monitoring Officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.
2. In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's Monitoring Officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.
3. If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest' as described by the Localism Act 2011.
4. Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days of becoming aware of that interest.
5. Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non-pecuniary interest as defined by your authority.

6. Any Member of the Executive cannot have any interest in any contract with Eden District Council.

Seven General Principles of Conduct

Selflessness

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

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

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

Leadership

7. Holders of public office should promote and support these principles by leadership and by example, and should act in a way that secures or preserves public confidence.

Guidance on Code of Conduct

This document has been produced by the Cumbria Monitoring Officers to offer guidance on the revised Code of Conduct for Members as adopted by the principal authorities with effect from 1 July 2012. The Code applies to all Members and co-opted members of the principal authorities within Cumbria.

The Code does not apply to the actions of authorities as a whole, or to the conduct of its officers and employees.

Ultimately, it is the Members' responsibility to take specific advice from the Monitoring Officer where appropriate and to make a decision as to the most suitable course of action.

Code of Conduct

The Code of Conduct ("the Code") is not intended to be an exhaustive list of all the obligations that are placed on Members, but it is the responsibility of individual Members to comply with the provisions of the Code as well as such other legal obligations as may apply to them from time to time.

The Code is intended to be consistent with the seven principles as attached to the Code which define the standards that Members should uphold. A failure to act in accordance with these general principles may amount to a breach of the Code of Conduct. For example, by placing yourself in situations where your honesty and integrity may be questioned, your conduct may be conduct which could "bring your office or your Authority into disrepute".

When does the Code apply to you?

The Code applies to you whenever you act in your official capacity as a Member or co-opted member of the Authority. A co-opted member is a person who is not a Member of the Council but who is either a member of any committee or sub-committee of the Council, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council and who is entitled to vote on any question that falls to be decided at that meeting of that committee or sub-committee.

For the purposes of the Code, a "meeting" is a meeting of the Council, any of its committees, sub-committees, joint committees or joint sub-committees.

General Obligations under the Code

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend, a close associate, an employer or business carried on by you.

For example, your behaviour would be improper if you sought to further your private interests through your position as a Member.

You must not place yourself under a financial or other obligation to outside individuals or organisations that may influence you in the performance of your official duties.

It would not be appropriate to accept favours, gifts or hospitality from someone that may, at a later date, require something from the Council that you are in a position to influence. For example, you may be offered a discount by a business in the area which subsequently applies for planning permission and/or a licence. You may be on the relevant committee dealing with the application and, therefore, be in a difficult position.

You must not disclose any information given to you as a Member in breach of any confidence

There may be circumstances where you are required to do so by law but you should seek the advice of the Monitoring Officer if there is any doubt about this.

You must not disclose confidential information, or information which you believe to be of a confidential nature, except in any of the following circumstances:

- You have the consent of the person authorised to give it.
- You are required by law to do so.
- The disclosure is made to a third party for the purposes of obtaining professional advice (for example, your lawyer or other professional adviser) provided that person agrees not to disclose the information to any other person.
- The disclosure is in the public interest. This is only justified in limited circumstances, when all of the following four requirements are met:
 1. the disclosure must be reasonable
 2. the disclosure must be in the public interest
 3. the disclosure must be made in good faith
 4. the disclosure must be made in compliance with any reasonable requirements of your authority

In relation to the disclosure of confidential information in the public interest, the four requirements to be met are outlined in more detail below.

1. The first requirement, that the disclosure must be reasonable, requires you to consider matters such as:
 - Whether you believe that the information disclosed, and any allegation contained in it, is substantially true. If you do not believe this, the disclosure is unlikely to be reasonable.
 - Whether you make the disclosure for personal gain. If you are paid to disclose the information, the disclosure is unlikely to be reasonable.
 - The identity of the person to whom the disclosure is made. It may be reasonable to disclose information to the police or to an appropriate regulator. It is less likely to be reasonable for you to disclose the information to the world at large through the media.

- The extent of the information disclosed. The inclusion of unnecessary detail, and in particular, private matters such as addresses or telephone numbers, is likely to render the disclosure unreasonable.
 - The seriousness of the matter. The more serious the matter disclosed, the more likely it is that the disclosure will be reasonable.
 - The timing of the disclosure. If the matter to which the disclosure relates has already occurred, and is unlikely to occur again, the disclosure may be less likely to be reasonable than if the matter is continuing, or is likely to reoccur.
 - Whether the disclosure involves your authority failing in a duty of confidence owed to another person.
2. The second requirement, that the disclosure must be in the public interest, needs to involve one or more of the following matters or something of comparable seriousness, that has either happened in the past, is currently happening, or is likely to happen in the future:
- (a) A criminal offence is committed.
 - (b) Your authority or some other person fails to comply with any legal obligation to which they are subject.
 - (c) A miscarriage of justice occurs.
 - (d) The health or safety of any individual is in danger.
 - (e) The environment is likely to be damaged.
 - (f) That information tending to show any matter falling within (a) to (e) is deliberately concealed.
3. The third requirement, that the disclosure is made in good faith, will not be met if you act with an ulterior motive, for example, to achieve a party political advantage or to settle a score with a political opponent.
4. The fourth requirement, that you comply with the reasonable requirements of your authority, means that before making the disclosure you must comply with your authority's policies or protocols on matters such as whistle-blowing and confidential information. You must first raise your concerns through the appropriate channels set out in such policies or protocols.

In summary, to decide whether the disclosure is reasonable and in the public interest, you may need to conduct a balancing exercise weighing up the public interest in maintaining confidentiality against any countervailing public interest favouring disclosure. This will require a careful focus on how confidential the information is, on any potentially harmful consequences of its disclosure, and on any factors which may justify its disclosure despite these potential consequences.

In some situations, it is extremely unlikely that a disclosure can be justified in the public interest. These will include where the disclosure amounts to a criminal offence, or where the information disclosed is protected by legal professional privilege.

You must not bring your office or your Authority into disrepute

You must not bring your office or authority into disrepute whilst acting in your official capacity.

As a Member, your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on your office or your authority. Dishonest and deceitful behaviour in your role as a member may bring your authority into disrepute, as may conduct in your private life which results in a criminal conviction, such as dishonest, threatening or violent behaviour.

You must treat others with respect and promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their sex, race, age, religion, gender, sexual orientation or disability. You should respect the impartiality and integrity of the authority's statutory officers and its other employees.

Respect

You must treat others with respect. In politics, rival groupings are common, either in formal political parties or more informal alliances. It is expected that each will campaign for their ideas, and they may also seek to discredit the politics and actions of their opponents. Criticism of ideas and opinion is part of democratic debate, and does not in itself amount to failing to treat someone with respect.

Ideas and policies may be robustly criticised, but individuals should not be subject to unreasonable or excessive personal attacks. This particularly applies to dealing with the public and officers. Chairs of meetings are expected to apply the rules of debate and procedure rules or standing orders to prevent abusive or disorderly conduct.

Whilst there may be unreasonable demands on Members, Members should, as far as possible, treat people courteously and with consideration. Rude and offensive behaviour lowers the public's expectations and confidence in its elected representatives.

Equality

You must not do anything which may cause your authority to breach any equality laws. You must be careful not to act in a way which may amount to any of the prohibited forms of discrimination, or do anything which hinders your authority's fulfilment of its positive duties under equality laws. Such conduct may cause your authority to breach the law, and you may find yourself subject to a complaint that you have breached this paragraph of the Code of Conduct.

Impartiality and integrity of officers of the authority

You should respect the impartiality and integrity of the Authority's statutory officers and its other employees.

You should not approach or pressure anyone who works for, or on behalf of the authority to carry out their duties in a biased or partisan way. They must be neutral and should not be coerced or persuaded to act in a way that would undermine their neutrality. For example, you should not get officers to help you prepare party political material, or to help you with matters relating to your private business.

Although you can robustly question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits on merit.

As an elected Member of the Council you are responsible for administering resources on behalf of the public of the area that you serve. You should administer these resources fairly and in accordance with the law. It is inappropriate for the Council's resources or powers to be used in such a way that the authority and its Members be left open to accusations that in appropriate influence played a part, for example, "it's not what you know, it's who you know!"

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

This requirement is linked to carrying out all duties in a fair and transparent manner. Members are able to be held to account for their actions and, this being the case, you must be open to and cooperate with any legitimate scrutiny that is to be applied.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

The law requires that Members give reasons for their decisions. This is so that the public we serve are able to understand why we have taken a course of action and, if necessary, exercise any right of challenge that is open to them.

You must declare any private interests, both disclosable pecuniary interests and any other registrable interests, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interest in a matter which conforms to the procedures within the code.

The Code of Conduct contains a scheme for the registration of interests. It exists to support openness and transparency; the public are able to see where you may have an interest. Secondly, the scheme of registration exists to protect individual Members against accusations of a conflict of interest etc. Lastly, the registration of disclosable pecuniary interests is required by law.

You must ensure, when using or authorising the use by others of the resources of your authority, that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

Where your authority provides you with resources (for example telephone, computer and other IT facilities, transport or support from council employees), you must only use these resources or employees for carrying out your local authority business and any other activity which your authority has authorised you to use them for.

You must be familiar with the rules applying to the use of these resources made by your authority. Failure to comply with the authority's rules is likely to amount to a breach of the code.

If you authorise someone (for example a member of your family) to use your authority's resources, you must take care to ensure that this is allowed by the authority's rules.

You should never use Council resources for purely political purposes, including designing and distributing party political material produced for publicity purposes.

You must promote and support high standards of conduct when serving in your office.

You have a duty to promote and support high standards of conduct and be consistent with the seven general principles attached to the Code.

INTERESTS

Register of Interests

Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

You have two types of registrable interests:

- (a) A Disclosable Pecuniary Interest; and
- (b) Interests other than pecuniary interests that the Council has decided should be registered.

Disclosable Pecuniary Interests

1. These are interests which must be notified to the Council's Monitoring Officer within 28 days beginning with the day on which you become a Member or co-opted member of the authority in accordance with the statutory requirements of the Localism Act 2011. These are enforced by criminal sanction, and failure to declare is a criminal offence.
2. You need to register your interests so that the public, authority staff and fellow Members know which of your interests might give rise to a conflict of interest. The register is a document that can be consulted when (or before) an issue arises, and so allows others to know what interests you have, and whether they might give rise to a potential conflict of interest.

3. The register also protects you. You are responsible for deciding whether or not you should declare an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be declared by you or other Members, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local government is maintained.
4. A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) of the following descriptions:
 - (a) Details of any employment, office, trade, profession or vocation carried on for profit or gain.
 - (b) Details of any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses (this includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992).
 - (c) Details of any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority under which goods or services are to be provided or works are to be executed; and which has not been fully discharged.
 - (d) Details of any beneficial interest in land which is within the area of the relevant authority.
 - (e) Details of any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
 - (f) Details of any tenancy where (to your knowledge) the landlord is the relevant authority; and the tenant is a body in which the relevant person has a beneficial interest.
 - (g) Details of any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of the relevant authority; and either the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or if that share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For the purposes of the foregoing "relevant authority" means the District Council, and "relevant period" means the period of 12 months ending with the day on which you notify the Monitoring Officer of your disclosable pecuniary interest.

Notification of Other Interests

5. In addition to the disclosable pecuniary interests, you must, within 28 days of the Code being adopted by or applied to your authority; or your election or appointment to office (where that is later), notify the Monitoring Officer in writing of the details of your interests within the following categories, which the Council has decided must be included in the register of interests:
- (a) Details of any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the District Council;
 - (b) Details of any body of which you are a member or in a position of general control or management and which –
 - (i) exercises functions of a public nature,
 - (ii) is directed to charitable purposes, or
 - (iii) is a body which includes as one of its principal purposes influencing public opinion or policy (this includes political parties or trade union;
 - (c) Details of any persons from who you have a received a gift or hospitality with an estimated value of at least £50. (You must register any gifts and hospitality worth £50 or over that you receive personally in connection with your official duties.

What is a “body exercising functions of a public nature”?

6. Although it is not possible to produce a definitive list of such bodies, here are some criteria to consider when deciding whether or not a body meets that definition -
- Does that body carry out a public service?
 - Is the body taking the place of local or central government in carrying out the function?
 - Is the body (including one outsourced in the private sector) exercising a function delegated to it by a public authority?
 - Is the function exercised under legislation or according to some statutory power?
 - Can the body be judicially reviewed?

Unless you answer “yes” to one of the above questions, it is unlikely that the body in your case is exercising functions of a public nature.

Examples of bodies included in this definition: government agencies, other councils, public health bodies, council-owned companies exercising public functions, arms-length management organisations carrying out housing functions on behalf of your authority, school governing bodies.

If you need further information or specific advice, please contact your monitoring officer.

What do things mean?

Here are some definitions from the legislation that may help you. Ask for advice if necessary:

“the Act”	means the Localism Act 2011;
“body in which the relevant person has a beneficial interest”	means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
“director”	includes a member of the committee of management of an industrial and provident society;
“land”	excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
“M”	means a member of a relevant authority;
“member”	includes a co-opted member;
“relevant authority”	means the authority of which M is a member;
“relevant period”	means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;
“relevant person”	means - <ul style="list-style-type: none"> (i) M, (ii) M's spouse or civil partner, (iii) a person with whom M is living as husband and wife, or (iv) a person with whom M is living as if they were civil partners.
“securities”	means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Gifts and Hospitality

7. You must register the gift or hospitality and its source within 28 days of receiving it.
8. You should ask yourself would I have been given this if I was not on the Council? If you are in doubt as to the motive behind a gift or hospitality, we recommend that you register it or speak to the Monitoring Officer or your parish clerk where appropriate.

9. You do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept. However, you should always register a gift or hospitality if it could be perceived as something given to you because of your position or if your authority requires you to.

What if I do not know the value of a gift or hospitality?

10. The general rule is, if in doubt as to the value of a gift or hospitality, you should register it, as a matter of good practice and in accordance with the principles of openness and accountability in public life.
11. You may have to estimate how much a gift or hospitality is worth. Also, an accumulation of small gifts you received from the same source over a short period that add up to £50 or more should be registered.

Changes to Interests

12. You must, within 28 days of becoming aware of any new interest or change to any interest registered notify the Monitoring Officer of the details of that new interest or change.

Disclosure of Interests

13. Where you have a registrable interest in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of that interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

Sensitive interests

14. Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

What is sensitive information?

15. It may include your sensitive employment (such as certain scientific research or the Special Forces) or other interests that are likely to create serious risk of violence or intimidation against you or someone who lives with you.
16. You should provide this information to your monitoring officer and explain your concerns regarding the disclosure of the sensitive information; including why it is likely to create a serious risk that you or a person who lives with you will be subjected to violence or intimidation. You do not need to include this information in your register of interests, if your monitoring officer agrees but you need to disclose at meetings the fact that you have a disclosable pecuniary interest in the matter concerns.

Non participation in case of disclosable pecuniary interest

17. If you are present at a meeting of the Council, Cabinet or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting:
- You may not participate in any discussion of the matter at the meeting.
 - You may not participate in any vote taken on the matter at the meeting.
 - If the interest is not registered, you must disclose the interest to the meeting.
 - If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

In addition, the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.

18. Where an executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the executive member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

Dispensations

19. At District level The Monitoring Officer or Accounts and Governance Committee, or at Parish/Town Council level, the Clerk or the Council (dependent on procedures) may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest. These circumstances are where -
- 1) It is considered that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business.
 - 2) That, without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business.
 - 3) That, without a dispensation, no member of the Cabinet would be able to participate on this matter.
 - 4) That the authority considers that the dispensation is in the interests of persons living in the authority's area.
 - 5) That the authority considers that it is otherwise appropriate to grant a dispensation.

NB 2 and 3 above would not apply to Parish/Town Councillors

Offences

20. It is a criminal offence to

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

Bias/Predetermination

Although not part of the code, members need to be clear that they are not biased going into the decision making process.

If you have a personal interest in a matter as a result of the matter affecting the well-being or financial position of yourself, member of your family or close association more than it would affect the majority of other people in the ward or electoral divisions affected by the decision, or in the authority's areas or constituency then there may be potential for bias/predetermination.

The rules against bias say that there are three distinct elements:

1. the first seeks accuracy in public decision-making;
2. the second seeks the absence of prejudice or partiality on the part of you as the decision-maker. An accurate decision is more likely to be achieved by a decision-maker who is in fact impartial or disinterested in the outcome of the decision and who puts aside any personal prejudices; and
3. the third requirement is for public confidence in the decision-making process. Even though the decision-maker may in fact be scrupulously impartial, the appearance of bias can itself call into question the legitimacy of the decision-making process. In general, the rule against bias looks to the appearance or risk of bias rather than bias in fact, in order to ensure that 'justice should not only be done, but should manifestly and undoubtedly be seen to be done.

To varying degrees, these "requirements" might be seen to provide the rationales behind what are generally taken to be three separate rules against bias: "automatic" (or "presumed") bias, "actual" bias and "appearance" bias.

The rationale behind “automatic” or “presumed” bias appears to be that in certain situations (such as if you have a pecuniary or proprietary interest in the outcome of the proceedings then it must be presumed that you are incapable of impartiality. Since a motive for bias is thought to be so obvious in such cases, the decisions are not allowed to stand even though no investigation is made into whether the decision-maker was biased *in fact*. **In these circumstances you SHOULD NOT participate in a decision.**

The Localism Act 2011 has enshrined the rules relating to pre-disposition and predetermination into statute. In essence you are not taken to have had, or appeared to have had, a closed mind when making a decision just because you have previously done anything that directly or in-directly indicated what view you may take in relation to a matter and that matter was relevant to the decision.

So, you are entitled to have a pre-disposition one way or another as long as you have not pre-determined the outcome. You are able to express an opinion providing that you come to the relevant meeting with an open mind, able to take account of all of the evidence and make your decision on the day.

What does “affecting well-being” or “financial position” mean?

The term “well-being” can be described as a condition of contentment and happiness. Anything that could affect your quality of life, either positively or negatively, is likely to affect your well-being.

A personal interest can affect you, your family or close personal associates positively and negatively. So if you or they have the potential to gain or lose from a matter under consideration, a personal interest would need to be declared in both situations.

Who is a member of your family or close association?

A member of your family should be given wide meaning. It includes a partner (someone you are married to, your civil partner, or someone you live with in a similar capacity), a parent, parent-in-law, a son or daughter, a stepson, or stepdaughter, the child of a partner, a brother or sister of yourself or your partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece and the partners of any of these people.

A person with whom you have a close association is someone that you are in either regular or irregular contact with over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone whom you know through general social contacts.

What if I belong to an authority without wards?

If you are a member of an authority that does not have wards, you will need to declare a personal interest whenever you consider a matter in a meeting of your authority if it affects the well-being or financial position of you, your family or people with whom you have a close association, more than it would affect other people in your authority’s areas.

What if I am not aware of my personal interest?

Clearly you cannot be expected to declare something of which you are unaware. However you should not ignore the existence of interests which, from the point of view of a reasonable and objective observer, you should have been aware.

When must I leave the room where the meeting is held?

You must leave immediately before any debate starts.

Non participation in case of pecuniary interest

Disclosable Pecuniary Interests (DPI)

Subject to the following paragraph, below if you have a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting, then you should declare that interest to the meeting and should leave the room whilst any discussion or vote takes place.

If a dispensation has been granted to you in relation to a disclosable pecuniary interest then, subject to the terms of the dispensation, you may be relieved from the above restrictions but will still be required to declare the interest to the meeting.

This would mean that as under current arrangements, Members will leave the room during an item in which they have a DPI.

In the interests of transparency it is good practice for you to make the nature of a disclosable interest known when such a matter arises at a meeting. You should identify the nature of the interest which you have in any matter so that is known and understood by all and is a matter of public record. If a declaration is not made, other than through the register, it would not necessarily be apparent to anyone who is present at the meeting why a particular Member is not participating or voting in any matter.

This page is left intentionally blank

B. Protocol on Public and Member Participation in Meetings

1. This protocol relates to Rule 11 of the Council procedural rules. The protocol should be read in conjunction with the Member Code of Conduct.
2. Rule 11 has been adopted to enable Councillors to make representations, answer questions and give evidence in relation to any matter to be considered at any meeting of the Council. The rule is also intended to facilitate public participation in meetings of the Council when this is considered to be appropriate.
3. The participation of any Member or member of the public in pursuance of Rule 11 is at the discretion of the Chairman. Ordinarily approval will be granted to a person upon request. However, there may be circumstances where the Chairman decides it is not appropriate for the person concerned to make representations to the Council's meeting. Rule 11 sets out the grounds upon which any refusal should be made. The Chairman will identify the ground of any refusal which is made.
4. The person making the representation to the meeting may do so for up to five minutes generally. If there are two or more people who wish to make representations on the same or a similar topic it may be appropriate to limit their contributions so that they total five minutes or one person makes representations on behalf of the others.
5. Members of the Executive, Committee or Council may ask questions to clarify any points that have been made.
6. Representatives of the public will be thanked by the Chairman for their contribution and advised that no further contribution will be permitted from them on the proposal.
7. Any person who makes representations, answer questions or give evidence under Rule 11 can be expected and required to behave responsibly, politely and with due respect to all people.
8. The Chairman will inform a member of the public that he/she will be able to ask a supplementary question.
9. The Vice Chairman or, if appropriate, an Officer will greet any member of the public who intends to ask a question and explain the procedure.
10. The Assistant Director Governance may offer advice to anyone on the submission of questions, the making of representations, or the giving of evidence.
11. The Assistant Director Governance may offer advice on the procedure for and the conduct of extraordinary meetings.

This page is left intentionally blank

C. Officers' Code of Conduct

Page No

1.	Introduction	301
2.	Standards	301
3.	Disclosure of Information	301
4.	Political Neutrality	302
5.	Relationships	302
6.	Appointment and Other Employment Matters	303
7.	Outside Commitments	303
8.	Personal Interests	304
9.	Equality and Diversity Issues	305
10.	Separation of Roles during Tendering	305
11.	Corruption	305
12.	Use of Financial Resources	306
13.	Hospitality	306
14.	Sponsorship - Giving and Receiving	306

This page is left intentionally blank

C. Officers' Code of Conduct

1. Introduction

The "appropriate manager" to whom questions, concerns or issues should be declared is defined as the relevant Chief Officer. If it would be wholly inappropriate to refer an issue to a chief officer it should be referred to the Monitoring Officer. The Code is incorporated into local conditions of service, disciplinary and grievance procedures.

2. Standards

Local government employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to Members and fellow employees with impartiality. Employees will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to the appropriate manager any impropriety or breach of procedure. The Council has adopted a Confidential Reporting Code to enable members of staff to raise concerns.

3. Disclosure of Information

- a) It is generally accepted that open government is best. The law requires that certain types of information must be available to members, auditors, government departments, service users and public. The authority itself may decide to be open about other types of information. Employees must be aware of which information their authority is and is not open about, and act accordingly.
- b) The Freedom of Information Act enables greater access to information held by the Council. The Data Protection Act may need to be considered in relation to requests for information too. Training will be provided on the Acts to staff and Members and a policy on each Act has been adopted. Each policy is available electronically and members of staff should have an awareness of the Acts in relation to their responsibilities.
- c) Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received by an employee from a Member which is personal to that Member and does not belong to the authority should not be divulged by the employee without the prior approval of that Member, except where such disclosure is required or sanctioned by the law.

4. Political Neutrality

Employees serve the authority as a whole. Officers must serve all Members and not just those of any controlling political group, and must ensure that the individual rights of all Members are respected.

- a) Subject to the Council's conventions and protocols, employees may be required to advise political groups. They must do so in ways which do not compromise their political neutrality.
- b) Employees, whether or not politically restricted, must follow every lawful policy of the authority and must not allow their own personal or political opinions to interfere with their work.

5. Relationships

a) Members

The specific role of some officers is to give advice to Members. Any such advice should be given impartially and without compromising political neutrality. Mutual respect between employees and Members is essential to good local government. Close personal familiarity between any officer and an individual Member can damage the relationship and prove embarrassing to other employees and Members and should therefore be avoided.

b) The Local Community and Service Users

Officers should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to any groups and any individual within that community. A Customer Service Strategy and Customer Care Policy has been adopted to identify the standards of service which can be expected.

c) Contractors

Any relationship or interest of a business or private nature with external contractors, or potential contractors, should be made known in writing to an officer's manager. The manager should forward the written declaration to the Assistant Director Governance for inclusion in the central register. Orders and contracts must be awarded on merit, by fair competition, and no special favour should be shown to any business run by, for example, friends, partners or relatives in the tendering process. No individual should be subject to unlawful discrimination. All individuals should be treated fairly and properly and with regard to the Equality legislation which prohibits discrimination.

d) Officers

An Officer cannot use his/her position to confer any inappropriate advantage or disadvantage on any person or himself/herself. An officer should consider whether any interest or relationship he/she has with any tenderer or prospective contractor is such that he/she should exclude himself/herself from the tendering process. An officer should exclude himself/herself if the interest is such that a member of the public, knowing the facts, would consider that his/her judgement may be prejudiced or compromised.

An officer who engages or supervises contractors or has any other official relationship with contractors and has previously had or currently has a relationship in a private or domestic capacity with any contractor, should declare that relationship to the appropriate manager.

6. Appointment and Other Employment Matters

- a) An officer who is involved in appointments of staff should ensure that any appointment is made solely on merit. It is unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, an applicant is a friend or someone with whom he or she has a close personal relationship outside work. Any officer who is involved in the recruitment of staff should have appropriate training upon relevant employment issues.
- b) Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, friend, partner or close acquaintance.

7. Outside Commitments

- a) Officers above grade H are required under their conditions of service to obtain written consent to take any outside employment. All officers should be clear about their contractual obligations and should not take outside employment which conflicts with the authority's interests. The principal purposes of this requirement are to prevent any conflict of interest and to ensure any relevant regulation or statute is met. Conditions may be imposed on any consent which are reasonably required to meet these principal purposes. There are restrictions, for example, on the number of hours a person can work.
- b) Officers must follow the authority's rules on the ownership of intellectual property or copyright created during their employment: the Council owns the copyright in documents or any material produced by any person during the course of his/her employment.

8. Personal Interests

- a) An officer must declare to an appropriate manager any non-financial interests which may bring about a conflict with the Council's interests or which could allow the impression to be created that he/she, is or may be, using his/her position to promote a private or personal interest, an interest of a family member and a friend or a club, society or other organisation of which he/she is a member.
- b) In deciding what is a 'non-financial interest' a person should consider whether an ordinary member of the public knowing of the existence of the matter would be likely to regard it as being so trivial, tenuous, insubstantial or vague as to be incapable of conflicting with the authority's interests or of creating an impression of the kind set out in paragraph 7a) above. Examples:
 - i) An employee wants to carry out building work to his/her home. It requires planning permission. He/she uses a planning consultant to apply for planning permission on his/her behalf. He/she should declare a non-financial interest.
 - ii) The same applies with respect to applications under the Building Regulations.
 - iii) An employee is an ordinary member of a club which requires a licence from the Council. No declarable non-financial interest arises. The officer concerned should not grant that licence and the application should be considered by another officer.
 - iv) An employee is a committee member of a club which requires a licence from the Council. He/she should declare a non-financial interest. The officer concerned should not grant that licence and the application should be considered by another officer.
 - v) The child of an employee is the secretary of a voluntary playgroup seeking grant aid from the Council. He/she should declare a non-financial interest and record his/her interest in the application. The officer concerned should not authorise the grant and the application should be considered by another officer.
 - vi) An employee writes a letter of objection to a neighbour's planning application. He should declare a non-financial interest. The Code of Planning Conduct and Practice applies to the application. The officer concerned should not grant the application and not take part in the consideration of the application.
- c) An officer must declare to an appropriate manager any financial interest which could conflict with the Council's interests.
- d) An officer must declare to an appropriate manager membership of any organisation not open to the public without formal membership and commitment or allegiance and which has secrecy about rules or membership or conduct.
- e) Any manager to whom an interest is declared must report the same to his or her Chief Officer who will refer the declaration to the Assistant Director

Governance who will record that determination in writing in a file kept for that purpose.

9. Equality and Diversity Issues

All officers should ensure that policies relating to equality and diversity issues as adopted by the Council are complied with in addition to the requirements of the law. All members of the community, customers and other employees have a right to be treated with fairness and equity.

10. Separation of Roles During Tendering

- a) Officers involved in the tendering process and dealing with contractors should be aware that, where appropriate, the client and contractor roles within the Council will be formally separated. Senior officers who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- b) Officers in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers or other contractors and sub-contractors.
- c) Officers who are privy to confidential information on tender or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.
- d) Officers contemplating a management buyout or submitting an 'in-house tender' should, as soon as they have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding processes.
- e) Officers should ensure that no favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.
- f) An officer should inform the Chief Executive in confidence if he or she has any intention to tender for any particular contract

11. Corruption

It is a serious criminal offence for an employee corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in his/her official capacity.

Any allegation of corruption or impropriety will be investigated. The Council will seek to ensure that all corrupt or improper practices or acts are avoided and dealt with properly and appropriately if they occur. The Council seeks to maintain the highest possible standard of conduct in all its dealings and activities by all of its staff. The disciplinary procedure will be invoked when appropriate and if a criminal offence appears to have occurred, the matter will be referred to the police.

12. Use of Financial Resources

Officers must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid any legal challenge to the authority.

13. Hospitality

- a) Officers should only accept offers of hospitality if there is a genuine need to impart information or represent the local authority in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the authority should be seen to be represented. They should be properly authorised and recorded.
- b) When hospitality has to be declined those making the offer should be courteously but firmly informed of the procedures and standards operating within the authority.
- c) Any gift or hospitality which is offered, whether accepted or refused, with a value of over £10 must be recorded in a register maintained by the Internal Audit Section. It is the responsibility of the individual concerned to ensure that the correct registration is made. The value of £10 will be considered annually by Internal Audit for appropriateness.
- d) When receiving authorised hospitality employees should be particularly sensitive as to its timing in relation to decisions which the authority may be taking affecting those providing the hospitality.
- e) Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the authority gives consent in advance and where the authority is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment are required, employees should ensure that the authority meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

14. Sponsorship - Giving and Receiving

- a) Where an outside organisation wishes to sponsor or is seeking to sponsor a Council activity, whether by invitation, tender, negotiation or voluntary, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- b) Where the Council wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the Council through sponsorship or grant aid gives support in the community, Officers should ensure that impartial advice is given and that there is no conflict of interest involved.

D. Code of Planning Conduct and Practice

	Page No
1. Introduction	309
2. The Roles and Conduct of Members and Officers	309
3. Declaration and Registration of Interests	311
4. Development Proposals in which Members or Certain Officers have an Interest.....	311
5. Development Proposed by the District Council.....	312
6. Lobbying of and by Members.....	312
7. Discussions and Negotiations Concerning Applications, Including Pre and Post Applications Discussions	313
8. Planning Obligations	314
9. Publicity About Applications.....	315
10. Liaison with Parish Councils and Parish Meetings.....	316
11. Public Meetings and Attendance at Meetings of Parish Councils	316
12. Officer Reports to Committee	317
13. Public Hearings at Planning Committee.....	318
14. Photographing Proposals and Visual Presentation	320
15. Decisions Contrary to Officer Recommendation	321
16. Committee Site Visits.....	321
17. Planning Committee Following Site Visits.....	323
18. Review of Decisions.....	324

This page is left intentionally blank

D. Code of Planning Conduct and Practice

The term 'Planning Committee' in this Code is used in a generic sense and applies to the Council or any committee of the Council when considering a planning matter.

1. Introduction

- 1) Planning affects land and property interests, including the financial value of land and the quality of their settings. It is often highly contentious because decisions affect the daily lives of everyone and the private interests of individuals, landowners and developers. It has a quasi-judicial role which particularly distinguishes the service from most other local government business.
- 2) The planning system can only function effectively if there is trust among those involved. There must be trust between Members and officers and between the public and the Council.
- 3) The Council is committed to open and accountable decision making. Planning decisions should be made impartially, with sound judgement and for justifiable reasons.
- 4) This Code of Conduct sets out practices and procedures that Members and officers of the Council shall follow when involved in planning matters. Planning matters include the consideration of planning and related applications, the preparation of development plans and other planning policy documents and the enforcement of planning control.
- 5) Failure to follow this code without good reason, could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual Members and officers.

2. The Roles and Conduct of Members and Officers

- 1) Members and officers have different, but complementary roles. Both serve the public but members are responsible to the electorate, while officers are responsible to the Council as a whole.
- 2) Whilst Members have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to Members involved in making planning decisions. The basis of the planning system is the consideration of proposals against wider public interests. Much is often at stake and opposing views are often strongly held by those involved.
- 3) Members' decisions shall not discriminate against or in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Members, therefore, must represent their constituents as a body and vote in the interests of the whole district from the land use and development perspective.

- 4) Whilst Members should take account of all views expressed, they shall not favour any person, company, or group, nor put themselves in a position where they appear to do so.
- 5) Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.
- 6) That the Council may not always follow the advice of their professional planning officers is perfectly proper. The professional officer too, will have an opinion about a planning proposal, but this must be on the basis of professional judgement. This judgement must not be arrived at because an authority, its Members or other officers, have prevailed upon the officer to put forward his or her professional view as something contrary to what it really is.
- 7) The Council endorses the statement in the RTPI code that, 'RTPI members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions', and extends it to apply to all officers in the authority advising on planning matters.
- 8) The Council employs officers who are Chartered Town Planners holding corporate membership of the RTPI and such an officer should have direct access to Members in the event of his being the professional adviser on planning matters. Another officer shall not have the power to overrule the professional advice of the advisor on planning matters.

3. Declaration and Registration of Interests

- 1) Officers must always act impartially. An officer who believes he or she may be seen to have a personal interest in a planning matter, shall declare it at the earliest opportunity to the Assistant Director Governance and have no further involvement in the processing or consideration of that matter. The Assistant Director Governance will advise the Planning Services Development Manager of the declaration. By way of example, an officer will have a personal interest in a planning matter if they have made an application; or a close friend or relative has made an application; or an organisation of which they are a member has made an application; or if an application is made in respect of property in which they have an interest; or if they object to a planning application.
- 2) Serving Members involved in the consideration and determination of applications shall not act as agents for persons pursuing a planning matter within Eden. Serving officers of the Planning Services and Planning Policy Sections shall not act as agents for persons pursuing planning matters either within or outside Eden. Officers may, within their own time, serve in a voluntary capacity on a Royal Town Planning Institute Planning Aid panel for cases outside Eden.
- 3) Any serving Member or officer upon making representations in a personal capacity on any planning proposal shall declare their interest to the Chief

Executive and take no part in any processing or decision making associated with the proposal.

- 4) Members who have substantial property interests, or other interests that would prevent them from voting on a regular basis, should avoid serving on the Planning Committee. It is suggested that if a Member finds the need to regularly declare interests requiring removal from the committee meeting on two or more occasions per committee or 25 occasions in a full year he or she should give consideration to vacating the place on the Planning Committee.
- 5) Proposals to their own authority by serving and former Members and officers and their close friends and relatives can easily give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted. It is, however, vital to ensure that they are handled in a way which gives no grounds for accusations of favouritism.
- 6) A serving Member or officer shall take no part in the processing consideration or determination of an application in the following circumstances:
 - a) when the submission is their own proposal;
 - b) when the submission concerns property in which they have an interest;
 - c) when the submission is by a close friend or relative or by an organisation in which they are a member.
- 7) Any application for which interests have been declared under this section, but which does not fall within the above paragraph shall, subject to the following section, otherwise be processed and determined within normal provisions, including appropriate officer delegations.

4. Development Proposals in which Members or Certain Officers have an Interest

- 1) Any serving Member or Affected Officer of the Council shall advise the Planning Services Development Manager of any planning proposal in which they have an interest falling within paragraph 3 (6) above. These interests will be specifically recorded as soon as they are identified and the Assistant Director Governance advised by the Planning Services Development Manager.
- 2) Any such proposal is to be reported to the Planning Committee for determination and not dealt with under officer delegated powers.
- 3) An officer shall be an Affected Officer if he or she is a Chief Officer, or an officer in the Planning Services Section, or an officer who would ordinarily be consulted in relation to the application concerned, or would otherwise normally be involved in the processing, consideration or determination of the application.

5. Development Proposed by the District Council

- 1) Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself.
- 2) Proposals submitted by the Council shall be considered in the same way as those by private developers, except that proposals which are the subject of objections on material planning grounds, which objections have not been resolved by negotiation or the imposition of conditions, shall be reported to the Planning Committee for determination.
- 3) In the event that the delegated jurisdiction of Planning Committee is withdrawn for any reason and retained by Council the various provisions of this code shall apply to Council proceedings when dealing with planning matters.

6. Lobbying of and by Members

- 1) Lobbying is a legitimate part of the political process. Those who may be affected by a proposal will often seek to influence the decision by an approach to their local Member or to a Member serving on the Planning Committee. The information provided by lobbyists is likely, however, to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the planning officer all need to be considered, before a Member is in a position to make a balanced judgement on the merits of a case.
- 2) A Member is permitted to listen to the points being raised by a lobbyist and to agree to transmit them impartially to the Planning Committee. The Member is not permitted to offer a concluding view or opinion on the matter to the lobbyist. Reaction to lobbying can, however, lead to the impartiality of a Member being called into question and require that Member to declare an interest.
- 3) In transmitting points raised a Member may record details of any lobbying associated with a planning application or other planning matter. A copy of those details can then be supplied to the Planning Services Development Manager. These will be included as public documents on the application file and if the application is reported to the committee, will be referred to in the report.
- 4) Alternatively, it will be the duty of a Member to report a lobby if they take part in the committee meeting that considers an application about which they have been lobbied. The report must identify the lobbyist and the substance of the lobby and be delivered as a point of information to committee when declarations of interest are made or immediately after the application has been presented or during the course of a public hearing. Provision will be made for that purpose in the committee process. Once the lobby has been reported the Member is then free to contribute to debate about the application and come to whatever individual conclusion he or she decides, picking up on any relevant issues raised in the committee report or presentation.

- 5) A Member is not entitled to act as a delegate for any outside interest when contributing to the consideration of any matter under the jurisdiction of the Planning Committee.
- 6) Some Members attend Parish Councils or Parish Meetings in their capacity as District Members and become privy to conclusions reached and individual views expressed about planning applications which are subsequently considered by the Planning Committee. Active contribution at such meetings to the consideration of such applications shall be treated in the way set out in 6 (2) above, as a lobby.

(Note: For the avoidance of doubt it is to be expected that if a District Member is also an elected member or an officer of a Parish Council they will be able to contribute fully, in their parish capacity, to the work of that Council, including work associated with planning issues. However members should not form or express a concluding view or opinion on the matter at a meeting of a Parish Council or Parish Meeting).
- 7) The time for individual Members of the Planning Committee to make a decision on a proposal is at the Committee meeting when all available information is to hand and has been duly considered.
- 8) Members who serve on the Planning Committee shall not organise support or opposition for a proposal, lobby other Members (other than when addressing the Planning Committee) or put pressure on officers for a particular recommendation.
- 9) Members who serve on the Planning Committee must be free to vote as they consider appropriate on planning matters. Political group meetings prior to the Committee meeting shall not be used to decide how Members should vote.

7. Discussions and Negotiations Concerning Applications, Including Pre and Post Application Discussions

- 1) Discussions between an applicant and a planning authority, prior to the submission of an application, can be of considerable benefit to both parties. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the planning process.
- 2) Members of the Planning Committee need to preserve their role as impartial decision makers and should not take part in pre or post submission discussions and negotiations with applicants regarding development proposals. If occasions arise when Members are involved, these should be part of a structured arrangement with officers, including a senior planning officer. The Member's role in such an arrangement must not extend beyond that of receiving information.
- 3) Members may receive information from applicants and give information to applicants and members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating.

- 4) Any application in which the Planning Services Development Manager has personally contributed to the negotiation must be decided by Planning Committee and not under his general delegated powers.
- 5) Pre, post or general application discussions or negotiations shall be conducted in accordance with the following guidelines:
 - a) it should always be made clear at the outset that the discussions will not bind a council to making a particular decision and that any views expressed are those of the officer only;
 - b) advice should be consistent and based upon the Development Plan and material considerations. There should be no significant difference of interpretation of planning policies between planning officers;
 - c) all advice given should reflect material planning issues only and must not include observations of a financial nature or others that relate to specialist consultant interests;
 - d) a written note should be made of the meeting. Two or more officers should attend potentially contentious or controversial meetings. In exceptional cases when a meeting is attended by a Member this should also be recorded;
 - e) whilst discretionary a copy of the note or a letter may be circulated confirming the content and results of the meeting; and
 - f) written notes should be made of telephone conversations concerning development where negotiations are undertaken.

8. Planning Obligations

- 1) Planning Obligations (Section 106 Agreements) connected with application proposals are only to be sought where they fulfil criteria of being:
 - a) necessary to make a proposal acceptable in planning terms;
 - b) relevant to planning;
 - c) directly related to the proposed development;
 - d) fairly and reasonably related in scale and kind to the development
 - e) reasonable in all other respects;
- 2) Any such Obligation, which requires to be completed in advance of the related planning consent, may be negotiated under officer delegation by the Planning Services Development Manager and the Assistant Director Governance. The Council's signing and sealing of any Obligation will be by the Chairman of Council and Assistant Director Governance. In general, developers entering into an obligation with the Council will be required to pay a proportion of the Council's costs of negotiating and preparing the Obligation. The proportion payable will be determined by the Assistant Director Governance in

consultation with the Chairman and Vice-Chairman of the Planning Committee.

- 3) Where an Obligation involves a financial consideration impacting in some way on the Council or other public body the terms of that consideration shall be assessed by the Assistant Director Finance and certified as complying within the financial framework of the measure. The certification will be retained in the Council's Register of Planning Obligations along with copies of completed Obligations.

9. Publicity About Applications

- 1) A considerable degree of publicity can be associated with a planning application. This in the main involves a range of consultations with statutory bodies and Parish Councils, the requirements of which are set down in legislation.
- 2) In respect of consultations these are undertaken by specific individual letters to each consultee, as appropriate, about each application consulted upon.
- 3) The Council also has a duty to publicise planning applications so that interested parties who are not consultees, become aware of proposals and are provided with the opportunity to make representations.
- 4) Notification on applications generally has a 21 day response period and includes the following procedures:
 - a) Brief details of every application are recorded on a list which is available for purchase and perusal at the Council offices.
 - b) A site notice is displayed on or near every site for which a planning application has been submitted. This gives brief details of the proposal and provides the opportunity for the application and plans to be viewed at the Mansion House in Penrith.
 - c) Some proposals are additionally made the subject of individual letters to adjoining and nearby residents. With such a procedure each adjoining property should as a minimum be notified.
 - d) Some more significant applications are required, by statute, to be subject to formal advertisement in the local newspaper.
- 5) Comparable procedures apply with respect to significant amendment proposals for applications.
- 6) It should be noted that both the Cumberland & Westmorland Herald and the Cumberland News publish details of new applications from the list. Whilst this publication is helpful this does not form part of the formal procedures for application publicity.

10. Liaison with Parish Councils and Parish Meetings

- 1) It is important that a good relationship exists between the Council and Eden's Parish Councils and Meetings. These bodies have elected to participate in the planning process, as is their right, and many consider responding to consultation on planning to be their most important role.
- 2) Planning can be controversial from time to time and open to lobbying pressures. The pressures that exist at District Council level also beset the work at Parish level in responding to planning applications and other planning issues.
- 3) From time to time the decisions reached about planning proposals by the Council will be at variance with the recommendations of a Parish Council or Meeting. The cause of such variance is not always clear although often there may be a lack of appreciation of the material planning issues.
- 4) Responses from the Parish are often not from professionals providing advice on a specialist interest but come from a mandate to represent the local community interest in a particular proposal.
- 5) The Council is committed to ensure that good relationships and levels of understanding exist with the Parish Councils and Meetings in Eden. The Council has signed up to a Parish Charter for Eden, and this incorporates a Planning Services Parish Charter.

11. Public Meetings and Attendance at Meetings of Parish Councils

- 1) Public meetings may be held at the behest of the Planning Committee for major contentious applications where significant planning issues arise. The holding of such meetings will be agreed between the Planning Committee, the Chairman of the Committee and the Planning Services Development Manager. Any such meeting will be duly advertised and will ordinarily take place in a venue local to the application site.
- 2) A public meeting is seen as providing an opportunity on the one hand for a proposed development to be described together with the planning issues being considered. On the other hand there is a purpose in obtaining views on the development. Views so obtained may, where material, be taken into account in the consideration and reporting on the application.
- 3) Any public meeting arranged on behalf of the Planning Committee will be chaired by the Chairman or Vice Chairman of that committee. The meeting will provide the opportunity for the proposals to be explained together with any planning considerations that have to be taken into account. Any party interested in the proposal will be permitted to address the meeting, including the applicant, and offer their views. Such presentations will normally be limited to a maximum of five minutes per person, and the Chairman shall have discretion to determine the number and length of any presentations in the interests of the efficient conduct of the business of the meeting. Neither an

officer nor any Member who serves on the Planning Committee may express a concluded view about the application to such a meeting.

- 4) If a public meeting is called by a Parish Council or any other third party about a proposed development it will be permissible for officers and Members to attend and participate but again neither an officer nor any Member who serves on the Planning Committee may express a concluded view about the application or development proposal to such a meeting.

12. Officer Reports to Committee

- 1) Written reports of the Planning Services Development Manager to Committee shall be accurate, succinct and provide all relevant information. They should have a reasoned assessment of the proposal, a justified written recommendation and be structured as follows to the extent judged necessary by the development proposal:
 - a) Description of the proposed development;
 - b) Description of the application site and surroundings;
 - c) Details of relevant planning history for site;
 - d) Information on relevant development plan policies;
 - e) Information about any legal requirements relating to the proposed development;
 - f) Advice about the method of publicity adopted in connection with the application and a summary of any material third party representations received;
 - g) Full text of any response received from any Parish Meeting, Parish Council or Town Council;
 - h) Formal consultation responses received;
 - i) List of the main planning issue headings raised by the application;
 - j) Planning assessment broken down against the main planning issue headings;
 - k) Statement about Human Rights Act compliance;
 - l) Summary conclusions;
 - m) Recommendation;
 - n) Contact officer.
- 2) Report texts should avoid referring to issues that are not material and in particular should not stray into offering opinions about people, their characters and their motives. Disparaging remarks should be avoided.

- 3) If the recommendation in a report is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.
- 4) Oral reports (except to present and update a report) should be extremely rare and carefully minuted when they do occur. The Planning Services Development Manager will notify the minuting officer prior to the meeting of any occasion when such minuting will be required.
- 5) Committee reports should, wherever possible, have a clear recommendation relating either to approval or refusal of planning permission. Exceptions may arise for example in cases where an application is being referred to the Secretary of State or, when a Planning Obligation (Section 106 Agreement) is in prospect. Normally however the Committee should be asked to consider the application when the processing is complete.
- 6) There will be occasions when it is considered appropriate to request the Committee to visit the site in advance of determining an application. It is perfectly permissible to recommend that a Committee site visit is held for an application which has not completed its processing.

13. Public Hearings at Planning Committee

- 1) Many Local Planning Authorities permit members of the public to address the Committee about a particular proposal prior to the consideration of the application. Procedures vary across the country but all are designed to provide as fair an opportunity as possible for a balance of views to be provided between those supporting and those opposing an application.
- 2) Members of the public are permitted to address the Planning Committee and the following protocols relate to the procedures adopted:
- 3) Protocols:
 - a) In accordance with the Council Procedure Rules, any person (including Members, Parish representatives, applicants, objectors and supporters) may seek to address the Planning Committee by making representations, responding to questions from the Chair in accordance with 4.j) below or giving evidence at a meeting, in relation to any matter which appears on the agenda for that meeting.
 - b) Any person who wishes to address the committee should request to do so in writing to the Assistant Director Governance by no later than midday one clear working day before the day of the meeting (that is not counting the day of the meeting or the day notice is given - so for a meeting on a Thursday, notice must be given by no later than midday on the preceding Tuesday).
 - c) In addition to the above provisions, on receipt, within the time frame given, of a material objection to a planning application the objector will be advised by the case officer, in acknowledging receipt of the objection, of the opportunity to address committee when the application

is determined. They will be supplied with a form which they can return if they want to avail themselves of that opportunity. The request should be made promptly and in any event within ten days of the day the form referred to above is sent to the objector. A request under this paragraph (which is not withdrawn) will trigger the requirement that an application be determined by the Planning Committee rather than by the Planning Services Development Manager under his delegated authority. However, if at any time it is decided to exercise delegated authority to determine the application in accordance with the objection, the application will be determined by the Planning Services Development Manager, rather than by the Planning Committee, and there will be no opportunity to address the committee.

- d) The participation of any Member or member of the public will in all cases be at the discretion of the Chairman of the Committee. Ordinarily approval will be granted, but on occasion the Chairman may refuse the request on the grounds mentioned in the Council Procedure Rules. A request will generally be refused if the representation does not relate to material planning considerations.
 - e) If a presentation from an objector is agreed the opportunity will also be given for the applicant to respond.
 - f) If a hearing is agreed the case officer will liaise with the person making the request and the applicant to set up the arrangement. Details of the procedure on the day will be sent to each party appearing. In the event that two or more requests are received from the public to make a presentation about a particular proposal, efforts will be made to reduce this to one person. Equally the applicant will be expected to be represented by one person. In the event of disagreement the Committee will ordinarily hear no more than two representations, which will usually be limited to the two parties living nearest to the application site. In respect of major applications generating significant public interest, the Chairman will give consideration to allowing more parties to speak.
 - g) On the day of the Committee, hearings will take place as the item arises on the agenda unless altered by the Chairman.
- 4) The following procedure will apply:
- a) The Planning Officer will briefly outline what the proposal is about;
 - b) Any person making representations objecting to the grant of permission or seeking the imposition of conditions will address the Committee for up to five minutes. In the event that two representations are made these will each be for a maximum of 2.5 minutes;
 - c) Any person making representations in support of the application (other than the applicant or his/her representative) will then address the committee for up to five minutes. As in relation to objectors, up to five minutes shared between supporters will be permitted.

- d) Any Parish representative will then be permitted to address the Committee for up to five minutes;
- e) If a member of the Council (Planning Committee member or not) wishes to advise the Committee of any representation or lobby he or she has received about the application a similar presentation should then be given but in the case of a committee member the presentation should be purely factual and not opinionated;
- f) The applicant (or appointed agent or representative) will then be permitted to address the Committee for up to five minutes;
- g) Representatives of the public will then be thanked for their contribution by the Chairman and advised that no further contribution will be permitted from them unless a matter is put to a person in accordance with 4 j) below on the proposal as the Committee considers, then decides the application;
- h) The Planning Officer will then conclude the presentation on the application picking up on any points from the presentations that might be misleading in a non-material manner;
- i) The opportunity will then be given for the officer to be questioned by the Committee; and
- j) If a Member of the Committee has a question, that is materially relevant to the determination of the application, where the Officer does not hold the information requested, but a person who has spoken on the application may do so. The Chair may use his/her discretion to ask the relevant speaker to provide the information requested if he or she is able to do so.
- k) The Committee will then debate the proposals and come to a decision.
- l) If, particularly in relation to applications generating major public interest, more persons are permitted to address the committee, no person will be allowed to address the committee for longer than five minutes and the applicant will normally be given the opportunity to address the committee for an equivalent amount of time to that afforded in total to those objecting to the application.
- m) A person making a representation to the Committee may only speak once subject to paragraphs f and j of this Code.

14. Photographing Proposals and Visual Presentation

- 1) Planning Committees can benefit from visual presentation in association with the applications and other issues they consider. Presentations will usually consist of plan display and selective projection of photographs taken at the time of a site inspection, which may be of considerable benefit in assisting the visual presentation of a scheme to the Committee.
- 2) Photographic presentations are provided to assist in portraying the existing factual situation at the site. Consideration will when appropriate be given to

the use of technology to portray visually the development proposals and as appropriate their superimposition on the existing site conditions.

- 3) It is important to ensure that any photographic presentation is fair to the application, especially as it will not form part of the application. A poor presentation on which an application is judged could in certain circumstances open up the Council to criticism and possible litigation.

15. Decisions Contrary to Officer Recommendation

- 1) Members should recognise that the law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.
- 2) If a Member who serves on the Planning Committee is contemplating moving a motion about an application which is contrary to the recommendation of the Planning Services Development Manager he or she should use his or her best endeavours, prior to the date of the meeting, to obtain advice from planning officers on the appropriate conditions or reasons that might apply if the decision accords with that motion. The Member will then incorporate conditions or reasons into the motion.
- 3) A Member who is proposing, seconding or supporting a decision contrary to the recommendation of the Planning Service Development Manager should clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Members can consider whether to defer an application to the next available committee in order to seek further information and advice from the Planning Service Development Manager before determining an application.
- 4) This procedure will allow time for confirmation that clear and convincing justification for approval or reasons for refusal of the application can be made, based on material planning considerations.

16. Committee Site Visits

- 1) A committee site visit, (to which all Members who serve on the Planning Committee will be invited) should be considered by the Planning Committee in relation to any site prior to the hearing of the application and particularly in any case where it is agreed that one or more of the following circumstances arise:
 - a) The application is complex in its site-based characteristics and a visit would better inform Committee before the decision is reached. Referred to in minutes as “Complex Site Characteristics”
 - b) The application raises issues of conflict with policy for which a site related balancing need or other argument has been advanced to overcome the conflict. Referred to in minutes as “Policy Balance”
 - c) The application has raised site related planning issues of local concern where it would benefit the Committee to become directly aware of the

issues before reaching its decision. Referred to in minutes as “Local Site Concerns”; and/or

- d) The development proposed is of major potential significance locally in site-based terms. Referred to in minutes as “Local Significance”.
- 2) A request by a Parish Council for a site visit will normally be acceded to provided that a reasoned planning view is expressed for the request and one or more of the circumstances arise, as described above under i) to iv).
- a) A site visit will also be held in one or more of the above circumstances whenever a report or request to that effect is presented to Planning Committee by the Planning Services Development Manager.
 - b) Site visits will be organised in accordance with the following site visit procedures:
 - i) The Planning Services Development Manager will invite the Local District Ward Member(s) and Parish Council representative to the site visit. In the invitation it will be made clear that no Member (Parish or District) with a disclosable pecuniary interest in the proposal should attend the site visit.
 - ii) No specific invitation will be issued to the site visit but the applicant, objectors and other interested parties will be permitted to listen in but not participate in the site visit. If, however, the visit is held on private land there will be no guarantee of entry for third parties.
 - iii) The Planning Services Development Manager will obtain the owner's permission to enter the site should that be necessary.
 - iv) On assembling at the site, at the time specified, the Chairman will first explain the purpose and procedures of the site visit so that all are aware that it is a fact finding exercise only and that no decision will be taken until the Committee meeting.
 - v) A Planning Officer will first describe the application and outline the relevant policies and planning considerations that the Committee will need to address when determining the application.
 - vi) The Chairman will then invite the Parish Council spokesperson and local ward Member(s) in turn to address the meeting. The Parish Council representative and the ward Member shall deal with factual issues, related to the site and the proposal, and representations received, without expressing a view about whether the application should be refused or approved.
 - vii) The Chairman will then seek any questions on the proposal from Members who serve on the Planning Committee. These questions can be addressed to the officer or Parish Council.

- viii) The Chairman will bring the site visit to a close and inform those attending of when the application will be determined or further considered.

17. Planning Committee Following Site Visits

- 1) Whenever possible a meeting of the Planning Committee shall be held after the conclusion of site visits in the Council Chamber, Penrith Town Hall or in a venue close to one or more of the sites visited. This meeting will address each application the subject of a site visit and, wherever appropriate, determine the application. If presentations have been made to an earlier meeting of the committee in respect of a particular application, no further presentations will generally be allowed following a site visit.
- 2) If a site visit has been held in connection with an application for which processing is not otherwise completed a decision will not be reached on that occasion but at a subsequent meeting of the Committee.
- 3) If Members have missed a Planning Committee where there is discussion upon and/or a presentation upon an item prior to the recommendation for a site visit they will be precluded from participating in the determination of that item during the site visit and at any following meeting on the ground that they have not heard all the evidence and are not necessarily in possession of all information with a regard to the matter. Members can however attend a site visit meeting and can take part in the determination of an application not having attended a previous meeting provided that there has been no presentation or prior discussion of the application.
- 4) When a site visit has been held in connection with an application ordinarily only those members of the Committee who attended the visit and viewed the site shall be entitled to debate the application and vote thereon at the Planning Committee held on the same day as the visit, unless the site is well known to the Member and in no issues arose on the site visit which could not be appreciated unless the Member was in attendance. Members will be expected to seek guidance from Officers in such circumstances.

18. Review of Decisions

- 1) The Audit Commission's Report, 'Building in Quality', recommended that Members should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision-making and help with reviews of planning policy.
- 2) Visits by Members at the behest of the Planning Committee to selected completed developments shall take place under the co-ordination of the Deputy Director Technical Services on at least one occasion each year. Briefing notes shall be prepared about each case visited.
- 3) The visits will take the form of a joint assessment of completed schemes between Council members, Planning and Building Control officers and Parish Council representatives. They will then be reported upon, with a presentation, to a subsequent Planning Committee meeting at which all those attending the assessment will be offered the opportunity to contribute.

E. Protocol on Member/Officer Relations

Page No

1.	Introduction	327
2.	Principles underlying Member - Officer Relations	327
3.	Roles of Members.....	327
4.	Roles of Officers	328
5.	Member/Officer Communication	328
6.	Advice to Political Groups/Independent Members	328
7.	Support Services to Members and Political Groups.....	329
8.	Members' Access to Information and to Council Documents.....	329
9.	Officer/Leader/Chairman Relationships	330
10.	The Chief Executive.....	331
11.	Correspondence	331
12.	Media Relations	332
13.	Involvement of Ward Members	332
14.	Personal Relationships	332

This page is left intentionally blank

E. Protocol on Member/Officer Relations

1. Introduction

This protocol reflects the recommendations for the Committee on Standards in Public Life in relation to standards of conduct in local government. The protocol should be read in conjunction with the Member and Officer Codes of Conduct set out above.

2. Principles Underlying Member-Officer Relations

This protocol is not comprehensive to all the circumstances facing Members and officers. It is therefore founded on the following principles:

- 1) all officers are employed by, and accountable to, the local authority as a whole;
- 2) officers are responsible for day-to day managerial and operational decision within the local authority and will provide support to all Members in their several roles;
- 3) a Member should not do anything which is likely to compromise the impartiality of those who work for, or on behalf of, the authority;
- 4) advice provided by officers to Members must be confined to Council business;
- 5) relationships with a particular Political Group should not be such as to create public suspicion that an officer favours that Group above others;
- 6) advice to political groups must be given in such a way as to avoid compromising an officer's political neutrality;
- 7) officers' political restrictions must be respected at all times; and
- 8) Members and officers should observe reasonable standards of mutual courtesy and respect, and neither should seek to take unfair advantage of their position in any circumstances.

3. Roles of Members

The role of Members is:

- 1) To be the advocate of their communities.
- 2) To be the ultimate policy-makers.
- 3) To contribute to the good governance of the area.
- 4) To act as an advocate for constituents.
- 5) To balance different interests identified with the ward and represent the ward as a whole.
- 6) To maintain the highest standards of conduct and ethics.
- 7) To be involved in decision making.

4. Roles of Officers

The role of an officer is to advise on and implement decisions of the Council or to make delegated decisions within the policy set by Council.

5. Member/Officer Communication

Members and officers should have regard to the differing roles of officers and Members when communicating.

In the case of officers, Members should communicate with officers at the appropriate level, and in the appropriate manner. Contact by e-mail is encouraged and the preferred method of contact. If communication cannot be made by e-mail contact should be made by letter or telephone. Normally a Member should contact the appropriate Chief Officer or a Senior Officer.

In the case of Members, officers should ensure that the relevant lead Member is kept informed, through senior management and the relevant Chief Officer, of matters concerning their area of responsibility.

6. Advice to Political Groups/Independent Members

There is now statutory recognition for party groups. Groups and unattached independent Members giving preliminary consideration to items of business on the agenda of the Council's meetings, shall be entitled to officer advice in the course of their deliberations.

Officer support can take the form of a briefing meeting to attendance at full Group meetings. Whilst in practice such officer support is likely to be in most demand for the controlling Group, such support is available to all groups and individual Members within reason.

In these circumstances:

- 1) Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of Group business. To observe this distinction, officers will not be present at meetings, or parts of meetings, when matters of Group business are to be discussed.
- 2) Group meetings, or similarly with individual Members, whilst they may form part of the preliminaries to council decision-making, cannot make decisions on behalf of the Council. Conclusions reached at such meetings do not rank as Council decisions. It is essential that they are not interpreted or acted upon as such.
- 3) Where officers may provide information and advice to a Group meeting in relation to a matter of Council business, this is not a substitute for providing all necessary information and advice to the relevant meeting of the Council when the matter is considered.

- 4) Officers will not attend Group meetings where there are persons present who are not Members or officers of the Authority. Attendance at Group meetings by an officer will be subject to the prior approval of the Chief Executive.
- 5) Officers must respect the confidentiality of any Group or individual Member discussion at which they are present. They should not relay the content of any such discussion to another Group or individual Member.
- 6) Any cases of difficulty or uncertainty should be raised with the Chief Executive who will discuss them with the relevant Group Leaders or individual Member.

7. Support Services to Members and Political Groups

The Council provides support services (including IT equipment, photocopying, typing and meeting rooms) to Members to assist them in discharging their roles as Members. They should never be used in connection with party political or campaigning activity or for private purposes.

8. Members' Access to Information and to Council Documents

A Member may approach any Department to provide him/her with such information, explanation and advice, as he/she may reasonably need, in order to assist him/her in discharging his/her role as a Member of the Council. This can range from a request for general information about some aspect of a Department's activities to a request for specific information on behalf of a constituent.

A Member has a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council or committee meeting. This right applies irrespective of whether the Member is a member of the committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items which may appear on the confidential agenda for meetings ie in Part 2. The items in questions are those which contain exempt information relating to the financial or business affairs of any person and the proposed service of a notice (grounds 3 and 6). A member should not do anything or require officers to do anything which infringes the Data Protection Act or any statute.

Additionally, a Member has a right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council. This principle is commonly referred to as the 'need to know' principle.

The 'need to know' must be demonstrated. A Member has no right to 'a roving commission' to examine documents of the Council. Curiosity is not sufficient. The crucial question is the determination of the 'need to know'. This question must initially be determined by the particular chief officer whose Department holds the document in question (with advice from the Assistant Director Governance if necessary). In the event of any dispute the decision of the Chief Executive is final.

The term 'Council Document' is broad and can include any document produced by the resources of the Council, it will not include items relating to the internal workings

of a Group. In the case of doubt advice should be sought from the Deputy Chief Executive.

Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided ie in connection with the proper performance of the Member's duties as a Member of the Council and not for any private or personal reason not connected with the business of the Council, nor for any personal cause or campaign outside the business of the Council.

Independent members on the Committee with responsibility for Standards Issues and a co-opted member of any committee have the same right to information and assistance from officers as elected Members of the Committee or other committee in relation to the functions of those committees of which he/she is a member.

The Freedom of Information Act enables people to have access to information held by the Council with some exceptions. Any rights a Member may have under this Act will be in addition to the rights of access he/she otherwise has.

9. Officer/Leader/Chairman Relationships

There will be a close working relationship between the Chief Executive and the Leader of the Council. A similar close working relationship will develop between the Chief Officers and lead officers and the executive portfolio holders and Committee Chairmen. There are and will be formal and informal meetings with a portfolio holder which will be attended by officers. Informal meetings are intended to inform and update the portfolio holder and brief him/her on matters. No decisions may be taken at an informal meeting. Decisions may only be taken at formal meetings. Portfolio holders and officers should be mindful that the decision making must be open and transparent.

A portfolio holder's principal relationship will be with his/her identified lead officer. The portfolio holder will be expected to have a constructive working relationship with other officers. Relationships between Members and officers should never be allowed to become so close, or appear to be so close, as to bring into question the officer's ability to deal impartially with other Members and any political Group.

Lead Officers must ensure that portfolio holders and chairs are kept informed of matters within their spheres of responsibility. The purpose of this is to ensure that the portfolio holder or chair is aware of a matter which may be raised formally at a meeting or of any issue which is of significance. Responses to councillors on matters they have raised should be copied to the relevant portfolio holder or Chair of a standing committee unless:

- 1) The matter is a confidential one; or
- 2) It relates to casework.

Confidential Information

Officers should maintain the confidentiality of information which is given to them in confidence by a Member and not disclose it to a third party unless it would be improper to do so because of, for example, some alleged illegality. (The Monitoring Officer is able to advise on any such instance)

Whilst the Executive Members and Chairmen will routinely be consulted as part of the process of drawing up the agenda for a meeting, in some situations a chief officer will be under a duty to submit a report on a particular matter. A Chief Officer will always be responsible for the contents of any report submitted in his/her name. Any issues arising should be referred to the Chief Executive for resolution in conjunction with the relevant Chairman, and with the benefit of advice from the Assistant Director Governance if appropriate.

Whilst officers should always seek to assist the Executive Members and Committee Chairman, they should always do so within the scope of their delegation, and are accountable to their chief officer. They should never go beyond the scope of the authority they have been given by their chief officer.

10. The Chief Executive

The Chief Executive is an employee of the Council as a whole and his/her overriding responsibility is to the Council and not to any Group or individual Member.

The political neutrality of the Chief Executive should be respected by everyone.

All Members of the Council have a right of access to the Chief Executive.

The Chief Executive will not discuss with any other Group or individual Member, the content of confidential discussion with any Group or non group member, unless consent has been specifically given by the Leader of the Group or non group member concerned.

11. Correspondence

Generally, correspondence between an individual Member and an officer should not normally be copied (by the officer) to any other Member, except at the discretion of the Chief Executive where necessary for the proper conduct of business. Where, exceptionally, it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. However, the chair of a standing committee or a portfolio holder should be kept informed of matters which may affect or be relevant to his/her responsibilities as set out in paragraph 9.

Official letters on behalf of the Council should normally be sent out in the name of the appropriate officer, rather than in the name of a member. It may be appropriate in certain 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 norm. Letters which create obligations, deny or accept liability, or give instructions on behalf of the Council should never be sent out in the name of a member.

12. Media Relations

Contact with the media on issues relating to the Council, or to Council business, should be handled through the Communications Officer within the Governance Department, after consultation, where practicable with the relevant Executive Member or committee Chairman.

Members should not make individual approaches to the media to speak on behalf of the Council. Where a Member does make an individual approach, he/she will be responsible for any consequences and liability arising.

13. Involvement of Ward Members

Members are elected to represent their constituents. The intention is that Members appropriately engage fully with their constituents and obtain their views with the intention of feeding this into the Council's activities.

Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the ward or wards affected should be invited to attend the meeting. Similarly whenever the Council undertakes any form of consultative exercise on a local issue, the ward members should be notified at the outset of the exercise.

14. Personal Relationships

An officer who is personally connected or related to any Member should notify his or her chief officer in writing.

No Member or officer should allow any personal connection or relationship with another Member or officer to affect the performance of his or her official responsibility, or the taking of any action or decision by or on behalf of the Council. This includes for example any relative, friend or associate (as defined within the Code of Local Government conduct). Members and officers should always consider how such a relationship or connection would be likely to be regarded by anyone outside the Council, or by another Member or officer and avoid creating any impression of bias or unfairness.

F. Filming, Photography, Recording and Use of Social Networking at Council Meetings Policy

While a meeting is open to the public, any person attending the meeting for the purposes of reporting the proceedings is, so far as practicable, to be afforded reasonable facilities for taking their report.'

The taking of reports by filming, sound recordings, photography or by the use of social media is enabled and permitted at Eden District Council meetings which are open to the public, providing that any such activity does not disrupt the proceedings.

The meetings at which the public may take reports include all meetings including full Council, the Executive, Scrutiny Co-ordinating Board and Scrutiny Panels and Planning and Licensing Committees. Recording is not permitted at portfolio holder meetings or any meetings which are not open to the public. Reports by any member of the public may not be taken during private Council meetings which is for the discussion of confidential items and from which the public have been excluded.

Council Members and officers should expect to be filmed, sound recorded or photographed or to have their comments reported via social media or blogging or other means during meetings open to the public.

A Chairman of a meeting has a discretion to terminate or suspend a meeting if, in his or her opinion, continuing to do so would be disruptive.

The circumstances in which termination or suspension might occur could include:

- Public disturbance or suspension of the meeting in accordance with Rules 21 or 22 of the Rules of Procedure;
- Where it is considered that continued recording/photography/filming/webcasting might infringe the rights of any individual;
- When the Chairman considers that a defamatory statement has been made.

In allowing the recording of meetings, the Council asks those recording proceedings not to edit the film/recording/photographs in a way that could lead to misinterpretation of the proceedings, or infringe the core values of the Council. This includes refraining from editing an image or views expressed in a way that may ridicule, or show a lack of respect towards anyone being photographed/filmed/recorded.

The following rules must be observed:

- Filming of children under the age of 18 who are taking part or attending Council meetings is not permitted without the consent of their parent/guardian.
- Persons who do not wish to be filmed, sound recorded or photographed will then have the opportunity to relocate to the public gallery (where they will not be recorded) or to leave the meeting if they so wish.
- Members of the public speaking officially (asking tabled questions) at a meeting who have informed the Chairman that they do not wish to be filmed,

- sound recorded or photographed must not be filmed, sound recorded or photographed by any persons present.
- Filming, sound recording or photography of the public gallery is not permitted. This is to allow those who actively object to being recorded to attend the meeting.
 - Any person taking reports must be courteous and respectful to others present at all times, including Members and officers of the Council, the press and other members of the public.
 - Electronic devices used for taking reports such as laptops, tablets, cameras or mobile phones etc must not be audible during proceedings and should be placed on 'silent' settings.
 - The use of flash photography or additional lighting will not be allowed unless this has been discussed in advance of the meeting and agreement reached on how it can be done without disrupting proceedings.
 - Any person must remain silent whilst taking reports unless he or she is asked to comment.
 - Any person wishing to film, take sound recordings or photograph a Council meeting which involves using large equipment or special arrangements or requirements should contact the Council well in advance of the meeting to seek advice and guidance. Please note that such requests will be subject to practical considerations and the constraints of specific meeting rooms. This requirement is to prevent proceedings from being disrupted and so that others attending the meeting can be informed. At least twenty-four hours' notice should be given of a request to use large equipment or to make special arrangements.
 - Any person intending film, take sound recordings or photograph a Council meeting which involves using large equipment or special arrangements including the use of a video camera and tripod must arrive at least one hour prior to the commencement of the meeting unless the meeting is otherwise in use if her or she needs to set up and test equipment in order to avoid disruption to proceedings.
 - Video cameras and tripods must not be dismantled or removed until the public meeting proceedings have been completed, unless otherwise permitted by the Chairman.
 - Any filming with the use of a tripod must be carried out from a vantage point designated by the Council. Persons filming, taking sound recordings or photographing must remain at the vantage point for the duration of the public meeting and may not move around the room to record proceedings.
 - Filming using video cameras, mobile phones, tablets, laptops or other devices must be carried out in such a way as to ensure the viewing of proceedings by others present is not obscured at any time.
 - Any person wishing to take reports must provide their own equipment for the purposes of doing (equipment will not be provided by the Council).
 - The Council does not accept any responsibility for the damage or loss of any equipment or device used for the taking of reports.
 - Wifi is provided for use by the public in the Council Chamber.

G. Protocol for the relationship between the Leader of the Council and the Chief Executive

	Page No
1. The Need for a Protocol	337
2. Shared Values	337
3. The Role of the Leader	339
4. The Role of the Chief Executive	340
5. Publicity	341
6. Approval.....	341

This page is left intentionally blank

G. Protocol for the relationship between the Leader of the Council and the Chief Executive

1. The Need for a Protocol

- 1.1 The CIPFA/Solace publication on 'Good Governance in Local Government' forms the framework for the Council's Code of Governance. It recommends the development of a protocol to ensure that the Leader and the Chief Executive (as Head of the Council's Paid Service) negotiate their respective roles early in their relationship and that a shared understanding of roles and objectives is maintained.
- 1.2 The Council acknowledges that a successful working relationship is critical to its success and the achievement of its policies and strategies both in terms of the authority itself and its relationship with partners. Both roles are defined in legislation and in the Council's constitution which should be read in conjunction with this protocol. A mutual understanding of each other's responsibilities, especially as incumbents change, is key to the development of respect, tolerance and a shared appreciation of their respective roles both individually and to set the tone for good member/employee relationships throughout the authority.

2. Shared Values

- 2.1 The Committee on Standards in Public Life recommends a set of principles which are to govern the conduct of Members and Officers of Councils as follows:

- Selflessness

Holders of public office should act solely in terms of the public interest.

- Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationship.

- Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

- Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

- Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

- Honesty
Holders of public office should be truthful.
- Leadership
Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

- 2.2 Member standards of conduct are governed by the Members' Code of Conduct. Employee standards are set by the Officer's Code of Conduct contained in the Council's constitution which reflects the same principles as the Members' Code. A protocol on Member and Officer relations, again embodied in the constitution, sets out the importance of effective relationships but there is a danger that these will founder if a good example is not set at the highest level by the Leader and the Chief Executive.
- 2.3 In addition, the Council has adopted a series of policies that apply equally to the roles of the Member and employee which includes a dignity at work policy and corporate equality policy.
- 2.4 The Leader and the Chief Executive subscribe to those general principles and policies which underpin the high standards of behaviour and relationships necessary for the Council to offer effective leadership in the community and fulfil its statutory functions.
- 2.5 All dealings between the Leader and the Chief Executive should be conducted with mutual respect, trust, honesty and courtesy. Neither should place inappropriate pressure on the other and, in their dealings with each other, they should not do anything that brings the Council into disrepute, cause any embarrassment either to themselves or the Council or lead to a breakdown in Member/employee relations.
- 2.6 The roles of each are defined in legislation but it is the sum of the parts that makes the unique partnership that is effective local government. In furtherance of that principle, the Leader and the Chief Executive undertake to recognise:
- The need for a close working relationship;
 - The requirement for an understanding of each other's roles and responsibilities;
 - The desirability of regular liaison through both formal and informal means.
 - The importance of effective communication;
 - A respect for each other's views, advice, guidance and integrity;
 - The need for openness and mutual understanding;
 - The desirability of maintaining impartiality and independence of role;
 - The need to avoid bias and prejudice;

- The need to demonstrate effective leadership and their responsibility to set an example for others;
- That any tensions that arise in their relationship need to be resolved swiftly and amicably; and
- The Chief Executive's wider role to serve the Council and Members as a whole, irrespective of political party.

2.7 To assist in that mutual recognition of each other's roles and responsibilities, these are summarised below.

3. The Role of the Leader

3.1 The Council has chosen to adopt the Executive Leader model of executive arrangements under the Local Government Act 2000, as amended by the Local Government and Public Involvement in Health Act 2007.

3.2 Under these arrangements, the Leader is elected by the Council from among its membership for a four year term or until their term of office comes to an end as a councillor or they are removed from office by the Council, whichever is the earliest. The Leader's primary functions are to:

- Arrange for a discharge of the executive functions of the Council, including the arrangements for executive responsibilities;
- Appoint a Deputy Leader of the Council;
- Determine the size and membership of the Executive;
- Act as chairman of meetings of the Executive; and
- Provide the political leadership of the Council.

3.3 These are explained in greater detail in Article 7 of the Executive Procedure Rules contained in the Council's constitution.

3.4 The Leader is responsible for providing the strategic and community leadership of Eden and its inhabitants and its development through the effective exercise of collective and individual responsibilities within the Council's decision making processes.

3.5 Through the effective operation of the Executive, the Leader is accountable for:

- Proposing the Council's policy framework and setting priorities and objectives;
- Overseeing the implementation of policies and strategies to achieve priorities and objectives;
- Proposing the Council's budget to achieve its objectives;
- Managing the process for allocating resources to policy priorities;
- Ensuring the Council fulfils its statutory duties;
- Creating strategic frameworks for effective partnership working;

- Making policy decisions in an open and accountable way;
 - Ensuring continuous improvement in service standards and monitoring performance;
 - Providing political leadership of the Council; and
 - Communicating and advocating the Council's priorities, objectives and decisions.
- 3.6 The Chief Executive, as principal policy adviser, will ensure that the Leader and Executive are provided with the appropriate advice and information to enable them to take informed decisions and they will have regard to such advice in reaching their decisions.
- 3.7 The Leader will not seek advice from the Chief Executive in relation to party political business and will not expect the Chief Executive nor any of his staff to attend a meeting of the political group save as prescribed in the Protocol on Member/Officer relations.
- 3.8 The Leader has no line management responsibilities for Council employees who are responsible to the Council as a whole. Any concerns over the performance of employees either individually or collectively will be referred by the Leader to the Chief Executive to address. Matters relating to the appointment, dismissal and disciplinary action in respect of employees is contained in the Officer Employment Procedure Rules set out in the Council's constitution. However, the Leader is responsible for the oversight of the Chief Executive's performance.

4. The Role of the Chief Executive

- 4.1 The Chief Executive has overall corporate management and strategic responsibility for the Council and its delivery of services as defined in Article 12 of the Council's constitution. The Chief Executive is responsible for the provision of professional and impartial advice to all aspects of the decision making process and is accountable to the Council for the implementation of strategies, policies and decisions.
- 4.2 As the Head of Paid Service of the Council, the Chief Executive has certain defined responsibilities under the Local Government and Housing Act 1989 to report on:
- The co-ordination of the discharge of the Council's functions.
 - The level, organisation, grades and management of employees required to discharge those functions.
- 4.3 The Chief Executive acts as the Council's Proper Officer under certain provisions of the Local Government Act 1972 and a variety of other legislation.
- 4.4 The Chief Executive is accountable to the Council as a whole. The post is politically restricted in as much as the Chief Executive is not permitted to be an elected member of another authority. While this does not prevent the Chief Executive from being a member of a political party, it is recognised that this is inadvisable if the Chief Executive is to maintain a politically impartial role in advising the Council. As such, the Chief Executive is required to work effectively with all elected members

within the Executive and Scrutiny system of governance and to be able to demonstrate political sensitivity and an ability to interpret political will.

- 4.5 The Chief Executive's performance will be monitored annually by the Leader in conjunction with the Chairman of Human Resources and Appeals Committee and a representative of North West Employers.
- 4.6 The Chief Executive has responsibility for promoting community cohesion and undertaking an overview of the Council's strategies by translating them into service plans and practical actions, gaining corporate support and ensuring compliance. The Chief Executive has leadership responsibility for overseeing the Council's statutory responsibilities under the Equality Act 2010 which protects people from discrimination because of certain 'protected characteristics'. It also promotes equality of opportunity to prevent discrimination arising. The nine protected characteristics are:
- Age;
 - Disability;
 - Gender reassignment;
 - Marriage and civil partnership;
 - Pregnancy and maternity;
 - Race;
 - Religion and belief;
 - Sex; and
 - Sexual orientation.

5. Publicity

- 5.1 Advice to the Leader in relation to the media will be provided on a confidential basis if requested. Any employee assisting the Leader with media relations will act at all times in the interests of the whole Council and in a politically impartial manner.
- 5.2 In particular the Leader and the Chief Executive will have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

6. Approval

- 6.1 This protocol has been approved by the Accounts and Governance Committee. Its content will be reviewed every two years and amended as necessary in the light of practical experience and legislative change.

This page is left intentionally blank

H. Protocol for the Monitoring Officer

	Page No
1. Introduction	345
2. Functions	345
3. Resources	346
4. Discharge of Functions	347
5. Conflicts	348

This page is left intentionally blank

H. Protocol for the Monitoring Officer

1. Introduction

This Protocol describes the principal functions of the Monitoring Officer and the manner in which the Council expects him/her to discharge those functions.

2. Functions

The principal functions of the Monitoring Officer shall be:

- (a) To report to the Council and/or to the Executive in any case where he/she is of the opinion that any proposal, decision or omission of the Council in respect of any reportable incident (being any matter which, in his/her opinion, has given rise to, or is likely to, or would give rise to any illegality, maladministration or breach of statutory code under Sections 5 and 5A of the Local Government and Housing Act 1989);
- (b) To investigate any matter which he/she has reason to believe may constitute, or where he/she has received an allegation that a matter may constitute, a reportable incident;
- (c) To act as the principal adviser to the Council's Accounts and Governance Committee;
- (d) To maintain the register of members' interests;
- (e) To act as the proper officer for the preparation, publication and retention of records of decisions taken by or on behalf of the Council and the Executive;
- (f) Responsibility for Complaints relating to the conduct of members of the Council;
- (g) To consult regularly with the Chief Executive, the Chief Finance Officer and Internal Auditor to identify areas where the probity of the Council can be improved or better protected, and to take appropriate actions;
- (h) To deal with any complaint in respect of any breach of the Council's (or Parish/Town Council's) Members' Code of Conduct, in accordance with the Council's Accounts and Governance Arrangements;
- (i) A power to investigate any application for a dispensation and to report and recommend to the Accounts and Governance Committee where such application is not delegated to him/her;
- (j) To ensure that members and officers of the Council are fully aware of their obligations in relation to probity;
- (k) To report to the Executive and to the Council on the resources which he/she requires for the discharge of his/her functions;
- (l) To report regularly to the Accounts and Governance Committee on the performance of his/her functions and to make any recommendations which would better enable those functions to be performed;
- (m) To undertake all statutory Monitoring Officer functions in respect of Parish/Town Councils within the area of the Council and to provide support and advice to such Parish/Town Councils in maintaining probity, including:

- (i) advice on the requirement for members to notify the Monitoring Officer of any disclosable pecuniary interests or other interests and of any changes in such interests, that such declarations will form part of a public register, means of gaining access to that register (including publication on the website), and of any arrangements to ensure that Parish and Town Council Clerks are kept informed of any such declarations;
- (ii) advice on dispensation requests which may be made to the Parish/Town Council;
- (iii) advice on any provisions under which individual complaints of misconduct by members may be referred or delegated to the Monitoring Officer and the Accounts and Governance Committee for investigation and determination, and any arrangements agreed by the Monitoring Officer and the Accounts and Governance Committee for dealing with such complaints; and
- (iv) advice to individual members on enquiries as to their obligations to declare or notify particular interests, on the need to apply for a dispensation, and on any consequent restrictions on the member's participation in consideration of the matter.

3. Resources

For the purpose of carrying out these functions, the Monitoring Officer shall be provided with the following resources:

- (a) The right of access to all documents and information held by or on behalf of the Council, including documents and information held by any officer or member of the Council. For the purpose of clarification, this right does not extend to documents and information held by or on behalf of any political party represented on the Council;
- (b) The right of access to any meetings of officers or members (or both) of the Council, whether or not such meetings include any other persons. For the purpose of clarification, this right does not extend to any meetings held by or on behalf of any political party represented on the Council;
- (c) The right to require any officer or member of the Council, or any contractor of the Council, to provide an explanation of any matter under investigation;
- (d) A right to report to the Council, the Accounts and Governance Committee, and to the Executive, including a right to present a written report and to attend and advise verbally;
- (e) The right to require the assistance of any officer of the Council in carrying out an investigation and to delegate to that officer any of the powers of the post of Monitoring Officer;
- (f) A power to mediate a local resolution to any complaint of breach of the Council's Members' Code of Conduct, in accordance with the Council's relevant procedures;
- (g) The right of access to the Head of the Paid Service (the Chief Executive), relevant Directors and the Chief Finance Officer;
- (h) The right, after consultation with the Head of the Paid Service (the Chief Executive) and the Chief Finance Officer, to notify the Police, the Council's auditors and other regulatory agencies of his/her concerns in respect of any

matter and to provide them with information and documents in order to assist them with their statutory functions; and

- (i) The right to obtain legal advice at the Council's expense, either internally or from an independent external solicitor or barrister, on any matter which he/she believes may be a reportable incident, and sufficient financial resource to enable him/her to do so.

4. Discharge of Functions

- (a) It is recognised that the Monitoring Officer will be most effective if he/she is able to advise on any issue at an early stage of policy formulation or implementation. Accordingly, officers and members of the Council should routinely inform and consult the Monitoring Officer in respect of new policy proposals and action programmes;
- (b) The Monitoring Officer will seek to resolve potential reportable incidents by identifying alternative and legitimate means of achieving the objective of the proposal. Accordingly, officers and members of the Council may consult the Monitoring Officer in confidence in respect of any proposal, and the Monitoring Officer will only need to make a public report on the matter if the proposal were to be a potential reportable incident and the officer or member subsequently took any action to progress that proposal despite being advised to the contrary by the Monitoring Officer;
- (c) Where the Monitoring Officer receives a complaint of a potential reportable incident, he/she shall in appropriate cases seek to mediate the matter amicably, by securing that any failure of process or breach of code is rectified, and that the complainant is informed of the rectification. However, it is recognised that the Monitoring Officer may determine that the matter is of such importance that a statutory report is the only appropriate response.
- (d) In appropriate cases, the Monitoring Officer may rely upon existing processes within the Council (such as internal appeals procedures or insurance arrangements) to resolve any potential reportable incident, but may intervene in such processes to identify that the particular matter is a potential reportable incident and to ensure the satisfactory resolution of the issue;
- (e) In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer shall be entitled to add his/her written advice to the report of any other officer of the Council; and
- (f) Notwithstanding the above, the Monitoring Officer retains the right to make a statutory report where, after consultation with the Chief Executive and the Chief Finance Officer, he/she is of the opinion that this is necessary in order to respond properly to a reportable incident.

5. Conflicts

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

I. Protocol for the Independent Person

	Page No
Roles and Obligations.....	351
The Committee	352
Conflicts of Interest and Confidentiality	352
Contact	352

This page is left intentionally blank

I. Protocol for the Independent Person

This Protocol sets out the expected roles and responsibilities of Eden District Council's Independent Person when they are carrying out their function in relation to the assessment of an allegation that a Member, or co-optee, of the District Council, or a Member, or co-optee, of a Town or Parish Council within the District, has failed to comply with the relevant Council's Code of Conduct.

In addition to the roles and responsibilities referred to in this Protocol, under the provisions of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, an Independent Person may be appointed by the Council to a panel comprising five members of the Human Resources Committee and at least one other Independent Person for the purposes of advising the District Council on matters relating to the dismissal of a statutory officer of the Council (ie Head of Paid Service, Chief Finance Officer or Monitoring Officer).

In addition, the District Council's Monitoring Officer works with neighbouring authorities within Cumbria whose Independent Persons have also agreed to act as additional Independent Persons if circumstances require it.

Roles and Obligations

1. The role of the Independent Person is set down in legislation (section 28 of the Localism Act 2011).
2. The purpose of the Independent Person role is to enable the public to have confidence in how the District Council deals with allegations of misconduct and maintains high ethical standards of conduct for members, ensuring they are adequately trained and understand the code of conduct. The Independent Person is expected to develop a sound understanding of the ethical standards framework as it operates within the Council. The Independent Person may be invited to attend or participate in training events organised by the Monitoring Officer.
3. The Protocol covers both the Independent Person and any reference in this Protocol to the Independent Person covers and Independent Person from a neighbouring authority.
4. In carrying out the role, the Independent Person will ensure that he/she:
 - (a) acts in accordance with -
 - (i) any relevant legislation or guidance in force at the time; and
 - (ii) the agreed processes/procedures approved by the Accounts and Governance Committee and the Council's Constitution; and
 - (b) acts impartially at all times, without political bias or prejudice and in accordance with the rules of natural justice; and
 - (c) maintains confidentiality at all times.

The Committee

5. The Monitoring Officer's role is to give advice to the Accounts and Governance Committee. The Independent Person is not a member of the Council's Accounts and Governance Committee (or Sub-Committee) but is welcome to attend all meetings. The Independent Person does not have any voting rights when attending a meeting of the Accounts and Governance Committee and may speak at the invitation of the Chairman.
6. The Monitoring Officer will consult the Independent Person on complaints received in accordance with the Council's procedure.
7. While the Monitoring Officer will have regard to the views expressed by the Independent Person, he/she is not bound to accept his/her views on the matter. The Monitoring Officer will inform the Independent Person at the earliest opportunity in the process of an investigation, of the Council's expectations with regards to the timescales for their response during each stage.
8. At the resolution of the complaint, whether there is a formal investigation or not, the Monitoring Officer will advise the Independent Person of the outcome of the complaint.

Conflicts of Interest and Confidentiality

9. The Independent Person should inform the Monitoring Officer if they feel there are circumstances which would suggest that they had a conflict of interest e.g. being a friend of either the complainant or Member concerned or they have previously been involved in the matter. If the Independent Person has a conflict of interest another Independent Person will be consulted.
10. If the Independent Person is conflicted out from dealing with the issue, the Monitoring Officer will consider making a request to use the services of another Independent Person and such person may be from another local authority.
11. All contact with the Independent Person should be made through the Monitoring Officer and should the Independent Person be contacted directly by a complainant or Member, he/she should inform the Monitoring Officer immediately. Where the subject member wishes to speak to the Independent Person, the Monitoring Officer will try and facilitate this in a planned way between the Independent Person and the member.
12. In terms of confidentiality, the Independent Person must not discuss any matters about a complaint, either past or present, with the media or any other third party without appropriate advice having been taken.

Contact

13. The Independent Person must provide the Monitoring Officer with appropriate methods of contact eg email and telephone numbers, and must make themselves available at all reasonable times. On those occasions when the Independent Person knows that they will not be contactable, he/she must inform the Monitoring Officer with as much reasonable notice as possible so that arrangements can be made for an Independent Person from a neighbouring authority to be advised that he/she would be required to stand-in as necessary during this period.

14. The Independent Person should be prepared to give the Accounts and Governance Committee an independent view on the complaint and the merits of the evidence put forward as required to assist the Committee in coming to a decision on the matter.

This page is left intentionally blank

J. Protocol for the Chairman of the Council

Page No

1.	Chairman's Profile.....	357
2.	Invitations.....	357
3.	Wearing the Chairman's Chain	357
4.	Wearing the Vice Chairman's Chain	358
5.	Support to Charities	358
6.	Chairman's Allowance	358
7.	Acceptance of Gifts.....	358
8.	Pictures of the Chairman and/or Vice Chairman	358
9.	Media	358
10.	Support for the Chairman.....	358
11.	Chairman's Briefings.....	359

This page is left intentionally blank

J. Protocol for the Chairman of the Council

1. Chairman's Profile

- (a) While in the role, it is expected that the Chairman of the Council ("the Chairman") should reduce his/her political profile while carrying out civic duties as Chairman of the Council, as they need to be able to display even handedness when promoting the Council during the term of office. It would therefore not be appropriate to be associated with issues which could be considered as being contentious or accept invitations from people/organisations who may be involved with a dispute with the Council, or where there is a controversial issue and attendance could add weight to a third party's cause. They should also show no favour (or disfavour) to any political party.
- (b) When chairing a meeting, the Chairman should ensure that there is a fair debate.
- (c) The Chairman needs to ensure that they have a good working knowledge of the Council Procedure Rules. The Monitoring Officer will be available to assist if necessary.

2. Invitations

- (a) Invitations to the Chairman of the Council will be considered at the Chairman's discretion. Organisations are encouraged to submit their invitations as soon as possible.
- (b) Where the Chairman is unable to attend an event, they should ask the Vice-Chairman if they are able to attend.
- (c) Should the Vice-Chairman not be able to attend and the Chairman feels that the attendance of a representative of the Council is important, the Chairman should extend the invitation to an appropriate elected Member.

3. Wearing the Chairman's Chain

The Chairman should wear their Chain of Office on the following occasions, if appropriate:

- At all meetings of the District Council;
- At other meetings where he/she has been asked to preside as Chairman of the District Council;
- When hosting social occasions and attending or representing the Council at formal civic functions within the county; and
- Attending the funeral of a serving or former District Councillor or employee of the Council who dies in service, if deemed appropriate and with the consent of the family.

4. Wearing the Vice-Chairman's Chain

The Vice-Chairman should wear their chain as above when deputising for the Chairman at an event. The Vice-Chairman may choose to wear their chain at an event, irrespective of whether the Chairman is also attending and wearing their chain of office, unless requested not to by the Chairman.

5. Support to Charities

- (a) The Chairman should have regard to any advice given by the Monitoring Officer and/or the Chief Finance Officer in respect of any charities he/she supports and the Chairman's budget.
- (b) Should the Chairman decide to support one or more charities, they should be a registered charity. If, in the opinion of the Monitoring Officer and/or Section 151 Officer, a charity is considered to be unacceptable for legal or financial reasons, the Chairman shall have regard to this advice.

6. Chairman's Allowance

- (a) The Chairman receives an annual allowance to cover any necessary costs incurred in carrying out their role, eg general expenses and the cost of receptions which they wish to host during their term of office.
- (b) The Chairman has a responsibility to ensure that spending is within this budget and should abide by any rules or guidance given by the Monitoring Officer and/or Chief Finance Officer in this respect.

7. Acceptance of Gifts

- (a) Any personal gifts exceeding £50 in value, received by the Chairman or Vice-Chairman must be declared in the normal way.
- (b) Any gifts which are presented to the Chairman or Vice-Chairman on behalf of the District Council can be accepted and put on display in the Chairman's Room.

8. Pictures of the Chairman and/or Vice Chairman

It is not appropriate for pictures or images of the Chairman or Vice-Chairman acting in their official capacity to appear in any electoral publications.

9. Media

The Council's Communication Officer is able to provide advice and support to the Chairman and/or Vice-Chairman when dealing with the media.

10. Support for the Chairman

The Chairman will be supported by Democratic Services and Secretarial Support and will receive assistance with the following:

- (a) in receiving and following up invitations;
- (b) arranging the Chairman's official functions and other occasions; and
- (c) preparing and circulating to the Full Council meeting, a list of events attended since the last meeting.

11. Chairman's Briefings

- (a) Prior to each meeting of the Full Council, a Chairman's briefing will be arranged with the Chief Executive and Monitoring Officer on the content of the agenda.
- (b) During the year, the Chairman may also wish to be given briefings by officers on other issues as necessary.

This page is left intentionally blank

Part 6

Members' Allowances Scheme

This page is left intentionally blank

Index

Page No

1.	Eden District Council Members' Allowances Scheme	365
2.	Meanings in the Scheme	365
3.	Basic Allowance	365
4.	Special Responsibility Allowance	365
5.	Child Care Allowance and Dependent Carer's Allowance	365
6.	Travel Allowance and Subsistence Allowance	366
7.	Co-optees	366
8.	Pensions	366
9.	Backdating	366
10.	Suspension of Allowances	366
11.	Renunciation	366
12.	Part-Year Entitlements	366
13.	Claims and Payments	368
14.	Payment shall be Made	368
15.	Period of Scheme	368
16.	Indexation of Allowances	368
	Schedule 1 - Special Responsibility Allowance	369
	Schedule 2 - Approved Duties	370
	Schedule 3 - Mileage Rates Payable	375

This page is left intentionally blank

Members' Allowances Scheme 2019-2020

Eden District Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003, hereby makes the following Scheme, which was approved by resolution of the Council on 20 April 2017. The Scheme is unchanged except for any indexation (see paragraph 16 below) and agreement of Approved Duties (see Schedule 2).

1. Eden District Council Members' Allowances Scheme

This Scheme may be cited as the Eden District Council Members' Allowances Scheme, and shall have effect from 9 May 2019 for the 2019-2020 Municipal Year.

2. Meanings in the Scheme

'Member' means a member of Eden District Council who is a Councillor.

'Year' means the period beginning on the first day of any Municipal Year and ending with the last day of that Municipal Year.

'Municipal Year' means a period of time commencing with the Annual Meeting of the Council.

3. Basic Allowance

Subject to paragraph 12, for each year, or part thereof, a Basic Allowance of £3,864 shall be paid to each Member.

4. Special Responsibility Allowance

- i For each year, a Special Responsibility Allowance shall be paid to those Members who hold the special responsibilities in relation to the District Council, as are specified in Schedule 1 to this Scheme.
- ii Subject to paragraph 12, the amount of each such allowance shall be the amount specified against that special responsibility in that Schedule.
- iii No Member shall be entitled to be paid more than one Special Responsibility Allowance at any one time and, in the event that a Member undertakes more than one special responsibility at a time, the higher/highest allowance will be paid.

5. Child Care Allowance and Dependent Carer's Allowance

A Child Care Allowance and a Dependent Carer's Allowance shall be payable based upon reimbursement of actual receipted costs, subject to prior agreement with the Assistant Director Finance. The allowance is payable to any Member who incurs expenditure in respect of child or dependent relative care whilst undertaking the qualifying duties specified in Schedule 2.

6. Travel Allowance and Subsistence Allowance

No subsistence allowance shall be payable, except where an overnight stay is required. If an overnight stay is required, a Member can claim the actual reasonable cost of any meals necessarily taken away from home and the actual reasonable cost of any accommodation.

Travel allowance is payable for duties set out in Schedule 2 and shall be as follows:

- **public transport** – reimbursement of actual costs incurred (for rail, restricted to second class travel: unless authorised by the Leader and Chief Executive)
- **private transport** – see Schedule 3

7. Co-optees

Any co-optees, as permitted by the Council's Constitution, shall be paid Special Responsibility Allowance and Travel and Child Care Allowances on the same basis as any Member of the Council.

Co-optees shall be paid an allowance of £112.20 per annum.

8. Pensions

No Member of the Council shall be eligible to join the Local Government Pension Scheme.

9. Backdating

There is no backdating. All provisions come into effect from 9 May 2019 for the 2019-2020 Municipal Year.

10. Suspension of Allowances

Where a Member is suspended, or partially suspended from his responsibilities or duties as a Member of the Council, in accordance with Part III of the Local Government Act 2000, that part of any allowance payable to him under this Scheme will be withheld. Subject to the outcome of any investigation, any amount suspended or recouped may be reimbursed.

11. Renunciation

A Member may, by notice in writing given to the Assistant Director Finance, elect to forego any part of his entitlement to an allowance under this Scheme.

12. Part-Year Entitlements

- i The provisions of this paragraph shall have effect to regulate the entitlements of a Member to Basic and Special Responsibility Allowances where, in the course of a year, this Scheme is amended, or that Member becomes, or ceases to be a Member, or accepts or relinquishes a special responsibility in respect of which a Special Responsibility Allowance is payable.

- ii If an amendment to this Scheme changes the amount to which a Member is entitled by way of a Basic Allowance or a Special Responsibility Allowance, in relation to each of the periods:
 - a beginning with the Municipal Year and ending with the day before that on which the first amendment in that year takes effect; or
 - b beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) in the year

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

- iii If an amendment to this Scheme changes the duties specified in Schedule 2 to this Scheme, the entitlement to such an allowance shall be to the payment of the amount of the allowance under the Scheme as it has effect when the duty is carried out.
- iv Where the term of office of a Member begins or ends otherwise than at the beginning or end of a Municipal Year, the entitlement of that Member to a Basic Allowance shall be to the payment of such part of the Basic Allowance as bears to the whole the same proportion as the number of days during which his term of office subsists bears to the number of days in that year.
- v Where this Scheme is amended, as mentioned in sub-paragraph ii, and the term of office of a Member does not subsist throughout the period mentioned in sub-paragraph ii a, the entitlement of any such Member to a Basic Allowance shall be to the payment of such part of the Basic Allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which his term of office as a Member subsists bears to the number of days in that period.
- vi Where a Member has during part of, but not throughout a Municipal Year, such special responsibilities as entitles him or her to a Special Responsibility Allowance, that Member's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he or she has such special responsibilities bears to the number of days in that year.
- vii Where this Scheme is amended, as mentioned in sub-paragraph ii, and a Member has during part, but does not have throughout the whole of any period, mentioned in sub-paragraph ii a of that paragraph any such special responsibilities as entitles him or her to a Special Responsibility Allowance, that Member's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days

in that period during which he or she has such special responsibilities bears to the number of days in that period.

13. Claims and Payments

Any claim for allowances under this Scheme shall be made on the form provided by the Assistant Director Finance within two months of the end of the month in which the entitlement to the allowance arose.

14. Payment Shall Be Made

- i a In respect of Basic and Special Responsibility Allowances, subject to sub-paragraph ii, in instalments of one-twelfth of the amount specified in this Scheme, on the twenty-eighth day of each month, or the working day immediately preceding that date
- b In respect of other allowances, on the twenty-eighth day of each month following the receipt of a claim, providing such claim is received no later than the seventh day of that month.
- ii Where a payment of one-twelfth of the amount specified in this Scheme in respect of a Basic Allowance or a Special Responsibility Allowance would result in the Member receiving more than the amount to which, by virtue of paragraph 12, he or she is entitled, the payment shall be restricted to such an amount as will ensure that no more is paid than the amount to which he or she is entitled.

15. Period of Scheme

In agreeing this Scheme the Council accepted the recommendation of the Independent Remuneration Panel that the Scheme should run for a period of four years, subject to the agreed indexation: see section 16 below.

16. Indexation of Allowances

In agreeing this Scheme, the Council accepted the recommendation of the Independent Remuneration Panel that the allowances payable should be uplifted annually by the agreed staff pay award. The allowances have been set at 2019-2020 price levels.

Schedule 1: Special Responsibility Allowance

The following are specified as the special responsibilities in respect of which Special Responsibility Allowance is payable and the amount of the allowance:

	£
Chairman of Council	644
Leader	11,592
Deputy Leader	4,830
Executive Member	4,830
Chairman of Scrutiny Co-ordinating Board	1,932
Chairman of Scrutiny Committee	1,288
Chairman of Planning Committee	3,864
Chairman of Licensing Committee	644
Chairman of Accounts and Governance Committee	1,288
Group Leader: Largest Group	322
Group Leader: Next Largest Group	161
Co-optees	112.20

NB: No more than one Special Responsibility Allowance is payable to any one Member.

Schedule 2: Approved Duties

The following duties are specified as Approved Duties for the purpose of travel allowance and subsistence allowance:

1. Attendance at meetings of:
 - a The District Council
 - b The Executive
 - c Committees and Sub-Committees of the District Council
 - d Working Groups and Panels established by the Executive, Committee, or Sub-Committee of the District Council on which the Member sits, or is entitled to attend under the Council's Standing Orders, including formal, or informal meetings, authorised by any of the above:
 - for the purpose of inspecting sites or visiting sites or establishments
 - for the purpose of presentations or submissions being made about its functions and/or workand providing that Members of at least two political groups have been invited to attend such meetings
 - e Site visits requested by the Planning Committee where the Member is invited to attend as Ward Member
 - f Parish council meetings within a Member's ward, as long as the Member is not a member of that parish council
2. With the agreement of the Executive, Committee/Sub-Committee, or the prior agreement of its Chairman, attendance by a Member at a meeting of a Committee/Sub-Committee on which he/she does not sit, where he/she attends as a representative of another Committee/Sub-Committee/Working Party and so on, or where business affecting that Member's Ward is to be discussed.
3. Attendance at meetings with one or more other local authorities or health authorities.
4. Attendance at meetings between representatives of the County Council and of other Local Authorities, Government departments, or distinguished visitors, where the holding of such meetings has been authorised by the Council, the Executive, or by a Committee or Sub-Committee.
5. Attendance at public meetings concerning a Council service where the holding of such meetings has been authorised by the Council, the Executive, or by the relevant Committee or Sub-Committee.

6. Attendance by single Members to carry out:
- duties under the Council's Standing Orders
 - the role of designated Council champions. These are:

Role
Armed Forces
Children and Young People
Older People

7. Attendance at a Member training or development event (authorised by the Director of Corporate Services, provided that Members of at least two political groups have been invited to attend.
8. Attendance at conferences and meetings to which Section 175 of the Local Government Act 1972 applies, where such attendance has been approved by:
- the relevant Executive or Committee or Sub-Committee concerned; or
 - in cases of urgency, by the Leader or Deputy Leader
9. An Executive Member, Chairman, a Vice-Chairman of a Committee, Sub-Committee, Panel, Working Group or a Group Leader visiting:
- a Chief Officer or his/her authorised representative on matters concerning the Portfolio/Committee/Sub-Committee, or Group;
 - a project, site, or establishment relating to the service of the Committee/Sub-Committee, or to a Group, with a Chief Officer, or his/her authorised representative, or with the prior approval of the Leader or Deputy Leader,
10. Official duties undertaken by the Chairman and the Vice-Chairman of the Council or their substitutes.
11. Attendance by Members at a hospitality function, exhibition, open day at Council premises or similar events, authorised in advance by the Assistant Director Finance in consultation with the Leader, as approved for the payment of travelling and subsistence allowances.
12. Attendance by a Member of the Executive at any meeting or event (authorised by the Executive) at which the Member is, or would be representing, the Council or its interests.

13. Attendance as the Council's appointee/nominee at meetings of the following bodies set out on the Council's Approved List of Outside Bodies (as approved by Council on 9 May 2019) and any Committees, Sub-Committees, Working Groups and so on of such bodies. These are as follows:
14. Members of the Executive be appointed to the outside bodies identified below:

Outside Body	Portfolio Holder
Carlisle and Eden Community Safety Partnership	Communities
Cumbria County Superannuation Fund Forum	Resources
Cumbria Housing Group	Housing and Health
Cumbria Leadership Board	Leader
Cumbria Public Health Alliance	Housing and Health
Cumbria Strategic Waste Partnership	Services
Cumbria Tourism Executive Board	Commercial Services
Eden Health and Wellbeing Forum	Housing and Health
Eden Tourism Network	Commercial Services
Integrated Care Community Leadership Team	Housing and Health
Joint Cumbrian Districts	Leader
Local Government Association	Leader
North West Housing Forum Executive	Housing and Health
Sparsity Partnership for Authorities delivering rural services (SPARSE)	Commercial Services

15. The following Members be appointed to the remaining outside bodies:

Outside Body	Member
Alston Moor Partnership (including the Townscape Heritage Initiative Steering Group and Alston Moor Partnership Board) – 1 representative	L Sharp
Cumbria Health and Wellbeing Scrutiny Committee - 1 representative and 1 standing deputy	M Hanley L Sharp (Standing Deputy)
Cumbria Local Nature Partnership - 1 representative	A Ross
Cumbria Police and Crime Panel - 1 representative	D Holden
Eden Access Forum - 1 representative	J Raine
Eden Health and Wellbeing Forum - 1 representation and 1 standing deputy (should be the same representatives as Cumbria Health and Wellbeing Scrutiny Committee)	M Hanley L Sharp (Standing Deputy)
Greenwich Leisure Limited Eden Board - 2 representatives	D Banks P Connor
Lake District National Park Authority (4 year appointment) - 1 representative	J Derbyshire
Lake District National Park Partnership	D Smith
North Pennines Area of Outstanding Natural Beauty Partnership - 1 representative	M Robinson
Omega Proteins Liaison Group - 3 representatives	M Eyles V Taylor J Thompson
Parking and Traffic Regulations Outside London Adjudication Committee - 1 representative	M Eyles
Yorkshire Dales National Park Authority (4 year appointment) - 1 representative	S Lancaster

16. That Councillor Greenwood be appointed to the Multi-Agency Appleby Fair Strategic Co-ordinating Group.
17. That Councillor Robinson be appointed to the Cumbria County Council LEP Scrutiny Board.

18. The Members below be appointed as Member Champions:

Member Champion Role	Nomination
Armed Forces	Councillor Thompson
Children and Young People	Councillor Sharp
Older People	Councillor Clark

Any Member attending any other body to which they are invited as a Councillor must be aware that they attend in their personal capacity as an elected Member and not as a representative of the Council and that such attendance is not an Approved Duty.

Schedule 3: Mileage Rates Payable

a Motor Cars*

Mileage rates will be the same as those for officer Casual Users (Out-of-County journeys are paid at a reduced rate as for Casual Users), except that all cars over 1000cc will be paid the rate for 1000cc to 1199cc, plus 12p per mile for every passenger. (The passenger must be another Member who is also attending as an Approved Duty).

* *If a Member is incapacitated and is not able to drive, the Assistant Director Finance can authorise the cost of public transport, taxi fares, or private hire fares, subject to:*

- *the contribution only relating to Approved Duties, as set out in Schedule 2;*
- *all contributions claimed being supported by receipts for the full cost of the taxi journeys;*
- *a maximum amount payable in any year of the Member's Basic Allowance.*

b Motor Bikes

Mileage rates will be the same as those for officer Casual Users, which are set nationally.

c Bicycles

A rate of 20p per mile will be paid.

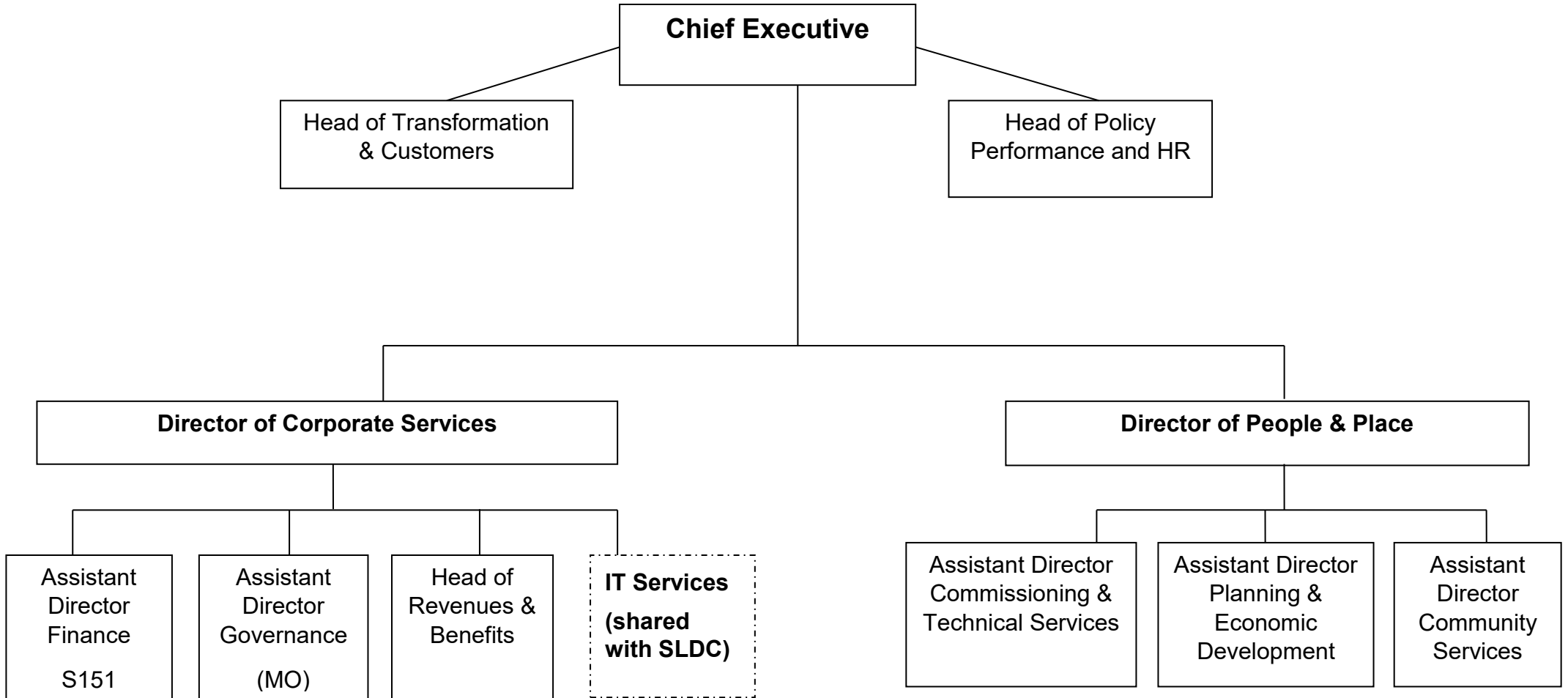
This page is left intentionally blank

Part 7

Management Structure

This page is left intentionally blank

Management Structure



The Management Team

Senior Leadership Team

- Chief Executive
- Director of Corporate Services
- Director of People and Place

Corporate Management Team

The following officers attend the corporate management team fortnightly meetings.

- Assistant Director Community Services
- Assistant Director Commissioning and Technical Services
- Assistant Director Planning and Economic Development
- Assistant Director Finance
- Assistant Director Governance

Chief Executive responsibilities

The Chief Executive is our Head of Paid Service and has responsibility for overall management of the Council, its vision and strategy. The Policy, Performance and HR section and the Transformation and Customers section report directly to the Chief Executive and provide the following services:

- Policy, Performance and HR - Employee Relations; Recruitment; Learning and Development; Personnel Admin; Corporate Health and Well-being; Organisational Development; Corporate Policy; Performance Management and Information Governance.
- Transformation and Customers - Customer Services; Alston Local Links centre; Communications and the Council's Websites.

The Chief Executive is the Council's Electoral Registration Officer and Returning Officer for national and local elections.

Department of Corporate Services responsibilities

The Director is responsible for leading the Commercial Strategy and the programme of work which supports it. The Director of Corporate Services has senior management responsibility for the Assistant Director Governance who is the Council's Monitoring Officer and Assistant Director Finance who is the Council's Chief Finance Officer (s151). The Director will have senior management responsibility for legal services, financial services, revenues and benefits, electoral services and committee administration. The department provides a mix of support and front line services and is organised into the following sections:

- Finance - Internal Audit; Financial Advice and Accountancy; Insurance and Risk Management; Payroll; Purchasing; Treasury Management; Creditors and Sundry Debtors.
- Governance - Legal advice and support to Members and client departments; Elections; Member Services and Scrutiny.
- Revenues and Benefits - Council Tax, Business Rates, Housing Benefits and Council Tax Reduction.
- IT services (part of shared service with South Lakeland District Council).

Department of People and Place responsibilities

The Director of People and Place takes the lead on the development and delivery of the Council's plans to meet the long-term challenges for Eden, such as delivering more homes, creating higher paid jobs and improving transport infrastructure. The Director will lead the district's plans for place-shaping and masterplanning and have senior management responsibility for Community Services, Commissioning and Technical Services and Planning and Economic Development.

- **Community Services** - Food Safety, Health and Safety enforcement; Environmental Protection; Community Wardens; Pest Control; Housing (including grants); Private housing conditions and enforcement; Homelessness; Social Housing services; Housing policy; Disabled Facilities Grants; Health and Well-being and Licensing.
- **Commissioning and Technical Services** - Contract Management for refuse collection, street cleaning, grounds maintenance and building cleaning; Emergency Response including flood management; Facilities and Estates Management; Corporate Health and Safety; Sports facilities and the leisure services' contract; Equalities work across the district and Building Control.
- **Planning and Economic Development** - Economic Development; Town Centres including the provision of a markets service; Tourism promotion and development; Tourist Information Centre support; management of Penrith Museum and partnership working with a range of private and public sector agencies; Planning Policy (setting the planning policy framework for the district and managing building conservation policy and the local plan); Development Management (dealing with planning applications, approvals and enforcement); Planning Services Support (administration support, the Gazetteer function and street naming and numbering) and Land Charges.