

The Constitution of the Council

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Constitution of the Council

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Part 1

Summary and Explanation

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The Council's Constitution

Summary and Explanation

The Borough of Barrow-in-Furness Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 14 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 exercise all its powers and duties in accordance with the law and this Constitution. Articles 2-14 explain the rights of citizens and how the key parts of the Council operate. These are:

- Article 2 - Members of the Council
- Article 3 - Citizens and the Council
- Article 4 - The Full Council
- Article 5 - Chairing the Council
- Article 6 - Overview and Scrutiny Committee
- Article 7 - Policy and Other Committees
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- Article 12 - Finance, Contracts and Legal Matters
- Article 13 - Review and Revision of the Constitution
- Article 14 - Suspension, Interpretation and Publication of the Constitution

How the Council Operates

The Council is composed of 36 Councillors with all out elections every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties and the Audit Committee will take the lead in promoting and maintaining high standards.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year.

Most day-to-day decisions are made by Committees. The Council has an Executive Committee; its terms of reference are shown in Part 3. Committees also carry out a number of regulatory functions, including dealing with planning applications, licensing and most other regulatory business.

Meetings of the Council's Committees are open to the public except where personal or confidential matters are being discussed.

The Overview and Scrutiny Committee supports the work of the Executive Committee and the Council as a whole. It allows citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These can lead to reports and recommendations which advise the Executive Committee and the Council as a whole on its policies, budget and service delivery.

The Overview and Scrutiny Committee also monitors the decisions of the Executive Committee. It can 'call-in' a decision which has been made by the Executive Committee but not yet implemented. It enables the Overview and Scrutiny Committee to consider whether the decision is appropriate. The Overview and Scrutiny Committee may recommend that the Executive Committee or Full Council reconsider the decision. They may also be consulted by the Executive Committee on forthcoming decisions and the development of policy.

The Council's Staff

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

Citizens' Rights

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

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

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its Committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of executive;
- participate in the Council's question time and contribute to investigations by the Overview and Scrutiny Committee.
- use the Council's formal complaints procedure to complain to the Council when dissatisfied with the action or lack of action taken by the Council on a matter which is the responsibility of the Council and which has been previously raised by them and where they remain dissatisfied with the Council's response. A formal complaint will need to be in writing and preferably on the Council's Complaint Form.
- 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 procedure;
- complain to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. Further information on your rights as a citizen can be obtained from the Council's offices (Tel 01229 876314) or by calling at Central Reception at Barrow Town Hall.

- Details of the dates and times of meetings are published at Barrow Town Hall.

- Copies of agendas and reports, except reports which are likely to be considered when the public are excluded from meetings are available for inspection five clear days before the date of the meeting unless:
 - (a) The meeting is convened at shorter notice, in which case the documents will be available from the time the meeting is convened.
 - (b) An item is included afterwards, in which case it will be available from the time it is added to the agenda.

The documents referred to above, together with the Minutes, or a copy of the Minutes of meetings will be open for public inspection at the offices of the Council until the expiration of a period of six years beginning with the date of the meeting.

Background papers that is documents which disclose material on which a report or an important part of it has been based and which has been relied upon to a material extent in preparing the report are listed by including details at the end of each such report. Background papers are open to inspection for up to four years beginning with the date of the meeting.



Part 2

Articles of the Constitution

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Article 1 – The Constitution

1.01 Powers of the Council

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

1.02 The Constitution

This Constitution, and all its appendices, is the Constitution of the Barrow-in-Furness Borough Council.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

1. Enable the Council to provide clear leadership and promote the social, economic and environmental wellbeing of the community in partnership with citizens, businesses and other organisations;
2. Support the active involvement of citizens in the process of local authority decision-making;
3. Help Councillors represent their constituents more effectively;
4. Enable decisions to be taken efficiently and effectively;
5. Create a powerful and effective means of holding decision-makers to public account;
6. Ensure that no one will review or scrutinise a decision in which they were directly involved;
7. Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. Provide a means of improving the delivery of services to the community.

1.04 Interpretation and Review of the Constitution

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 13.

Article 2 – Members of the Council

2.01 Composition and Eligibility

- (a) **Composition** – The Council will comprise 36 Members, otherwise called Councillors, elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility** – Only registered voters of the district or those living or working there will be eligible to hold the office of Councillor.

2.02 Election and Terms of Councillors

Election and terms – The ordinary election of Councillors will be held on the first Thursday in May. Councillors are elected for a term of four years, the next ordinary election will be held in 2019. The terms of office of Councillors will be the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

2.03 Role of the Leader

Purpose of the Role

- (a) To provide strategic vision and leadership to the political administration of the Council;
- (b) To promote efficiency in the delivery of public services;
- (c) To represent the Council and its political administration in the community;
- (d) To develop and maintain effective relationships with the Council's Chief Executive, Chief Officers and Heads of Service;
- (e) To encourage co-operation and communication across political and Council boundaries.

Key Tasks

- (a) To provide political leadership to the Council;
- (b) To build a team of Chairs/Vice-Chairs to develop the strategic vision of the Council;
- (c) To act as a role model for appropriate behaviour, ethical practice and democratic processes;
- (d) To act as the main political spokesperson within and outside the Council with assistance from designated spokespersons appointed by Council;

- (e) To answer and account to the Council and the community for the delivery of services and the performance of the Council;
- (f) To challenge the performance of the Council in order to achieve relevance and efficiency;
- (g) To monitor the performance of the Chief Executive;
- (h) To keep the Council informed of proposals for changes in practice and procedure;
- (i) To provide political leadership and guidance to Officers in any emergency situation and report such guidance to the next meeting of the Executive Committee; and
- (j) Any other activity that Council deem fit;

2.04 Roles and Functions of all Councillors

- (a) **Key roles** – All Councillors will:
 - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
 - (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
 - (iii) effectively represent the interests of their ward and of individual constituents;
 - (iv) respond to constituents' enquiries and representations, fairly and impartially;
 - (v) participate in the governance and management of the Council;
 - (vi) be available to represent the Council on other bodies; and
 - (vii) maintain the highest standards of conduct and ethics.
- (b) **Rights and duties**
 - (i) Councillors will have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
 - (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it.
 - (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.05 **Conduct**

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

2.06 **Allowances**

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

Article 3 – Citizens and the Council

3.01 Citizens' rights

Citizens have the following rights. 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:

- (a) **Voting and petitions** – Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Information** – Citizens have the right to:
 - (i) attend meetings of the Council and its Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) see reports and background papers, and any records of decisions made by the Council and Committees.
 - (iii) inspect the Council's accounts and make their views known to the external auditor; and
 - (iv) access copies of the Constitution.
- (c) **Participation** – Citizens have the right to participate in the Council's participation scheme and contribute to investigations by the Overview and Scrutiny Committee.
- (d) **Complaints** – Citizens have the right to complain to:
 - (i) the Council itself under its complaints scheme;
 - (ii) the Local Government Ombudsman after using the Council's own complaints scheme;
 - (iii) the Council's Monitoring Officer about a breach of the Councillor's Code of Conduct.

3.02 Citizens' responsibilities

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

Article 4 – The Full Council

4.01 Meanings

- (a) **Policy Framework** – The policy framework means the following plans and Strategies:-
- Crime and Disorder reduction strategy
 - Plans and strategies which together comprise the Local Plan and Supplementary Planning documents
 - Statement of Licensing Policy
 - Statement of Gambling Policy
 - Statement of Pay Policy
 - Council Plan
 - Council Policy on Climate Change
 - Equality and Diversity strategy
 - Medium Term Financial Plan
 - Capital Strategy
 - Anti-Fraud and Corruption Strategy and Whistleblowing Policy
 - Health and Safety Policy
 - Asset Management Strategy
 - Cumbria Joint Public Health Strategy
 - Treasury Management Strategy including Annual Investment Strategy
 - Homelessness and Rough Sleeping Strategy
- (b) **Budget** – The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax Base, setting the Council Tax and decisions relating to the control of the Council’s borrowing requirement, the control of its capital expenditure and the setting of virement limits.
- (c) **Housing Land Transfer** – Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.02 Functions of the Council

Only the Council will exercise the following functions:

- (a) Adopting and changing the Constitution (apart from minor amendments);

- (b) Approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) Approving development plan documents for submission to the Secretary of State for independent examination under section 20 of the Planning and Compulsory Purchase Act 2004
- (d) Establishing the Committees of the Council, agreeing and amending the terms of reference for Committees, deciding on their composition and making appointments to and removing members from them;
- (e) Appointing and removing the Leader;
- (f) Appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- (g) Adopting, amending or revoking a Members Allowance Scheme;
- (h) Changing the name of the Borough, conferring the title of Honorary Alderman or Freedom of the Borough;
- (i) Confirming the appointment and dismissal of the Council's Head of Paid Service;
- (j) Making, amending, revoking, re-enacting or adopting bye-laws and promoting or opposing the making of local legislation or personal Bills; and
- (k) All other matters which by law must be reserved to Council.

4.03 Council meetings

There are three types of Council meeting:

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

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

Article 5 – Chairing the Council

5.01 Role and function of the Mayor

The Chairman of the Council who shall hold the title of Mayor and in their absence, the Vice-Chairman who shall hold the title of Deputy Mayor will have the following roles and functions:

The Mayor will be elected by the Council annually and will have the following responsibilities:

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who do not sit on the Executive Committee or hold Committee Chairs are able to hold the Members of the Executive Committee and Committee Chairmen to account;
4. to promote public involvement in the Council's activities; and
5. to attend such civic and ceremonial functions as the Council and he/she determines appropriate

Article 6 – Overview and Scrutiny Committee

6.01 Terms of reference

The Council will appoint an Overview and Scrutiny Committee comprising a maximum of 12 Elected Members selected in accordance with political balance rules to discharge the functions conferred by the regulations made under Section 32 of the Local Government Act 2000.

The Committee may, appoint Sub-Committees to deal with particular issues including the development of the Council's budget.

6.02 General role

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

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

6.03 Specific functions

a) Policy development and review.

The Overview and Scrutiny Committee may:-

- i) assist the Council in the development of its budget and policy framework by in-depth analysis of policy issues;
- ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- iv) question Members of Committees and Chief Officers about their views on issues and proposals affecting the area; and

- v) 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.

b) **Scrutiny**

The Overview and Scrutiny Committee may:

- i) review and scrutinise the decisions made by and performance of Committees and Council Officers both in relation to individual decisions and over time;
- ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- iii) question Members of 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;
- iv) make recommendations to the Executive Committee and/or Council arising from the outcomes of the scrutiny process;
- v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance; and
- vi) question and gather evidence from any person (with their consent).

c) **Annual report**

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

d) **Officers**

The Overview and Scrutiny Committee may exercise overall responsibility for the work programme of the Officers employed to support its work.

6.05 **Proceedings of the Overview and Scrutiny Committee**

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

Article 7 – Policy and Other Committees

7.01 Policy and other committees

The Council will appoint the Committees set out in Responsibility for Functions in Part 3(1) of this Constitution to discharge the functions described.

Article 8 – Area Committees and Forums

8.01 Area Committees

The Council may appoint area committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.

The Council will consult with relevant Parish and Town Councils and the Chairmen of relevant Parish meetings when considering whether and how to establish area committees.

8.02 Form, composition and function

Details of any area committee which the Council may in the future appoint will be included within this Article together with details of its composition and terms of reference.

Delegations. Details of the delegations to an area committee will whenever appropriate to be included in Part 3(1) of this Constitution, including the functions delegated the composition and membership of the Committee, budget and any limitations on delegation.

8.03 Conflicts of interest – membership of area committees and overview and scrutiny committee

- (a) **Conflict of interest.** If the Overview and Scrutiny Committee is scrutinising specific decisions or proposals in relation to the business of an area committee of which the Councillor concerned is a member, then the Councillor may not speak or vote at the Overview and Scrutiny Committee meeting unless a dispensation to do so is given by the Monitoring Officer.
- (b) **General policy review.** Where the Overview and Scrutiny Committee is reviewing policy generally the Member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

8.04 Area Committees – access to information

Area committees will comply with the Access to Information Procedure Rules in Part 4 of this Constitution.

Article 9 – Joint Arrangements

9.01 Arrangements to promote well being

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

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

9.02 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a Joint Committee with these other local authorities.
- (b) Whenever appropriate, details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3(1) of this Constitution.

9.03 Access to information

- (a) The Access to Information Rules contained within the provisions of the Local Government Act 1972, as amended, in Part 4 of this Constitution apply.
- (b) If a Joint Committee contains Members who are not on the executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

9.04 Delegation to and from other local authorities

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

9.05 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.

9.06 Joint Arrangements - Details

There are four joint arrangements currently in place: -

- Police and Crime Panel formed under Section 101 and 102 of the Local Government Act 1972 between all Cumbrian Districts and the County Council; and
- Rural Joint Committee
- Lancaster and South Cumbria Joint Committee
- Westmorland and Furness Joint Committee

Their Terms of Reference and delegations can be found at **Appendix A, Appendix B, Appendix C and Appendix D** respectively.

Article 10 – Officers

10.01 Management Structure

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

Post	Functions and Areas of Responsibility
Chief Executive (Head of Paid Service)	Overall corporate management and operational responsibility (including overall management responsibility for all officers and corporate health and safety matters) Provision of professional advice to all parties in the decision making process Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions Representing the Council on partnership and external bodies (as required by statute or the Council)
Director of Resources (Section 151 Officer)	Overall management and operational responsibility for all aspects of the Resources Directorate. Designated Section 151 Officer for the Council
Director of People and Place	Overall management and operational responsibility for all aspects of the People and Place Directorate

- (c) **Head of Paid Service, Monitoring Officer Electoral Registration Officer/Returning Officer and Chief Financial Officer** – The Council will designate the following posts as shown:

Post	
Chief Executive	Head of Paid Service
Director of Resources	Chief Finance Officer
Electoral Registration Officer and Returning Officer	Chief Executive
Monitoring Officer	Head of Legal and Governance

Such posts will have the functions described in Article 10.02 - 10.04 below.

- (d) **Structure** – The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. This is set out at Part 3(2) of this Constitution.

10.02 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council** – The Head of Paid Service will report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on functions** – The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

References:

Sections 4 and 5, Local Government and Housing Act 1989

10.03 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution** – The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making** – After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Conducting investigations** – The Monitoring Officer will deal with investigations into complaints against Elected Members and Parish Councillors and if appropriate appoint an Investigating Officer to investigate such complaints.
- (d) **Register of interests** - To establish and maintain a register of interests of members and co-opted members of the authority
- (e) **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.

- (f) **Providing advice** – The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Councillors.
- (f) **Restrictions on posts** – The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

References: (Section 5), Local Government and Housing Act 1989
Section 29 Localism Act 2011.

10.04 **Functions of the Chief Finance Officer**

- (a) **Ensuring lawfulness and financial prudence of decision making** – After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs** – The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management** – The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice** – The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, and probity to all Councillors and will support and advise Councillors and Officers in their respective roles.
- (e) **Give financial information** – The Chief Finance Officer will provide financial information to the media, members of the public and the community.

10.05 **Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

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

10.06 **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.

10.07 **Employment**

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

Article 11 – Decision Making

11.01 Responsibility for decision making

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

11.02 Principles of decision making

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

- (a) The rule of law and having regard to all relevant and material considerations;
- (b) Proportionality (i.e. the action must be proportionate to the desired outcome);
- (c) Due consultation and the consideration of professional advice from officers and/or appropriate qualified consultants;
- (d) Respect for human rights (see below for further details);
- (e) A presumption in favour of openness; and
- (f) Clarity of aims and desired outcomes.

11.03 Decision making by the Full Council

Subject to Article 11.06 the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

11.04 Decision making by Overview and Scrutiny Committee

The Overview and Scrutiny Committee will follow the Overview and Scrutiny Procedures Rules Set out in Part 4 of this Constitution when considering any matter.

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

Subject to Article 11.06 other Council Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

11.06 Decision making by Council bodies acting as tribunals

The Council, a Councillor or an Officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purpose 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.

11.07 Budget and Council Tax Setting – Recorded vote

A recorded named vote is required at Budget Council meetings on agreeing the Budget, setting Council Tax or issuing precepts. The same requirements would cover voting on any amendments proposed at the meeting.

Article 12 – Finance Contracts and Legal Matters

12.01 Financial management

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

12.02 Contracts

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

12.03 Legal proceedings

The Director of Resources and Head of Legal and Governance are authorised to:-

1. Institute legal proceedings in respect of any matter relating to the functions of the Council (including the service of any notice or order, the exercise of any power of entry and engaging the Council's solicitors), in any case where such action is necessary to give effect to decisions of the Council (including for the avoidance of doubt any officer acting under delegated powers) or in any case where the Director of Resources/Head of Legal and Governance considers that such action is necessary to protect the Council's interests.

The Director of Resources is authorised to:-

2. To initiate and (where appropriate) conduct proceedings in the appropriate Courts for the recovery of National Non-Domestic Rates, Council Tax and any indebtedness to the Council and also to take any necessary action under the Housing Benefit Counter Fraud Regulations, including the giving of formal cautions.

12.04 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by a member of Management Team or other person authorised by them unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £150,000 entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the Council attested by at least one officer.

12.05 **Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Chief Executive.

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 Director of Resources should be sealed.

The affixing of the Common Seal will be attested by the Chief Executive, Director of Resources, Director of People and Place, Deputy Director of People and Place or the Monitoring Officer.

Article 13 – Review and Revision of the Constitution

13.01 Duty to monitor and review the constitution

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

13.02 Changes to the Constitution

- (a) **Approval** – Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Executive Committee following a report by the Monitoring Officer except for minor changes which do not have a material effect on the operation of the document in which case the Monitoring Officer be authorised to make the change and report such change for information to the Council.
- (b) **Textual and factual amendments**, including those resulting from changes to legislation, required to keep the Constitution up to date, or consequent amendments as a result of a Council or Committee decision may be implemented by the Monitoring Officer. All Members will be notified of changes made.
- (c) **Change from a mayoral form of executive to another form of executive or to alternative arrangements, or from alternative arrangements to a mayoral form of executive.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum. The change will not take effect until the end of the Mayor's term of office.
- (d) **Change from a leader and cabinet form of executive to alternative arrangements, or vice versa.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

Article 14 - Suspension, Interpretation and the Publication of the Constitution

14.01 Suspension of the Constitution

- (a) **Limit to suspension** – The Articles of this Constitution may not be suspended. The rules specified below may be suspended by the Full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend** – A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors 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.
- (c) **Rules capable of suspension** – The following Rules may be suspended in Accordance with Article 14.01:

The Council Procedure Rules but subject to the proviso in Rule 21.1

14.02 Interpretation

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

14.03 Publication

- (a) The Monitoring Officer will ensure that copies of this constitution (and any amendments) are delivered electronically to Members on election and will ensure that copies are available for public inspection at Council Offices and on the Council's website. Physical copies can also be purchased by members of the local press and public on payment of a reasonable fee.

Schedule 1: Description of Alternative Arrangements

The following parts of this Constitution constitute the alternative arrangements:

6. Article 6 (Overview and Scrutiny Committee) and the Overview and Scrutiny Procedure Rules;
7. Article 7 (Policy and Other Committees).

<u>Police and Crime Panel</u>		
Membership	Terms of Reference & Delegation	Delegation of Functions
12 members (1 member from the Borough Council)	<p>The Panel will hold the elected Police and Crime Commissioner to account and will seek to work in a constructive manner with the post holder with a view to supporting the effective exercise of his/her functions within Cumbria.</p> <ol style="list-style-type: none"> 1. To review and make reports or recommendations on the draft police and crime plan, or draft variation, given to the Panel by the Police and Crime Commissioner which the Commissioner must take into account, and to publish the report or recommendations. 2. To review, put questions to the Police and Crime Commissioner at a public meeting, and make reports or recommendations (as necessary) on the Commissioner's annual report, and to publish the reports or recommendations. 3. To hold a public confirmation hearing and review, make reports and recommendations (as necessary) in respect of proposed senior appointments (Chief Executive, Chief Finance Officer and Deputy Police and Crime Commissioner) made by the Police and Crime Commissioner and to publish the reports or recommendations. 4. To hold a public confirmation meeting to review and make reports on the proposed appointment of the Chief Constable including, if necessary, the use of the power of veto by a two thirds majority of the current membership of the Panel and to publish the reports. 	To delegate, to the extent that it wishes to do so and so far as permitted by law, areas of work to a sub-committee or working group

	<p>5. Upon receiving written notification from the Commissioner of his/her intention to call upon the Chief Constable to retire or resign to make recommendations to the Commissioner as to whether or not such resignation or retirement should be called for.</p> <p>6. To consult the Chief Inspector of Constabulary (where necessary) and hold a private meeting which the Chief Constable and Commissioner may attend to make representations about the requirement to resign or retire and to publish the recommendations made to the Commissioner.</p> <p>7. To review and make reports and recommendations (as necessary) on the proposed precept including, if necessary, the use of the power of veto by a two thirds majority of the current membership of the Panel and to publish the reports or recommendations.</p> <p>8. To review or scrutinise decisions or proposals made, or other action taken by the Police and Crime Commissioner in connection with the discharge of the Commissioner's functions, which may be in the form of reports or recommendations to the Commissioner which must be published.</p> <p>9. To fulfil functions in relation to complaints about the Commissioner on conduct matters, in accordance with the responsibilities accorded to the panel by the Police Reform and Social Responsibility Act 2011.</p> <p>10. To appoint an Acting Police and Crime Commissioner if necessary, where the Commissioner is incapacitated, resigns or is disqualified or suspended.</p>	
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	<p>11. To suspend the Police and Crime Commissioner if it appears to the Panel that the Commissioner has been charged in the United Kingdom, the Channel Islands or Isle of Man with an offence that carries a maximum term of imprisonment exceeding two years.</p> <p>12. To delegate, to the extent that it wishes to do so and so far as permitted by law, areas of work to a sub-committee or working group.</p> <p>13. To require the Commissioner and his or her staff to attend meetings to give evidence in accordance with statute when deemed necessary for the Panel to discharge its functions.</p> <p>14. Following a requirement made by the Panel for the Commissioner to attend a meeting, it may request the attendance of the Chief Constable at that meeting to answer questions which the Panel feels are necessary for the discharge of its functions.</p> <p>15. To require the Commissioner to respond in writing within a specific timescale to any report or recommendation made by the Panel to the Commissioner.</p> <p>16. To undertake any other such functions as are conferred upon the Panel by the Police Reform and Social Responsibility Act 2011 and any subsequent regulations made under the Act.</p>	
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<u>Rural Joint Committee</u>		
Membership	Terms of Reference	Delegation of Functions
10 Members (2 members from the Borough Council)	<ul style="list-style-type: none"> To address issues of mutual concern between the three tiers of local government in the parished areas of Barrow-in-Furness Borough. To agree an annual programme of work for the Rural Projects Officer 	None

Quorum will be deemed when 1 County Councillor, 1 Borough Councillor and 1 Parish/Town Councillor are present.

Lancaster and South Cumbria Joint Committee		
Membership	Terms of Reference	Delegation of Functions
6 Members (2 members from each authority – Barrow Borough Council – (Leader and Chair of Executive Committee), Lancaster City Council and South Lakeland District Council)	<p>The terms of reference of the JC will be to provide political and democratic accountability and in doing so:-</p> <p>a) act as a key strategic forum for sustainable economic prosperity issues in the Lancaster and South Cumbria Region and to make representations and recommendations on sustainable economic development opportunities, programmes and investments to other bodies, to include Government, Local Government and the Cumbria and Lancashire Local Enterprise Partnerships (LEPs);</p> <p>b) act as a key strategic forum for meeting the climate emergency across the Lancaster and South Cumbria Region and to make representations and recommendations on sustainable economic development opportunities, programmes and investments to other bodies, to include Government, Local Government and the Cumbria and Lancashire Local Enterprise Partnerships (LEPs);</p> <p>c) act as the key strategic forum for reducing inequality across the Lancaster and South Cumbria Region and to make representations and recommendations on sustainable economic development opportunities, programmes and investments to other bodies, to include Government, Local Government and the Cumbria and Lancashire Local Enterprise Partnerships (LEPs);</p> <p>d) actively engage with a range of experts, community organisations, businesses and institutions in the Lancaster and South Cumbria Region in relation to economic, social and environmental wellbeing development decision making and to engage with other stakeholders where appropriate</p>	None

	<p>e) consider and advise on the appropriateness and viability of alternative, successor economic, social and environmental governance arrangements.</p> <p>f) to have direct and strategic oversight of key growth focused projects and initiatives that the Joint Committee has influence over the funding of and across the Lancaster and South Cumbria Economic Region</p>	
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Quorum will be 3 constituent authority members (and where co-optees have been appointed) one co-opted member with a requirement that each of the three authority areas be represented (either an authority member or co-opted member from each constituent area must be present)

<u>Westmorland and Furness Joint Committee</u>		
Membership	Terms of Reference	Delegation of Functions
<p>12 Members (3 Members from each Authority – Barrow Borough, Eden, South Lakeland and Cumbria County Councils Membership for Barrow Borough Council – (Leader, Leader of the Opposition and Chair of Executive Committee)</p>	<ol style="list-style-type: none"> 1. The formation of an Implementation Team to assist the Joint Committee and if required the Shadow Authority in the discharge of its functions. 2. To prepare, keep under review, receive updates on progress and revise as necessary the Implementation Plan. <ol style="list-style-type: none"> (i) This to include such plans and timetables as are in the opinion of the Joint Committee necessary to secure the effective, efficient and timely discharge of such of its functions, property, rights and liabilities as relate to Westmorland and Furness and its inhabitants. (ii) To agree budgets and plans as are considered necessary or desirable to facilitate the economic, effective, efficient and timely discharge on and after the 1st April 2023 of the functions of the Westmorland and Furness Councils. 3. Preparing for and facilitating the economic, effective, efficient and timely transfer to the new Councils of functions, property, rights and liabilities. 4. To consider and recommend a Members Code of Conduct to be adopted by the Shadow Authority at its inaugural Full Council meeting. 5. To agree the process for an independent review of a scheme of Members Allowances for the Shadow Authority, including the setting up of an Independent Remuneration Panel and to recommend to the Shadow Authority a scheme of Members Allowances for adoption at its inaugural meeting. 	<p>As per terms of reference</p>

	<ol style="list-style-type: none"> 6. To consider and recommend a Constitution and schemes of delegation to be adopted by the Shadow Authority at its inaugural full Council meeting. 7. To agree and undertake the recruitment process for the selection of the posts of Interim Head of Paid Service, Interim Chief Finance Officer (Section 151 Officer) and Interim Monitoring Officer for the Shadow Authority and recommend to the Shadow Authority at its inaugural meeting nominations for the three interim statutory Officers 8. To establish and propose a Calendar of Meetings for the Shadow Council for adoption at its inaugural meeting 9. To manage the transition to the Shadow Authority under the Structural Changes Order 10. To oversee the smooth transition of all matters Civic and Ceremonial 11. The Joint Committee must have regard to: <ol style="list-style-type: none"> (a) The information supplied to the Secretary of State; (b) have regard to Sections 27 and 28 of the Localism Act 2011 in formulating proposals for the codes of conduct to be adopted by the Shadow Authorities. 	
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Part 3(1)

Responsibility for Functions Policy and Other Committees

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Part 1 - Introduction

1. This part of Barrow-in-Furness Borough Council's ("the Council") Constitution deals with delegations from the Council to its committees. Delegations from the Council and its committees to officers of the Council are set out in Part 3(2) of the Council's Constitution.
2. Matters which are reserved to meetings of the full Council are set out at Part 2 of this document. The Local Authorities (Committee System) (England) Regulations 2012 provide that certain matters must remain the responsibility of full council. Part 2 of this document takes account of these provisions.
3. Terms of Reference of committees are set out in Part 3 of this document. This part includes:
 - General provisions on delegation to committee
 - Terms of reference for each committee
 - Membership of those committees.
4. Part 4 of this document is a diagram showing the structure of the Council and its committees.

Part 2 - Matters reserved to meetings of the Full Council

Only the Council will exercise the following functions:

1. Adopting and changing the Constitution (apart from minor amendments;
2. Approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
3. Approving development plan documents for submission to the Secretary of State for independent examination under Section 20 of the Planning and Compulsory Purchase Act 2004;
4. Establishing the Committees of the Council, agreeing and amending the terms of reference for Committees, deciding on their composition and making appointments to and removing members from them;
5. Appointing and removing the Leader;
6. Appointing representatives to outside bodies unless the appointment has been delegated by the Council;
7. Adopting, amending or revoking a Members Allowance Scheme;
8. Changing the name of the Borough, conferring the title of Honorary Alderman or Freedom of the Borough;
9. Confirming the appointment and dismissal of the Council's Head of Paid Service;
10. Making, amending, revoking, re-enacting or adopting bye-laws and promoting or opposing the making of local legislation or personal Bills; and
11. All other matters which by law must be reserved to Council.

Part 3 – Terms of Reference for Committees

1. Powers, duties and functions of Committees

- 1.1 The powers, duties and functions (Terms of Reference) which are delegated to the specific committees are detailed in this Part.
- 1.2 Except where: (i) the Council directs otherwise; or (ii) section 101 provides otherwise (e.g. in relation to functions under the Licensing Act 2003), the Committee to which a power, duty or function has been delegated may delegate such power, duty or function to a sub-committee or to an officer of the Council.
- 1.3 This scheme of delegation to committees shall be (amended if necessary and) confirmed at the Annual Meeting of the Council and may only be amended at any other time with the consent of the Council following a recommendation by the Executive Committee.

2. General duties and powers of all Committees

- 2.1 To comply with the standing orders and financial regulations of the Council.
- 2.2 To manage any lands or properties of the Council which are held for the purposes of the Committee.

3. General duties and powers of all Committees except Executive Committee

- 3.1 To comply with any direction of the Executive Committee on matters of overall policy and priorities and to submit to that committee any proposed action which has major policy implications.

Terms of Reference

<u>Executive Committee</u>		
Membership	Terms of Reference	Delegation of Functions
12 members of the authority	<ul style="list-style-type: none"> • To formulate, co-ordinate and implement corporate policies and strategies and make decisions relating to such matters to the extent that they are not reserved to full Council. • To recommend to Council amendments to the Policy Framework and policies and strategies therein. • To oversee policy implementation and consider reports relating to performance of services under the remit of the Committee. • To consult on, recommend and monitor the Annual budgets. • To consider and approve the Discretionary Income Policy. • To take any necessary decisions regarding the delivery of Council services and the discharge of Council functions, within the agreed policy and budgetary framework set by the Council, including:- <ul style="list-style-type: none"> ○ The formation of partnerships and agencies; ○ Award of contracts in excess of £100,000 (which includes any extension periods); ○ To authorise the acquisition or disposal of any land, property and other assets held by the Council (other than those under a Right to Buy) with a value in excess of £20K providing that any proposal for the transfer of housing land which requires the consent of the Secretary of State shall be referred to full Council with recommendations; ○ Agreement of leases in excess of 25 years. 	See Delegations to Officers as set out in Part 3(2) of the Constitution.

	<ul style="list-style-type: none"> • To take into account any relevant findings of the Overview and Scrutiny Committee and to refer relevant matters to the Overview and Scrutiny Committee. • To approve recommendations regarding Clearance Areas/ Compulsory Purchase Orders and renewal areas provided within budget provision. • To establish a Housing Management Forum to advise on all matters pertaining to the management of Council housing and to operate under the following protocol:- <ul style="list-style-type: none"> ○ The Executive Committee shall agree any such recommendations or refer back for further consideration; ○ On any resubmission the decisions of the Executive Committee will be final. • To establish standing and ad-hoc forums to consider and make recommendations on significant policy issues. Such forums which shall operate as working parties to be politically proportionate and to involve lay members where considered appropriate. • To make interim and Final Management Orders under Part 4 of Chapter 1 of the Housing Act 2004. • To make Closing Orders and Demolition Orders under Part 1 Chapter 4 of the Housing Act 2004. • To agree to act as Accountable Body where the project is between £50,000 and £500,000 and satisfies the requirements of the Financial Regulations. Where the project exceeds £500,000 to make recommendations to full Council on any accountable body proposal. • To appoint representatives to outside bodies for those appointments delegated through the AGM. 	
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	<ul style="list-style-type: none"> • To deal with any matters relating to the Local Authority Trading Company for the delivery of Leisure Services (Barrow Forward Limited) which are not delegated to Officers where council decision is needed. • To approve recommendations regarding changes to the establishment and fundamental changes to Conditions of Service of employees of the Council which are outside policy/budget where not delegated to Officers and where within 1% of net revenue budget. Any changes over the limit to be recommended to full Council. • To consider appeals in accordance with approved HR policies and procedures. • To deal with the discharge of duties under the Officer Employment Procedure Rules. 	<p>Delegated to Barrow Forward Committee - 3 Members Committee of Executive Committee (see terms of reference)</p> <p>Delegated to Appeals Panel of 4 Members drawn from the Committee.</p> <p>Officer Employment Procedure Rules – Panel of 4 Members drawn from the Committee.</p> <p>Where dealing with disciplinary action relating to a relevant officer that panel to include 2 independent Members as prescribed.</p>
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<u>Audit and Governance Committee</u>		
Membership	Terms of Reference	Delegation of Functions
6 members of the authority	Audit Activity	
	<ul style="list-style-type: none"> • To consider the head of internal audit's annual report and opinion, and a summary of internal audit activity (actual and planned) and the level of assurance it can give over the Council's corporate governance arrangements. • To consider summaries of specific internal audit reports. • To consider the annual internal audit plan. • To consider reports dealing with the management and performance of the internal audit provider. • To consider reports from internal audit on agreed recommendations not implemented within reasonable timescale. • To consider the external auditor's annual letter and relevant reports. • To consider specific reports as agreed with the external auditor. • To comment on the scope and depth of external audit work and to ensure it gives value for money. • To consider the appointment of the external auditor where appropriate. 	

	<p>Regulatory/Standards Framework</p> <ul style="list-style-type: none"> • To maintain an overview of the Council's Constitution in respect of contract standing order, financial regulations. • To promote and maintain high standards of conduct for elected and co-opted members in accordance with the relevant provisions of the Localism Act. • Functions relating to standards of conduct of members under any relevant provision of, or regulations made under the Council's Standards Arrangements. <ul style="list-style-type: none"> • To determine any request for a dispensation under s.33 of the Localism Act 2011. • To review any issue referred to it by the Chief Executive, Director of Resources, Monitoring Officer or any Council body. • To monitor the effective development and operation of risk management and corporate governance in the Council. • To monitor Council policies on the anti-fraud and anti-corruption strategy and the Council's complaints process. • To approve the production of the authority's Annual Governance Statement and to recommend its adoption. • To consider the Council's arrangement for corporate governance and agreeing necessary actions to ensure compliance with best practice. • To consider the Council's compliance with its own and other published standards and controls. 	<p>The Monitoring Officer has delegated functions as set out in the Council's Standards Arrangements.</p> <p>A Sub-Committee/Hearing Panel of the Audit and Governance Committee of 3 Members will, in consultation with the Independent Person, deal with functions in relation to hearings relating to standards of conduct of members and co-opted members.</p> <p>Delegation to Monitoring Officer as set out in the Constitution.</p>
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	<p>Accounts</p>	
	<ul style="list-style-type: none"> • To review and approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council. • To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts. 	

The quorum for the Audit and Governance Committee is 3.

<u>Planning Committee</u>		
Membership	Terms of Reference	Delegation of Functions
12 members of the authority	<ul style="list-style-type: none"> • Functions relating to town and country planning and development control as specified in Part (a) Schedule 1 to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000/SI2853 (a copy of that schedule is reproduced as Schedule 1 to this part of the Constitution). • For avoidance of doubt, these powers and functions include power in respect of any approval, consent or other matter for which the Committee is responsible: • To impose any condition, limitation or other restriction or other terms. • To determine whether and in what manner to enforce any failure to comply with the same • To amend, vary, modify or revoke the same or any condition, limitation or term thereof. • All building regulations matters unless otherwise delegated. • Powers relating to the protection of important hedgerows. • Powers relating to the preservation of trees. • The functions relating to High Hedges under Part 8 of the Anti-Social Behaviour Act 2003. • Those miscellaneous functions relating to the public rights of way exercisable by a District Council as specified in Part (1) Schedule 1 of the Functions Regulations. 	<p>See Part 3(2) for delegations to:-</p> <ul style="list-style-type: none"> • Section A - Director of People and Place • Section C - Head of Development Management • Section D - Head of Building Control

<u>Overview and Scrutiny Committee</u>		
Membership	Terms of Reference	Delegation of Functions
12 members of the authority	<ul style="list-style-type: none"> • To investigate, scrutinise, monitor, oversee and comment on service delivery mechanisms, policy implementation, or any other issue affecting the Borough of Barrow-in-Furness or its residents provided that they have previously been considered by either the Executive Committee or Council. • Appoint such Sub-Committees as it considers appropriate to fulfil those overview and scrutiny functions <p>Policy development and review.</p> <ul style="list-style-type: none"> • assist the Council in the development of its budget and policy framework by in-depth analysis of policy issues; • conduct research, community and other consultation in the analysis of policy issues and possible options; • consider and implement mechanisms to encourage and enhance community participation in the development of policy options; • question Members of Committees and Chief Officers about their views on issues and proposals affecting the area; and • 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. 	The Committee may, appoint Sub-Committees to deal with particular issues including the development of the Council's budget.

	<p>Scrutiny</p> <ul style="list-style-type: none"> • review and scrutinise the decisions made by and performance of Committees and Council Officers both in relation to individual decisions and over time; • review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas; • question Members of 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; • make recommendations to the Executive Committee and/or Council arising from the outcomes of the scrutiny process; • review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance; and • question and gather evidence from any person (with their consent). <p>Annual report</p> <ul style="list-style-type: none"> • Must report annually to Full Council on its workings and make recommendations for future work programme and amended working methods if appropriate. <p>Officers</p> <ul style="list-style-type: none"> • May exercise overall responsibility for the work programme of the Officers employed to support its work. 	
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<u>Licensing Committee</u>		
Membership	Terms of Reference	Delegation of Functions
12 members of the authority	To deal with all functions relating to licensing and registration set out in the Licensing Act 2003 and Gambling Act 2005 and any amendments thereof or regulations made thereunder insofar as they are not specifically designated in the Act as being the function of the Council or some other body. For the avoidance of doubt this includes setting the amount of any charges to be made and to consider proposals to change policy under these Acts [with the exception of the making of the Statement of Licensing Policy] and make recommendations to the Executive Committee.	<p>Licensing Act 2003</p> <p>Licensing Sub-Committee with a membership of 3 members each and operate in accordance with the scheme of delegation contained in Schedule 1 below.</p> <p>Gambling Act 2005</p> <p>Licensing Sub-Committee with a membership of 3 members each and operate in accordance with the scheme of delegation contained in Schedule 2 below.</p> <p>See Part 3(2) for delegations to:-</p> <ul style="list-style-type: none"> • Section A – Director of People and Place • Section E – Head of Public Protection

<u>Licensing Regulatory Committee</u>		
Membership	Terms of Reference	Delegation of Functions
12 members of the authority	<p>To deal with private hire, hackney carriage and other licensing and registration functions (other than Licensing Act 2003 and Gambling Act 2005 functions designated to be the responsibility of the Licensing Committee by virtue of the implementation of relevant legislation). This will include all functions under all legislation details in Part B and FA of Schedule 1 to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 as amended (other than the Licensing Act 2003 and Gambling Act 2005 functions) and all other Licensing functions for which the Council may be responsible. This includes all powers in respect of any approval, consent, licence, permission or registration for which the Committee is responsible including, but not limited to:-</p> <ol style="list-style-type: none"> a) To grant, vary, alter, amend, suspend or revoke any approval, consent, licence, permission or registration; b) To impose any condition, limitation or other restriction or other terms on any approval, consent, licence, permission or registration; c) To determine whether and in what manner to enforce any failure to comply with any approval, consent, licence, permission or registration and; d) To amend, vary, modify or revoke any condition, limitation or term imposed on any approval, consent, licence, permission or registration. e) To set the amount of any associated fee or charge (unless prescribed by Central Government). f) To consider proposals to change policy under these Acts and make recommendations to the Executive Committee. 	<p>See Part 3(2) for delegations to:-</p> <ul style="list-style-type: none"> • Section A – Director of People and Place • Section E – Head of Public Protection

	<p>In respect of all the functions listed in Parts B and C of Schedule 1 of the functions regulations to hear and determine any matter where an applicant for a licence or permit or an existing licence/permit holder has a right to appear and be heard by the Committee.</p> <p><u>Health and Safety (Part C)</u></p> <p>Functions relating to Health and Safety under any relevant statutory provision within the meaning of Part I of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as employer.</p> <p><u>Other Functions</u></p> <p>Power to close food businesses.</p> <p><u>Business and Planning Act 2020</u></p> <p>All matters in relation to pavement licences.</p>	<p>Onward delegation to a 3 member sub-committee of Licensing Regulatory Committee.</p> <p>Onward delegation to Officers as detailed in Section E to this part of the Constitution.</p> <p>Onward delegation to Officers as detailed in Section E to this part of the Constitution.</p> <p>Onward delegation to a 3 member sub-committee of Licensing Regulatory Committee to consider internal reviews in accordance with process for Pavement Licences.</p>
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<u>Housing Management Forum</u>		
Membership	Terms of Reference	Delegation of Functions
9 members of the authority (with up to 4 tenant representatives invited to attend)	To consider and make recommendations to the Executive Committee on all matters pertaining to the management of the Council's housing stock (see Executive Committee for protocol).	



Part 3(1) - Schedule 1

Extract from Barrow Borough Council's Licensing Policy

Licensing Act 2003 – Table of Delegated Functions

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Application for personal licence		If objection made	If no objection made
Application for personal licence, with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a representation made	If no representation made
Application for provisional statement		If a representation made	If no representation made
Application to vary premises licence/club premises certificate		If a representation made	If no representation made
Application to vary premises licence/club premises certificate by way of a minor variation			All cases
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as a designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application 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	
Determination of film classification which has not been classified by the British Board of Film Classification (BBFC)		Where the Head of Public Protection or Commercial Services Team Leader were unable to make formal classification	All cases
Reclassification of films already classified by the British Board of Film Classification (BBFC)		All cases	

A Full committee will consist of 12 Members, with a quorum of 3.

A Sub-Committee will consist of 3 Members.



Part 3(1) - Schedule 2

Extract from Barrow Borough Council's Licensing Policy

Gambling Act 2005 – Table of Delegated Functions

Matter to be dealt with	Full Council	Sub-Committee	Officers
Final approval of three year licensing policy	X		
Policy not to permit casinos	X		
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		X	
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		X	
Applications for other permits		X (in excess of 4 machines)	X (up to 4 machines)
Cancellation of licensed premises gaming machine permits			X

Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

X - Indicates at the lowest level to which decisions can be delegated.



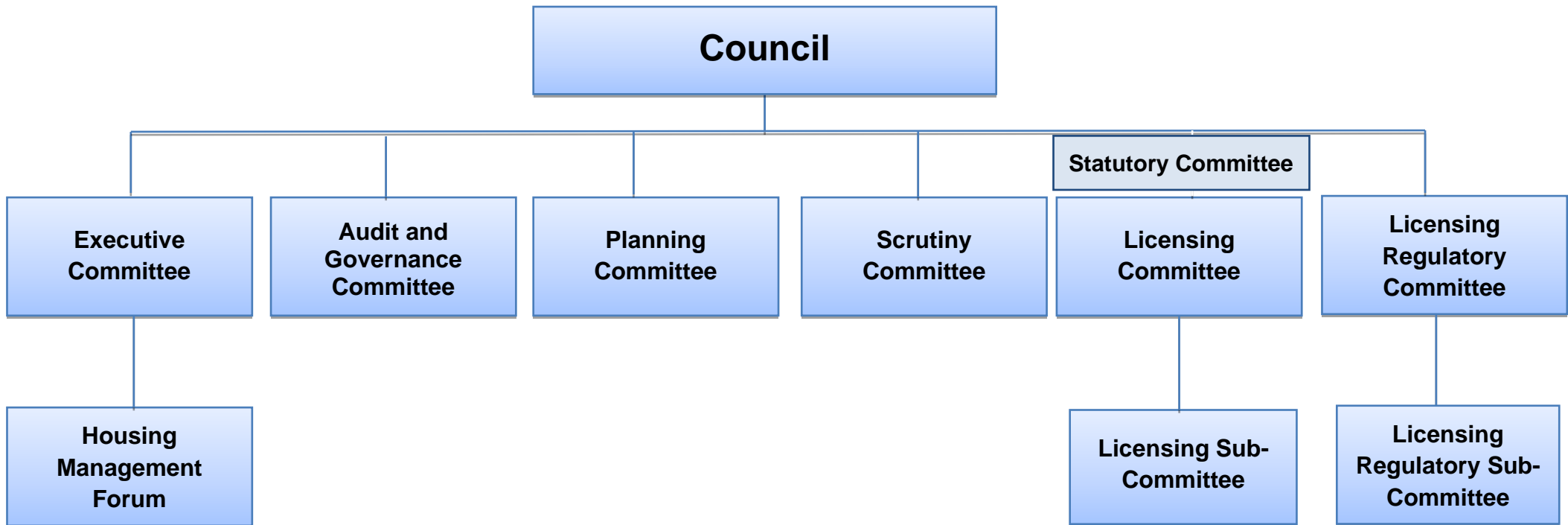
SCHEDULE 1(A) LOCAL AUTHORITIES (FUNCTIONS AND RESPONSIBILITIES) (ENGLAND) REGULATIONS 2000 (AS AMENDED): FUNCTIONS RELATING TO TOWN AND COUNTRY PLANNING AND DEVELOPMENT CONTROL

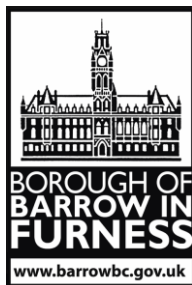
Function	Provision of Act or Statutory Instrument
1. – 4. Revoked	<i>Not applicable</i>
5. Power to determine application for planning permission.	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990 (c.8).
6. Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990.
7. Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990.
8. Power to decline to determine application for planning permission (or permission in principle).	Section 70A of the Town and Country Planning Act 1990.
9. Duties relating to the making of determinations of planning applications.	Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (SI 1995/419) and directions made thereunder.
10. Power to determine application for planning permission (or permission in principle) made by a local authority, alone or jointly with another person.	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (SI 1992/1492).
11. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	Parts 6, 7 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (SI 1995/418).
12. Power to enter into agreement regulating development or use of land.	Section 106 of the Town and Country Planning Act 1990.
13. Power to issue a certificate of existing or proposed lawful use or development	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990.
14. Power to serve a completion notice.	Section 94(2) of the Town and Country Planning Act 1990.
15. Power to grant consent for the display of advertisements.	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992 (SI 1992/666).
16. Power to authorise entry onto land.	Section 196A of the Town and Country Planning Act 1990.
17. Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990.

Function	Provision of Act or Statutory Instrument
18. Power to serve a planning contravention notice, breach of condition notice or stop notice.	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990.
18A. Power to issue a temporary stop notice.	Section 171E of the Town and Country Planning Act 1990.
19. Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990.
20. Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990.
21. Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990.
22. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites or mineral permissions relating to mining sites, as the case may be, are to be subject.	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991 (c.34), paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c.25) and paragraph 6(5) of Schedule 14 to that Act.
23. Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990.
24. Power to determine to determine application for listed building consent, and related powers.	Sections 16(1) and (2), 17 and 33(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9).
25. Revoked	<i>Not applicable.</i>
26. Duties relating to applications for listed building consent.	Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9) and Regulations 3 to 6 and 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (SI 1990/1519) and paragraphs 8, 15 and 26 of Department of the Environment, Transport and the Regions Circular 01/01.
27. Power to serve a building preservation notice, and related powers.	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9).
28. Power to issue enforcement notice in relation to demolition of listed building in conservation area.	Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9).
29. Powers to acquire a listed building in need of repair and to serve a repairs notice.	Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9).
30. Power to apply for an injunction in relation to a listed building.	Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9).
31. Power to execute urgent works.	Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9).
32. Duty to enter land in Part 2 of the brownfield land register.	Regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017.



Committee/Delegation Structure Chart





Part 3(2)

Responsibility for Functions Scheme of Delegations to Officers

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Part 1 – Guidance and Background

1. Introduction

- 1.1 This part of Barrow-in-Furness Borough Council's ("the Council") Constitution deals with delegations from the Council and its committees to officers of the Council. Delegations to committees and sub-committees are set out in **Part 3(1)** of the Council's Constitution.
- 1.2 The scheme aims to provide evidence that the Council (or one of its committees) has authorised a particular officer of the Council to take an action or make a decision in given circumstances.
- 1.3 The scheme meets the requirement in Section 100G (2) of the Local Government Act 1972 that the Council should maintain a list: (a) specifying those powers of the Council which are exercisable by officers of the Council in pursuance of arrangements made under the 1972 Act or any other enactment for their discharge by those officers; and (b) stating the title of the officer by whom each of the powers so specified is exercisable.

2. Legislative Framework

- 2.1 Section 101(1) of the Local Government Act 1972 empowers the Council to delegate certain of its functions to a committee, sub-committee or officer of the Council, or to another local authority.
- 2.2 Only the body or officer on whom a statutory power has been conferred may exercise that power, unless sub-delegation has been expressly authorised by words or necessary implications. Section 101(2) of the Local Government Act 1972 contains such a (limited) express power to sub-delegate. It provides that committees are empowered to sub-delegate to sub-committees or to officers, and that sub-committees are empowered to sub-delegate to officers, unless the Council otherwise directs.
- 2.3 In general a delegation by the Council does not imply a parting with authority. The Council retains not only the power to revoke the grant but also the power to act concurrently on matters within the area of delegated authority (except in so far as the Council may already have become bound by an act of its delegate). Section 101(4) formalises this general position in respect of delegation arrangements made by the Council or one of its committees, by providing that such arrangements shall not prevent the authority or the committee by whom the arrangements are made from exercising those functions (i.e. they retain concurrent power to do so).
- 2.4 Legislative provisions prescribe that certain of the Council's functions may not be delegated. These include:
 - levying, or issuing a precept for a rate (as per Section 101(6) of the Local Government Act 1972); and
 - functions listed The Local Authorities (Committee System) (England) Regulations 2012.

Part 2 – General Delegations

1. **General Delegations**

- 1.1 The Council delegates: -
 - 1.1.2 In respect of the officers, or the group of officers, named in **Part 3** of this scheme, the functions described in that part, subject to consultation with the officer named in that part, where applicable;
 - 1.1.3 In respect of the appointments as Proper Officer and Deputy Proper Officer in the table in **Part 4** of this Scheme, the functions mentioned in the first column of that table.
- 1.2 Where the Council, a committee or a sub-committee gives authority for the doing of anything the officer designated shall be entitled to take all necessary steps for the doing of such thing.
- 1.3 Where a delegation is made without naming an officer the delegation shall be deemed to authorise the Chief Executive or the appropriate Director to take such steps.
- 1.4 The Chief Executive may exercise the powers delegated to any Officer except in relation to those functions allocated to the Director of Resources as Chief Financial Officer (within the meaning of the Local Government Act 1972 Section 151 and the Local Government Finance Act 1988 Sections 112-114A (unless he or she is qualified under the Local Government Finance Act 1988 Section 113)) and to the Monitoring Officer (within the meaning of the Local Government and Housing Act 1989 Sections 5, 5A).
- 1.5 The Chief Executive is the **Head of the Paid Service**.
- 1.6 The Director of Resources is the **Chief Finance Officer**.
- 1.7 The Head of Legal and Governance is the **Monitoring Officer**.
- 1.8 In the event that a Head of Service's post ceases to exist or his or her responsibilities are transferred to another Head of Service (as the case may be), temporarily or permanently, then the powers given by this Scheme of Delegation shall be exercisable by the officer in whose area of responsibility the power falls to be exercised.
- 1.9 Any reference in this Scheme or its Appendix to an Act of Parliament includes reference to subordinate legislation made under it and to any modification and/or replacement of it or of such subordinate legislation.
- 1.10 The Scheme of Delegation as revised came into effect on *31st December, 2022* unless otherwise stated.
- 1.11 Nothing in this Scheme of Delegation shall prejudice the validity of any actions taken by Officers before *31st December, 2022* under any previous scheme.

2. Authorisations

- 2.1 Officers to whom functions are delegated under this scheme may not sub-delegate those functions. However, where it would be impracticable for all the powers and duties conferred on a named person to be performed by that individual, that person may authorise officers in their departments to perform tasks, or to carry out specific statutory functions under the provisions of relevant legislation, on their behalf.
- 2.2 Each Officer will ensure that where s/he wishes to authorise officers within her/his department to sign documents or perform functions on her/his behalf s/he will:
 - 2.2.1 Where applicable, record that authorisation, naming the officer, the date, tasks which that officer is authorised to perform, and including the signature of the officer, and retain that record until such a time it is no longer required; and
 - 2.2.2 Where applicable, comply with the requirements of the Council's Financial Regulations and Contract Standing Orders.
- 2.3 An authorised officer will perform the tasks on behalf of the authorising officer. Any decisions taken under this, or any other similar authority, shall remain the responsibility of the Authorising Officer and must be taken in the name of that Officer.

3. Other provisions regarding general delegation

- 3.1 Officers shall have delegated powers to make decisions on behalf of the Council in respect of those matters that are delegated to them within this scheme. A Director may exercise any delegations of an officer, for whom, that Director is responsible, in the absence or default of that officer.
- 3.2 Where a delegation is made but without naming an officer, the delegation shall be deemed to be a delegation to the Chief Executive, or to the Director/Deputy Director responsible for that service area.
- 3.3 The Chief Executive, Directors, Deputy Director and Heads of Service delegated to under this scheme may authorise officers as explained in paragraph 2 of this Part, above with each authorisation being copied to the Monitoring Officer.
- 3.4 Where a Director/Deputy Director is to be absent for any period, that Director/Deputy Director may nominate to the Chief Executive, in writing, another officer to act in that capacity during the period of absence.
- 3.5 The Chief Executive may appoint one or more deputies to exercise his/her functions owing to absence or illness and such deputy is or such deputies are authorised to exercise the functions of the Chief Executive pursuant to the Constitution, Financial Regulations and this Scheme of Delegation except in relation to those functions allocated to the Director of Resources as Chief Finance Officer (within the meaning of the Local Government Act 1972 Section 151 and the Local Government Finance Act 1988 Sections 112-114A (unless he or she is qualified under the Local Government Finance Act 1988 Section 113)) and to the Monitoring Officer (within the meaning of the Local Government and Housing Act 1989 Sections 5, 5A)

Part 3 - Scheme of Officer Delegations

Section A

A. General Principles

With the exception of the power set out in B.1.1 below the powers delegated to officers referred to in this part of the Constitution may only be exercised in accordance with the following general principles.

1. All decisions taken must be in accordance with the approved budget, policy framework, financial regulations, contract standing orders, or any other procedure rules or requirements of this Constitution
2. Where, in the opinion of the officer making a delegated decision, that decision is likely to be contentious, before taking that decision the officer will consult with the relevant Committee Chair or a more senior officer as the case may be.
3. An officer may, instead of exercising a delegated power, refer the matter to a more senior officer or committee or the full Council as appropriate.

B. General

1. To the Chief Executive

- 1.1 To take such action on behalf of the Council as appears to them necessary in circumstances that prevent obtaining the necessary authority from Council or an appropriate Committee following consultation with the Leader of the Council, or the Chair of the committee concerned. Where the Chief Executive is acting in an emergency and it involves spending outside any budgetary provision, then any expenditure must be reported to full Council at the first available opportunity.
- 1.2 To deal with matters concerned with civic and ceremonial occasions together with civic hospitality including authorising at her discretion or on direction from the Executive Committee to arrange for the flying of the Union Jack flag over Barrow Town Hall on such occasion as may be appropriate and which are not among those presently specified.
- 1.3 To oversee the discharge of the Employer's responsibilities associated with the safety, health and welfare of persons not in the Council's employment who may be placed at risk by the operation of the authority.
- 1.4 To undertake on behalf of the Council negotiations and discussions with trade unions and other staff organisations concerned with employees of the Council.
- 1.5 The determination of any applications from individuals and organisations using the facilities in consultation with the Leader and s.151 Officer.
- 1.6 To consider any request for a review by any owner with regards to a decision to approve a nomination to the Council's List of Assets of Community Value.
- 1.7 To take all necessary administrative action in connection with the operation of elections and electoral administration
- 1.8 To make such amendments as may be necessary from time to time to the Barrow-in-Furness Parliamentary Polling Districts and the Barrow Borough Polling Districts.

2. To the Chief Executive and Directors

- 2.1 There is delegated to the Chief Executive and to the Directors (“the Officers”) all the powers and duties of the Council necessary for the discharge of the Council’s functions carried out within the Officer’s Directorate or area of responsibility, including day to day management of buildings and services under their control.
- 2.2 To take all necessary steps to deliver the services for which they are responsible for to incur revenue expenditure within the Council’s budgets, subject to compliance with standing orders, financial regulations and any council policy for the time being in force.
- 2.3 To manage and deal with all people, welfare, inclusivity and training issues (unless otherwise covered by the Officer Procedure Rules) including making changes within the establishment, within Directorate areas, provided that all decisions are within Council policies and approved budgets and within any general HR management policies and procedures.
- 2.4 For the avoidance of doubt, people, welfare, inclusivity and training issues include appointments, promotions, discipline, grievance, early retirement, redundancy, leave, additional duties, ex-gratia payments, car allowances and any relevant appeals in accordance with HR management policies and procedures (unless otherwise covered by the Officer Procedure Rules).
- 2.5 The appointment of staff above the NJC scheme but below Assistant Director level (as per Executive Committee Decision 15.9.21 Minute No. 57).
- 2.6 To be responsible for the health, safety and welfare of employees.
- 2.7 To implement national agreements, salaries, terms and conditions of employment and to undertake negotiations and discussions on industrial relations as appropriate.
- 2.8 To appoint staff as Duly Authorised Officers and Inspectors of the Council and suitable competent individuals not in the employ of the Council in appropriate circumstances.
- 2.9 To exercise powers of entry for the purposes of any statutory power insofar as the powers relate to the functions entrusted to that Officer.
- 2.10 To serve all notices relevant to statutory responsibilities that come within their area of responsibility and to take appropriate enforcement action in the event of default by persons served with such notices.
- 2.11 The imposition of civil penalties under s.126 and Schedule 9 Housing and Planning Act 2016, and the application for Banning Orders under Part 2 of the Act and Applications for Rent Repayment Orders.
- 2.12 Authentication of documents where necessary to any legal procedure or proceedings on behalf of the Council.
- 2.13 Authorising Letters or Deeds of Postponement under s.156 Housing Act 1985 in accordance with the Council’s approved procedure.

- 2.14 To respond to the government and other consultation bodies following appropriate consultation.
- 2.15 To take all steps necessary to implement decisions of the Council or its Committees.
- 2.16 To consider any representations and objections received from persons on whom notices of intent are served under the Redress Scheme for Lettings Agency Works, etc. Regulations 2014 and in those cases to authorise final notices, either as set out in the notice of intent, in modified form or to withdraw notices.
- 2.17 In relation to matters or functions for which the officer concerned is responsible, issuing requisitions for information under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976, Section 330 of the Town and Country Planning act 1990 or any similar provision in any other existing or future legislation.
- 2.18 To consider and make appointment of consultants.
- 2.19 In consultation with the s.151 Officer to agree to act as Accountable Body where the project is less than £50,000 in total and satisfies the requirements of the Financial Regulations.
- 2.20 In the absence of the Chief Executive, the power to make emergency decisions in consultation with the relevant Committee Chair or Vice-Chair in their absence together with the Leader of the Council.
- 2.21 The setting of fees and charges, such fees and charges to be set against the Discretionary Income Policy or increased in line with the annual budget proposals.

3. To Chief Executive, Directors and Heads of Service

- 3.1 Powers to take any decision on behalf of the Council, not otherwise delegated, which can lawfully be delegated to Officers, subject to the decision taker, before taking the decision, having taken appropriate steps to consult the Leader and/or Chair and if appropriate members of the Committee which would, save for this delegated power, have taken the decision.

4. To the Director of Resources (Section 151 Officer)

The Council's Financial Regulations set out in more detail the statutory and non-statutory powers of the Director of Resources and the rules within which the financial affairs of the Council are administered.

- 4.1 The Director of Resources (Section 151 Officer) has the following delegations and as set out in the above rules:
- 4.2 Properly managing and administering of all the Council's financial affairs in accordance with all statutory requirements, any adopted codes of practice and the Council's Financial Regulations (including any technical adjustments to the Council's approved budgets, or accounts to ensure compliance to safeguard the Council's financial position.
- 4.3 Preparation of the revenue budget and capital programme; responsibility for the overall financial control of the revenue budgets and capital programme of the Council. For subdividing service budgets within the overall budget framework according to Council structure and services, having regard to relevant Codes of

Practice. For allocating the revenue budgets and capital programme wholly among responsible Heads of Service.

- 4.4 To approve annually a list of expenditure proposals for which revenue budget provision had been made in the previous year and for which the particular goods or services had not been supplied before the financial year end; and a list of expenditure proposals on capital schemes for which provision had been made in the capital programme for the previous year but which was under or overspent so that supplementary estimates may be considered for the ensuing financial year.
- 4.5 Where an individual debtor owes the Council no more than £25,000 (Borough share), the Director of Resources may approve the write off of that debt where there is satisfactory evidence that it is irrecoverable. In any other case, the debt may be written off only with the approval of the Executive Committee. However, there may be occasions when an immediate write off decision above £25,000 is necessary, for example at year end, to enable the completion of the final accounts within the statutory timescale. In such cases the Director of Resources will have authority to approve a maximum Business Rate write off of no more than £62,500.
- 4.6 Treasury management; the Director of Resources is responsible for all investment, borrowing and leasing undertaken in the name of the Council. Preparation of the annual Treasury Management Policy Statement, Treasury Management Strategy, Investment Strategy, Prudential Indicators including borrowing limits, and ensure compliance with the CIPFA Code of Practice on Treasury Management and the Council's Treasury Management Policy Statement.
- 4.7 Preparation of an annual Capital Strategy.
- 4.8 Maintaining an effective Internal Audit service.
- 4.9 To determine the Council Tax Base, calculating the Council Tax Requirement, calculating the Council Tax as required by legislation; by Parish and by Band. The award of mandatory or discretionary, exemptions, disregards and discounts. Billing, collection and recovery of Council Tax due.
- 4.10 To apply any applicable or relevant changes in the Housing Benefit Regulations to the Local Council Tax Reduction Scheme. Determining, assessing, awarding and paying Housing Benefit and Council Tax Support.
- 4.11 To determine the Non-Domestic Rate Base. Dealing with all matters relating to the Business Rate Retention Scheme and agency arrangements, including billing, collection, recovery and the award of mandatory or discretionary, exemptions and reliefs. Determining membership of the Cumbria Business Rate Pool.
- 4.12 Payment of precept demands.
- 4.13 To administer, bill, collect and enforce levies arising under a Business Improvement District (BID) Scheme. Payment of the levy collected to the BID.
- 4.14 To determine all arrangements for the collection, recording, payment and recovery of VAT.
- 4.15 To arrange banking, treasury and other financial services, including indemnities, guarantees, bonds, securities, leasing arrangements and advances. Only officers

personally mandated by the Director of Resources may authorise payments and other documents transferring funds out of the Council's bank accounts.

- 4.16 Effecting all insurance cover on a corporate basis, through external insurance or through internal self-insurance arrangements as the Director of Resources considers appropriate. Negotiating all claims in consultation with relevant Heads of Service where necessary, including settlement of those claims uninsured to a limit of £10,000.
- 4.17 The administration of all arrangements for the payment of salaries, pensions, travel and subsistence claims and other emoluments to existing and former employees, and for all related matters.
- 4.18 To institute and defend any legal proceedings in respect of any matter relating to the functions of the Council (including the service of any notice or order, the exercise of any power of entry and engaging the Council's solicitors) in any case where such action is necessary to give effect to decisions of the Council (including for the avoidance of doubt any officer acting under delegated powers) or in any case where the Director of Resources considers that such action is necessary to protect the Council's interests.
- 4.19 To make changes to the list of employees representing the Council in the Magistrates Court as Section 151 Officer to deal with local taxation matters.
- 4.20 To authorise Covert Surveillance under the Regulation of Investigatory Powers Act and within the Council's adopted policy.

Waste Management Service

- 4.21 The setting of fees and charges associated with the Walney Road Garage.

Cost of Living Grants

- 4.22 To award Cost of Living grants to support the warm spots project and; large direct grants to support established organisations providing food, fuel into the community, in consultation with the Chair of Executive Committee.
- 4.23 To award the small grants programme to fund third sector organisations supporting the community through the winter, in consultation with a working group of 3 Members (politically balanced) from Executive Committee.
- 4.24 To vire between the schemes to ensure that funding is distributed efficiently, in consultation with the Chair of the Executive Committee.

5. To the Director of People and Place

- 5.1 Authority to enter into new leases for Council owned shops and garages and for any other leases under the Landlord and Tenant Acts up to a period of 25 years.
- 5.2 With Management Team, authority to consider and approve applications under the Council's Corporate Community Lettings Policy (Executive Committee 10.3.21).
- 5.3 Authority to agree and accept surrenders of leases.

- 5.4 Authority to enter into licences in respect of land and property owned by the Council, including licences in respect of allotments, garage bases, fun fairs and ice-cream vending bases.
- 5.5 To make representations as a responsible authority as outlined in the Licensing Act 2003 for the following considerations:
- Public Protection Services and
 - Health and Safety at Work
- 5.6 To exercise the Council's functions and enforcement powers under the Anti-Social Behaviour, Crime and Policing Act 2014
- 5.7 To exercise the Council's functions under the Environmental Protection Act 1990, including authority to serve and revoke statutory and fixed penalty notices and to take appropriate enforcement action in the event of non-compliance including:
- Provisions with relation to litter
 - Waste Collection
 - Statutory nuisances and clean air
 - Contaminated land
 - Control of stray dogs, including functions imposed or conferred by s.149 (1)
 - Authority to waive kenneling fees either in part or in full where appropriate after consideration of the social implications of each case.
- 5.8 To exercise the Council's functions under the Traffic Management Act 2004 and relevant Traffic Regulation Orders, including cancellation of excess charge notices in accordance with the guidelines laid down.
- 5.9 Authority to deal with all matters related to the Landlord and Tenant Act regarding Barrow Market, including rent reviews and variations, including any varying or waiving of rents, lease renewals, notices to quit and landlord approvals, where appropriate and where there is a social or economic benefit to the Borough in doing so.
- 5.10 Management and enforcement of Market Tenancy conditions including use of legal remedies to deal with breaches by current and former tenants.
- 5.11 The management of all stock within the Council's Housing Revenue Account to be exercised in accordance with all relevant legislation and the Council's agreed policy.
- 5.12 Management and enforcement of tenancy conditions, including use of legal remedies to remedy breaches and to take action to recover debts outstanding with regards to former Council tenants, including use of legal redress.
- 5.13 To authorise adaptations for disabled tenants up to the Council agreed limit (currently £40,000)
- 5.14 Authority, in consultation with the Head of Legal and Governance, to defend the Council against any legal claims made against it in connection with the management of the Council's housing stock, for example disrepair.

- 5.15 To ensure applications to waive repayments of discount under the Right to Buy are dealt with expediently and in a confidential manner, delegation to consider and decide on such applications after consultation with the Chair of the Executive Committee and s.151 Officer.
- 5.16 To agree the disposal and sale of small ad-hoc parcels of land on Council Housing Land where they are adjacent to and can be incorporated into adjoining residential belonging to the prospective purchase in accordance with agreed policy up to a value of £20,000. The authorisation includes instructing a conveyancing solicitor to transfer the legal title of the property. (Note: appeal through the Housing Management Forum if request is declined).
- 5.17 Fulfilment of the Council's statutory duties with regards to homeless persons.
- 5.18 To hear and determine homelessness appeals
- 5.19 making decisions re waiving repayment of discount under the Right to Buy after consultation with the Chair of the Executive Committee and s.151 Officer.
- 5.20 To approve or reject nominations for inclusion on the List of Assets of Community Value under s.88 of the Localism Act 2011.
- 5.21 The setting of the following fees and charges, where discretionary, to be set against the Discretionary Income Policy:
- (a) Land Charge fees
 - (b) The setting of charges for the Council's Ordnance Survey Plan printing service.
 - (c) To agree fees and charges for pre-application planning advice.
 - (d) To set and review fees for charging for Environmental Information.
 - (e) To set additional charges and future fees for discretionary activities against the Discretionary Income Policy.
- 5.22 To formally enter into Planning Performance Agreements; agree any subsequent variations or amendments to an approved Planning Performance Agreement; and secure bespoke fees associated with any Planning Performance Agreements (Minute No. 22 Executive Committee 8th July, 2020 refers).
- 5.23 Authority, in consultation with the Chair of Executive Committee to put in place the necessary arrangements to facilitate the establishment, governance requirements and ongoing control of the Local Authority Trading Company for the delivery of Leisure Services (Minute No. 117 Council 21st April, 2021 refers).

6. **To the Deputy Director of People and Place and Capital Programme Manager**

- 6.1 Authority to exercise any power delegated to his/her Director in this Section of Part 3 that relates to his/her Directors' area of responsibility.

7. **To the Heads of Service and Capital Programme Manager**

- 7.1 Authority to enter into contracts in accordance with the contract standing orders within the Council's Constitution within agreed Management guidance limits.

To the Head of Legal and Governance (Monitoring Officer)

- 1.1 To be responsible for the conduct of all legal and quasi-legal proceedings entered into by the Council including the appointment of external Solicitors, Counsel and professional witnesses as appropriate.
- 1.2 Instituting legal proceedings on behalf of the Council and representing the Council before any Court, Tribunal, Inquiry or other hearing.
- 1.3 In consultation with the relevant Director, to take action, including prosecution in respect of any breach of legislation for which the Council, or an officer of the Council, is the responsible enforcement authority and it is in the interest of the Council and in the public interest to do so.
- 1.4 In consultation with the relevant Director, to issue civil proceedings in any appropriate Court or Tribunal for the recovery of a financial payment, possession or repossession or property, or to seek any other appropriate remedy.
- 1.5 To respond to all proceedings of a legal or quasi-legal nature issued against the Council in consultation with the s.151 Officer, to settle claims up to a maximum of £10,000 where there is a legal liability on the Council.
- 1.6 The preparation and completion of documents required to give effect to decisions of the Council, its committees or sub-committees or officers acting under delegated authority.
- 1.7 To serve any notices required under contract not otherwise delegated to the Chief Executive or a Director and to take appropriate enforcement action in the event of default by persons served with such notices.
- 1.8 To approve applications for anti-social behaviour orders either by the Police or by the Council (This delegation is also with the Director of People and Place)
- 1.9 Following consultation with the Chair of the Council, alter the agreed starting times of Council meetings if the volume of business to be transacted appears to warrant change.
- 1.10 To take such action as is delegated to them under the Council's Standards Arrangements
- 1.11 In consultation with the Independent Person, the power to grant dispensations up to a maximum of 4 years in the following circumstances:
 - That he/she considers that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of body transacting the business as to impede the transaction of the business
 - 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

- 1.12 To respond on behalf of the Council, in consultation with the Chair of Audit and Governance, to national reviews and consultations on standards related issues.
- 1.13 To administer the Members' Allowances Scheme.
- 1.14 To give effect to the wishes of the Political Group Leaders in relation to the appointment of Members to Committees and Sub-Committees pursuant to Section 16, Local Government and Housing Act 1989.
- 1.15 To authorise Covert Surveillance under the Regulation of Investigatory Powers Act and within the Council's adopted policy.

<u>Head of Development Management</u>	
Delegations	Exercising of Other Delegations
<p>1. To determine all applications for planning consent, advertisement consent, and listed building consent except:-</p> <ul style="list-style-type: none"> i. Where the determination or observation would be contrary to current national guidance, the provisions of an approved Development Plan or other stated adopted Council policies. ii. When the application is classed as a Major application in accordance with government guidance, but excluding subsequent amendments whether Material or Non material. iii. Where the determination would be contrary to a recommendation of a Statutory Consultee that could not be addressed via a suitable condition or revision as agreed with the consultee. iv. Where the application affects Council owned assets (in the interests of transparency). v. In the case of householder development, where the application generates more than 3 written material planning comments from neighbours or other interested parties (comments from the same address count as 1) prior to determination or within 21 days of their publication in the press, or the despatch of a written consultation which would be contrary to the prospective decision. Where 1- 3 material comments are received the application shall be determined in consultation with the Planning Panel. vi. Where any Member notifies the Planning Manager or the Case Officer in writing (email or hard copy) within 21 days of the despatch of the weekly list of planning applications that he or she wishes the application to be referred to the Planning Committee for determination, unless the Member is satisfied by attending the Planning Panel and considering the Officer recommendations. Each Member should provide details of the planning consideration(s) for such request. vii. Where there is a request within the statutory determination period to address the Committee viii. Where the applicant is an elected Member. ix. Where the applicant is employed in the Development Services section, or is a close family member of such, (defined as spouse, parent, sibling or child of an employee) x. Where the Director of People and Place is of the view that the application or matter should be referred to the Planning Committee for determination. 	<p>The Principal Planning Officers have authority to act in the absence of the Head of Development Management in signing non major decision notices (in consultation with the relevant case officer)</p>

2. To make observations on all statutory and other notifications including consultations on County Matter applications except where such applications appear contrary to the Development Plan or national policy in which case the Panel shall be consulted.
3. To determine all applications and consultations submitted under the relevant Hazardous Substances Regulations.
4. To determine all applications for Screening and Scoping Opinions submitted under the relevant EIA Regulations
5. To determine all applications subsequently found to consist of works that are Permitted Development
6. To determine all applications pertaining to Prior Approvals and Prior Notifications (but where 3 written material planning representations are received from more than 3 neighbouring properties, then in consultation with the Planning Panel)
7. To determine all applications submitted under the Larger Homes Extension legislation (but where written material representations are received, in consultation with the Planning Panel)
8. To determine any matters when Reserved or made the subject of conditions in a Planning Consent, or any material or non-material amendments to that consent.
9. To determine all applications for works to trees, including felling, pruning and requirements to replant, subject to a Tree Preservation Order
10. To exercise the powers and duties of the Council under Sections 211 to 214 of the Town and Country Planning Act, 1990 insofar as they relate to responding to notifications of intention to fell trees in Conservation Areas and to compiling a register under Section 214 of the said Act.
11. To authorise making of Tree Preservation Orders and confirm unopposed Tree Preservation Orders under s.198 of the Town and Country Planning Act 1990 (as amended) and the Town and Country Planning (Tree Preservation) (England) Regulations 2012.
12. To review the Planning Authority's Local Validation Criteria, undertake public consultation, and revise the criteria as necessary.
13. The service of notices for the obtaining of information under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976, and section 330 of the Town and Country Planning Act 1990, or any amendments or re-enactments thereof, as to interests in land.
14. To exercise the powers of entry as set out in s.196A, 196B, 214B, 214C, 214D, 324 and 325 Town and Country Planning Act 1990 (as amended) and sections 88, 88A and 88B of the Planning (Listed Building and Conservation Areas) Act 1990 (as amended) and s.74 of the Anti-Social Behaviour Act 2003 and Regulation 12 of the Hedgerow Regulation s1997 and to authorise all other planning officers whose duties require such powers.

15. To undertake the service of a stop notice or a Temporary Stop Notice under Section 171E of the Planning Act 1990 where such development is in the process of being carried out and is considered to be unacceptable.
16. To serve planning contravention notices, breach of condition or stop notice under s.171C, 187A and 183(1) of the Town and Country Planning Act 1990.
17. The taking of enforcement action, including the issue of an Enforcement Notice under s.172 of the Town and Country Planning Act 1990.
18. Authority to withdraw an Enforcement Notice.
19. To execute urgent works under s.54 of the Planning (Listed Buildings and Conservation Areas) Act 1990
20. To service notices under s.215(1) of the Town and Country Planning Act 1990 to require proper maintenance of land and to take appropriate action in the event of non-compliance with any notice.
21. To determine minor issues falling within the Case Priority Assessment List Level 4 of Council's Enforcement Policy Guidance which in the professional judgement of the Head of Development Management are of a nature that does not require a Member decision.
22. To determine all applications for Certificates of Lawfulness, whether or not subject to representations
23. To exercise the authority's functions under Section 225 of the Planning Act 1990.
24. To deal with all, except the most serious cases, that fall into case priority assessment list level 1 of the revised Planning Enforcement Policy.
25. To make any non-material amendments or minor changes to the Planning Enforcement Document.
26. To approve within budget provision, work on agreed enhancement schemes.
27. To determine, in consultation with the Planning Panel, the issue of remedial notices and to take any necessary action arising therefrom in relation to high hedges under Part 8 of the Anti-Social Behaviour Act 2003.
28. To take any action relating to the protection of important hedgerow under The Hedgerows Regulations 1997.
29. To dispose of planning applications in accordance with the Town and Country Planning (General Development Order) 2015 Articles 40 (or any subsequent legislation re-enacting or revising this Article).

All decisions are to be in line with the contemporary Code of Conduct.

Section D

<u>Head of Building Control</u>	
Delegations	Exercising of Other Delegations
<ol style="list-style-type: none">1. To be the Council's representative and to take decisions on behalf of the Council under the Safety of Sports Grounds Act, 1975 and the Fire Safety and Safety of Places of Sports Act 1986.2. To deal with all matters (including the serving of notices and the institution of legal proceedings) under the provisions of the Building Act, 1984 Section 77 (Dangerous Structures) and Section 78 (Dangerous Structures – Emergency Measures).3. To deal with all matters (including the serving of notices and the institution of legal proceedings under the provisions of the Building Act, 1984 Sections 80, 81 and 82 (Local Authorities' powers concerning demolition).4. To deal with all Building Regulation applications and matters (including the service of notices and the institution of legal proceedings) subject to reporting on action taken to the relevant Committee on a quarterly basis in relation to any rejection of plans, refusal and/or approval or relaxations.5. To deal with the setting of charges with respect to the Building Regulation chargeable functions under the provisions of The Building (Local Authority Charges) Regulations 2010.6. To deal with Re-naming and numbering of existing individual properties and naming of new streets under the Town Improvement Clauses Act 1847.	<p>Principal Building Control Surveyor has authority to act in the absence of the Head of Building Control</p>

<u>Head of Public Protection</u>	
Delegations from Licensing Regulatory Committee	Exercising of Other Delegations
<p><u>Taxi, Gaming, Food, Miscellaneous Licensing and registration functions (other than functions under the Licensing Act 2003 and Gambling Act 2005)</u></p> <p><u>Determination of Applications</u></p> <p>Except where objections have been received;</p> <ol style="list-style-type: none"> 1. To determine any licence, registration, permission or consent for which the Licensing Regulatory Committee is responsible and attach to the grant of a licence such conditions as they consider reasonably necessary. 2. To refer such applications to the Licensing Regulatory Committee/Sub-Committee which in the opinion of the Head of Public Protection should be determined by them. 3. To institute, defend or participate in any action, including but not limited to, enforcement action or legal proceedings in respect of any matter relating to the functions (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 Regulatory Committee or any officer acting under delegated powers in consultation with the Director of Resources. <p><u>“Taxi” Licensing</u></p> <p>Private Hire / Hackney Carriage Drivers’ Licences</p> <ol style="list-style-type: none"> 4. To suspend or revoke a private hire or hackney carriage drivers’ licences for: <ol style="list-style-type: none"> (i) Failure to provide such information as the Council considers reasonably necessary to enable them to make determinations regarding the continued safety and suitability of drivers during the term of the licence; (ii) Contravention of any of the conditions of a licence or other relevant legislation; or (iii) Pursuant to s.61(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 and s.61 (1)(b) for ‘any other reasonable cause’ and to be permitted, where practicable in consultation with the Chair or Vice-Chair of the Licensing Regulatory Committee, to suspend or revoke immediately pursuant to s.61(2B) where it is considered necessary in the interest of public safety; 	<p>Commercial Services Team Leader has authority to act in the absence of the Head of Public Protection</p>

<p>Private Hire / Hackney Carriage Vehicles' Licences</p> <p>5. To suspend private hire and hackney carriage vehicle licences on any of the grounds contained in s.60(1) Local Government (Miscellaneous Provisions) Act 1976; and serve any relevant notice.</p> <p>Private Hire / Hackney Carriage Operators' Licences</p> <p>6. To suspend or revoke the licence of an operator on any of the grounds contained in s.62(1) Local Government (Miscellaneous Provisions) Act 1976; and serve any relevant notice.</p> <p><u>Miscellaneous Licensing & Registration</u></p> <p>Executive Hire</p> <p>7. To determine applications for an Executive Hire Exemption Notice permitted under Section 75(3) Local Government (Miscellaneous Provisions) Act 1976.</p> <p>Business and Planning Act 2020</p> <p>8. To determine applications for pavement licences; to include setting the duration of the licence and attach such conditions as considered reasonably necessary and to take any necessary action in relation to the enforcement and revocation of the licence.</p> <p><u>Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020</u></p> <p>9. To determine applications from a relevant person to be included on a register of fit and proper persons; to include attaching condition(s) as considered reasonably necessary to secure the proper management of the site, which may include a condition relating to the payment of an annual fee and to take any necessary action in relation to the removal from the register, enforcement and revocation of a site licence.</p>	
<p>Delegations from Licensing Committee</p>	
<p><u>Functions under the Licensing Act 2003 and Gambling Act 2005 Powers under the Licensing Act 2003</u></p> <p>To determine applications for a personal licence where no Police objection is made.</p> <p>To determine applications for a premises licence and a club premises certificate where no relevant representation is made.</p>	<p>Commercial Services Team Leader has authority to act in the absence of the Head of Public Protection</p>

<p>To determine applications for a provisional statement where no relevant representation is made.</p> <p>To determine applications to vary a premises licence or a club premises certificate where no relevant representation is made.</p> <p>To determine applications to vary premises licence/club premises certificate by way of a minor variation in all cases.</p> <p>To suspend a Premises Licence or Club Premises Certificate, for non-payment of the Annual Fee.</p> <p>To revoke a Premises Licence, for non-payment of the Annual Fee.</p> <p>To cancel a Societies Registration under the Act.</p> <p>To determine applications to vary the designated premises supervisor in cases where there is no Police objection.</p> <p>To determine all requests to be removed as a designated premises supervisor.</p> <p>To determine applications for the transfer of a premises licence where no Police objection is made.</p> <p>To determine applications for interim authorities where no Police objection is made.</p> <p>To determine whether a representation is irrelevant, frivolous, vexatious etc.</p> <p>To make representations as a Responsible Authority, where appropriate, in response to applications.</p> <p>To classify films which have not already been classified by the British Board of Film Classification (delegated to the Commercial Services Team Leader in the absence of the Head of Public Protection).</p> <p>To institute, defend or participate in any action or legal proceedings in respect of any matter relating to the functions (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 in consultation with the Director of Resources.</p> <p><u>Powers under the Gambling Act 2005</u></p> <p>To act as authorised officer for the purposes of s.304 and Part 15 of the Gambling Act 2005.</p> <p>To determine applications for premises licences where no representations have been received or any representations made have been withdrawn.</p>	<p>Commercial Services Team Leader has authority to act in the absence of the Head of Public Protection</p>
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To determine applications for a variation to a licence where no representations have been received or any representations made have been withdrawn.

To determine applications for the transfer of a licence where no representations have been received from the Commission.

To determine applications for a provisional statement where no representations have been received or any representations made have been withdrawn.

To determine applications for club gaming/club machine permits where no representations have been received or any representations made have been withdrawn.

To determine applications for other permits (up to 4 machines).

To cancel licensed premises gaming machine permits.

To consider any Temporary Use Notice.

To institute, defend or participate in any action or legal proceedings in respect of any matter relating to the functions (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 in consultation with the Director of Resources.

Other Delegations

Additional Meetings of Licensing Regulatory and Licensing Committees/Sub-Committees

The Head of Public Protection is authorised to arrange special meetings of the Licensing Regulatory and Licensing Committees if appropriate in each cycle.

Criminal Justice and Public Order Act 1994

To serve direction under s.77 of the Criminal Justice and Public Order Act 1994 on persons residing on land in vehicles to leave the land and remove vehicles, and authority, in consultation with the Head of Legal and Governance, to issue proceedings under s.77 and/or s.78 if the direction is not complied with.

The Anti-Social Behaviour, Crime and Policing Act 2014

To exercise the Council's functions and enforcement powers under the 2014 Act, including:-

Issuing community protection notices.

<p>To exercise any function including the service of any notice or order, the exercise of any powers of entry and the taking of any other action or proceedings under any relevant legislation or otherwise (after consultation with the Director of Resources in respect of any proposal to institute court proceedings) in respect of matters relating to:</p> <ol style="list-style-type: none"> 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. functions relating to health and safety including, without prejudice to the generality of the foregoing, the service of any Improvement or Prohibition Notices, 5. functions relating to smoke free premises, places and vehicles for which the Licensing Regulatory 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 the Smoke-free (premises and enforcement) Regulations 2006 and any other ancillary Regulations. <p>To deal with all functions relating to health and safety under any statutory provision within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as employer.</p> <p>All Environmental Health Officers employed by the Council shall be appointed as Inspectors under Health and Safety at Work Act etc. 1974 and be empowered to serve Improvement and Prohibition Notices and to institute proceedings for an offence under the same legislation.</p> <p>To take action in accordance with the powers contained in:</p> <ol style="list-style-type: none"> 1. The Public Health Act 1936, Section 84 and 85 (Cleansing or destruction of filthy or verminous premises, clothing and articles), 2. The Public Health Act 1961, Section 37 (Disinfection of verminous articles offered for sale), 3. The Public Health (Control of Diseases) Act 1984, Sections 48 (removal of dead bodies), 61 and 62 (powers of entry), 	<p>Environmental Protection and Public Health Team Leader unless express delegation elsewhere</p> <p>Commercial Services Team Leader unless express delegation elsewhere.</p>
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<ol style="list-style-type: none">4. The Health Protection (Notification) Regulations 2010, Regulations 2 (Duty to notify suspected disease, infection or contamination in patients) and 3 (Duty to notify suspected disease, infection or contamination in dead bodies),5. Public Health (Ships) (Amendment) (England) Regulations 20076. Prevention of Damage by Pests Act 19497. Public Health (Control of Disease) Act 19848. Housing Act 19859. Building Act 198410. Public Health Act 193611. Public Health Act 196112. Control of Pollution Act 197413. Local Government (Miscellaneous Provisions) Act 197614. Local Government (Miscellaneous Provisions) Act 198215. Public Health (Control of Diseases) Act 198416. Environmental Protection Act 199017. Clean Air Act 199318. Zoo Licensing Act 1981 <p><u>Ship Water Sampling Fees</u></p> <p>To review the setting of fees for water sampling.</p>	
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<u>Head of Programme Management and Climate Change</u>	
Delegations	Exercising of Other Delegations
<p><u>Private Sector Housing Assistance Policy or other forms of assistance as apply at the time</u></p> <p>(i) To draw up detailed procedures for the provision and authorisation of agreed forms of assistance; and</p> <p>(ii) To authorise Disabled Facilities Grants, Barrow Disability Minor Works Grants and Barrow Disability Major Works Grants (delegation to transfer to Head of Asset Management with effect from 1.4.22)</p> <p>(iii) Authorisation of ECO flex declarations</p> <p><u>Private Sector Housing Enforcement Policy/Housing Act 2004</u></p> <p>Delegated authority in relation to Mandatory Licensing of Houses in Multiple Occupation and taking enforcement action under the Housing Health and Safety Rating Scheme:-</p> <ul style="list-style-type: none"> ○ Making, serving, varying and revoking of Prohibition Orders, Improvement Notices and Hazard Awareness Notices; ○ Powers to take emergency remedial action and to make emergency Prohibition Orders; ○ Powers of entry and seeking warrants to enter; ○ Making charges under Section 49; ○ Recovery of Section 49 charges under Section 50; ○ Granting, varying and revoking of HMO Licences; ○ Powers to make requisitions for information s.16 (Local Government Miscellaneous Provisions Act 1976 ○ Approval of remedial notices and penalty charge notices, and other notices as required by the Smoke and CO Alarm Regulations 2015, and to approve in writing officers to act as “authorised persons” who can take remedial action; ○ Authorisation of notices of intent under the Redress Schemes for Letting Agency Work etc. Regulations 2014, and if no representations or objections are raised to authorise final notices. 	

<ul style="list-style-type: none">○ Authorisation of the service of remedial notices, remedial action and notices to recover costs under the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.○ Authorisation of compliance notices under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (as amended). <p>To agree that the decision and all reasonable enquiries to facilitate that decision to grant, refuse, revoke or vary a licence and the length of licence and charge for a licence in relation to Mandatory Licensing of Houses in Multiple Occupation and, that any person who is not satisfied with any decision may take the matter before the Residential Property Tribunal in the manner prescribed by the Act.</p>	
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<u>Collections and Exhibitions Manager</u>	
Delegations	Exercising of Other Delegations
<p><u>Deaccessioning</u></p> <p>To agree to the under-mentioned deaccessioning:-</p> <ol style="list-style-type: none">1. Where the value is less than £1,500; and2. The object is not related to the Borough of Barrow-in-Furness; and/or3. Does not fit in the Collections Development Policy (which has been approved by the Executive Committee). <p>Where there is a distinct collection such as geology collection, archaeology collection or natural history collection, then that cannot be deaccessioned without the Executive Committee's approval.</p>	

Section H

<u>Head of Asset Management</u>	
Delegations	Exercising of Other Delegations
<p>(With effect from 1.4.22)</p> <p>To authorise Disabled Facilities Grants, Barrow Disability Minor Works Grants and Barrow Disability Major Works Grants.</p> <p><u>Criminal Justice and Public Order Act 1994</u></p> <p>To serve direction under s.77 of the Criminal Justice and Public Order Act 1994 on persons residing on land in vehicles to leave the land and remove vehicles, and authority, in consultation with the Head of Legal and Governance, to issue proceedings under s.77 and/or s.78 if the direction is not complied with.</p> <p><u>Housing Maintenance</u></p> <p>Authorised Officer re: procurement and contract awards with regards to the Council's housing maintenance programme where tendered through approved framework/contract standing orders within approved budgets.</p>	

Section I

<u>Head of Operational Services</u>	
Delegations	Exercising of Other Delegations
<u>Operation of the Waste Management Service</u> The setting of fees and charges associated with the Walney Road garage (in consultation with the Director of Resources); and The spot sale of recyclate materials.	

Part 4 – Appointments of Proper Officer & Deputy Proper Officer

1 *Legislative background*

- 1.1 Legislation requires the Council to appoint specific officers and to identify officers for particular responsibilities.
- 1.2 The Council has appointed the following Proper Officers under the enactments shown in the table below.
- 1.3 The Deputy Proper Officer is also authorised to act.

DESIGNATION OF PROPER OFFICERS

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		
Proper Officer's Functions	Proper Officer	Alternative Proper Officer
s.13(3) - Parish Trustee	Monitoring Officer	Deputy Monitoring Officer
s.83 (1) to (4) - Witness and receipt of Declarations of Acceptance of Office	Monitoring Officer	Chief Executive or Democratic Services Manager
s.84 Receipt of Declaration of Resignation of Office	Monitoring Officer	Chief Executive
s.88(2) - Convening of meeting of Council to fill casual vacancy in the office of Chairman	Monitoring Officer	Chief Executive
s.89(1)(b) - Receipt of notices of pecuniary interest	Returning Officer	
s.96(1) - Receipt of notices of pecuniary interest	Monitoring Officer	Deputy Monitoring Officer
s.96(2) - Keeping record of disclosure of pecuniary interest under Section 94 and notices under Section 96(1)	Monitoring Officer	Deputy Monitoring Officer
s. 100B(2) - Circulation of papers and reports	Democratic and Electoral Services Manager	Monitoring Officer
s.100B(5) - Withholding of reports containing exempt information	Monitoring Officer	Chief Executive
s.100B(7)(c) - Supply of papers to the press	Democratic and Electoral Services Manager	Monitoring Officer
s.100C(2) - Summaries of minutes	Democratic and Electoral Services Manager	Monitoring Officer
s.100D - Inspection of background papers	Democratic and Electoral Services Manager	Monitoring Officer
s.100F - Members right to papers	Democratic and Electoral Services Manager	Monitoring Officer
s.115(2) - Receipt of money due from officers	Director of Resources	Deputy s.151 Officer
s.146(1)(a) and (b) - Declarations and service with regard to securities	Director of Resources	Deputy s.151 Officer
Section of the Local Government Act 1972		
Proper officer's Functions	Proper Officer	Alternative Proper Officer
s.151 - Responsibility for the proper administration of the Council's financial affairs	Director of Resources	Deputy s.151 Officer
s.191 - Functions with respect to ordnance survey	Director of People and Place	Head of Regeneration & Planning Policy

s.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 Resources
s.212(1) - Local Registrar for Land Charges	Director of People and Place	Head of Development Management
s.225(1) - Proper Officer function - deposit of documents	Monitoring Officer	Democratic and Electoral Services Manager
s.228(3) - Accounts of any Proper Officer to be open to inspection by any Member of the Authority	Director of Resources	Deputy s.151 Officer
s.229(5) - Certification of Photographic copies of Documents	Any member of Management Team and Democratic and Electoral Services Manager	
s.234 - Authentication of Documents	Officer authorised in that connection by a general delegation or otherwise, or the Monitoring Officer in the absence of such authority	Deputy Monitoring Officer
s.236(9) - To send copies of byelaw for Parish records	Monitoring Officer	Chief Executive
s.236(10) - To send copies of byelaws to the County Council	Monitoring Officer	Chief Executive
s.238 - Certification of byelaws	Any member of Management Team	
s.248 - Keeping of Roll of Freeman	Chief Executive	Monitoring Officer
Schedule 12, Para 4 (2)(b) - Signature of summonses to Council Meetings	Chief Executive	Democratic and Electoral Services Manager
Schedule 12, Para 4(3) - Receipt of notice regarding address to which summonses to meetings are to be sent	Democratic and Electoral Services Manager	
Schedule 14, Para 25(7) - Certifying resolutions applying or dis-applying provisions of Public Health Acts 1875-1961	Chief Executive	Director of Resources
Local Government Act 1974		
Proper Officer's Functions	Proper Officer	Alternative Proper Officer
s.30 - To give public notice of reports by the Local Commissioner	Monitoring Officer	Officer nominated by the Monitoring Officer as Deputy Monitoring Officer
Representation of the People Acts 1983		
Proper Officer's Functions	Proper Officer	Alternative Proper Officer
s.8 - Electoral Registration Officer	Chief Executive	Deputy Returning Officer (Democratic and Electoral

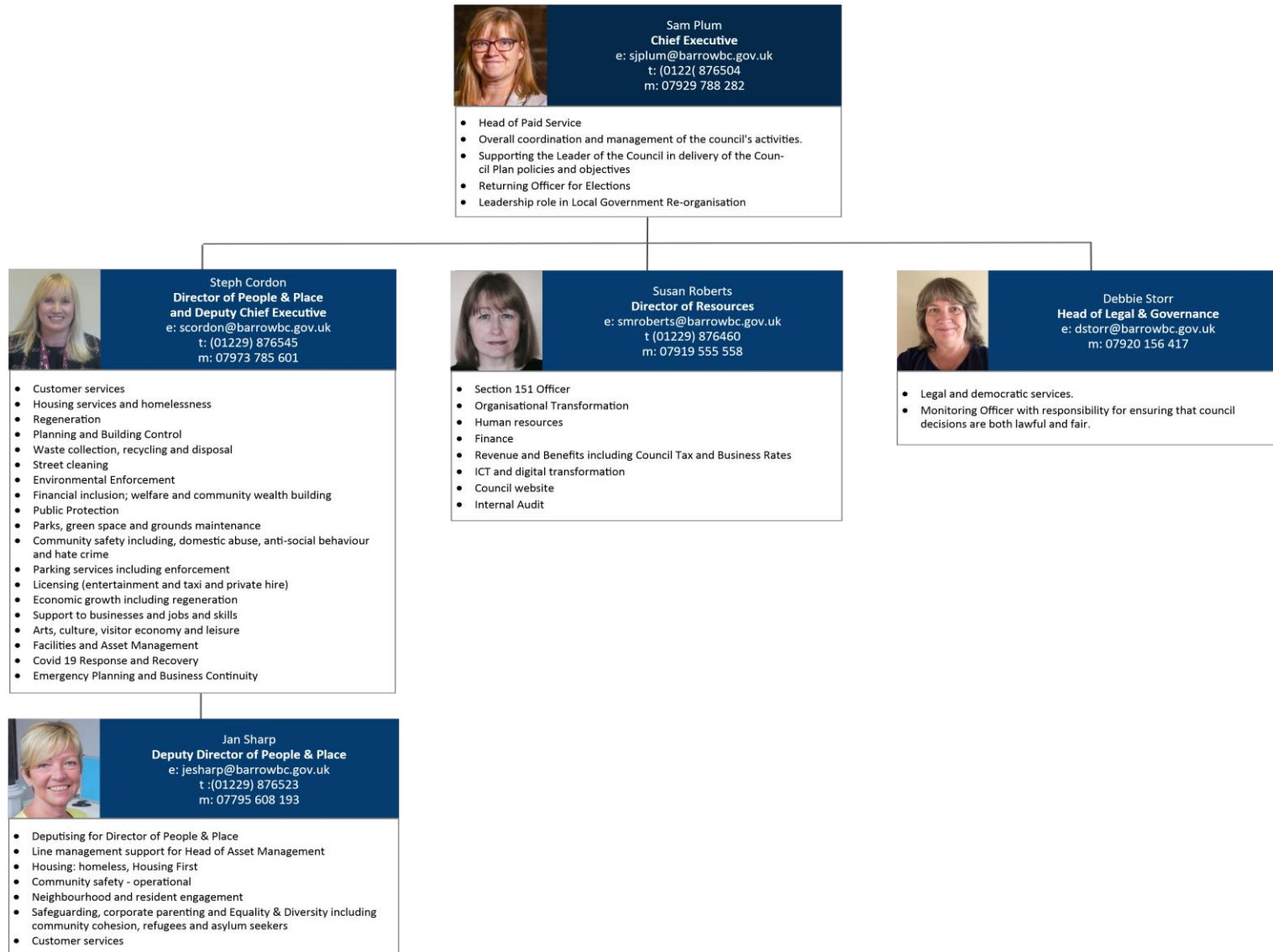
		Services Manager) or as delegated by the Returning Officer
s.35 - Returning Officer	Chief Executive	Deputy Returning Officer (Democratic and Electoral Services Manager) or as delegated by the Returning Officer
s.81 - To receive returns as to election expenses	Chief Executive	Deputy Returning Officer (Democratic and Electoral Services Manager) or as delegated by the Returning Officer
s.52(3) - To act as Deputy Electoral Registration Officer	Democratic and Electoral Services Manager	
Local Government Finance Act 1988		
Proper Officer's Functions	Proper Officer	Alternative Proper Officer
s.114 - Duty to report etc.	Director of Resources	Deputy s.151 Officer
s.116 - To notify the Council's Auditor of a Council meeting to be held under s.15 (meeting to consider any report of the DFO under s.114)	Director of Resources	Officer nominated as Deputy s.151 Officer by the s. 151 Officer
Local Government and Housing Act 1989		
Proper Officer's Functions	Proper Officer	Alternative Proper Officer
s.4 - Head of Paid Service	Chief Executive	
s.5 - Monitoring Officer	Head of Legal and Governance	Deputy Monitoring Officer as appointed by the Monitoring Officer
s. 19 and regulations made thereunder - Notices of Members' Interests.	Monitoring Officer	Deputy Monitoring Officer as appointed by the Monitoring Officer
s.2 and s.3 - Preparation and deposit of politically restricted posts and issue of certificate in respect of politically restricted posts	Democratic and Electoral Services Manager	Deputy Monitoring Officer as appointed by the Monitoring Officer
Party Wall Act 1996		
Proper Officer's Functions	Proper Officer	Alternative Proper Officer
s.10(8) - Appointing Officer	Head of Building Control	Director of People and Place
Public Health Legislation		
Proper Officer's Functions	Proper Officer	Alternative Proper Officer
s. 74 - Public Health (Control of Diseases) Act 1984 and Health Protection Regulations 2010	Dr. John Astbury	Grainne Nixon Dr. Nicola Schinaia and other appropriate persons from UK Health Security

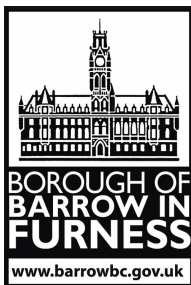
		Agency (UKHSA) as notified by the Monitoring Officer
Public Health Act 1936 s. 84 and 85 - (Cleansing or destruction of filthy or verminous premises, clothing and articles)	Dr. John Astbury	Grainne Nixon Dr. Nicola Schinaia and other appropriate persons from UK Health Security Agency (UKHSA) as notified by the Monitoring Officer
Public Health Act 1961 s.37 - (Disinfection of verminous articles offered for sale)	(As above)	(As above)
Sections 48, 59 and 61-62 Public Health (Control of Disease) Act 1984; The Health Protection (Notification) Regulations 2010 Regulations 2 (Duty to notify suspected disease, infection of contamination in patients) and 3 and 6 (receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons)	(As above)	(As above)
Legal responsibilities and duties of local authorities in connection with communicable disease control and the protection of public health are derived from the provisions of The Public Health (Control of Disease) Act 1984 (as amended by the Health and Social Care Act 2008; Health and Social Care Act 2008; The Health Protection (Local Authority Powers Regulations 2010; and The Health Protection (Part 2A Orders) Regulations 2010 to make notifications and apply controls as required	(As above)	(As above)
Local Government Act 2000 and Regulations made thereunder		

Proper Officer Functions	Proper Officer	Alternative Proper Officer
	Monitoring Officer	Deputy Monitoring Officer as appointed by the Monitoring Officer
Freedom of Information Act 2000		
Proper Officer Functions	Proper Officer	Alternative Proper Officer
s. 36 the 'qualified person'	Monitoring Officer	Chief Executive (in the absence of the Monitoring Officer)
Miscellaneous		
Proper Officer Functions	Proper Officer	Alternative Proper Officer
Section 41 Local Government (Miscellaneous Provisions) Act 1976 Certifying true copies of minutes	Monitoring Officer	Deputy Monitoring Officer
Section 321(3) Highways Act 1980 Certifying copies of approved plans	Director of People and Place	
Section 2 Planning (Listed Buildings and Conservation Areas) Act 1990 Lists of protected buildings	Head of Development Management	
Section 4 Housing Act 2004	Head of Programme Management and Climate Change	
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 Regulations of Investigatory Powers Act 2000	Head of Legal and Governance Chief Executive (including Juvenile or Vulnerable Persons CHIS or the acquisition of confidential information) The Director of People and Place is the RIPA Monitoring Officer	Director of Resources
Service of Improvement and Prohibition Notices under the Health and Safety at Work etc. Act 1974	Head of Public Protection and all Environmental Health Officers having satisfied the Council as to their competence.	Such other persons as may be appointed from time to time
Senior Information Risk Officer	Director of Resources	Such other persons as may be appointed from time to time
Regulation of Investigatory	Head of Legal and	Such other persons as may

Powers Act 2000 Chapter II Designated Person (Access and Disclosure of Communications Data)	Governance	be appointed from time to time
The Money Laundering Regulations 2007	Director of Resources	Such other persons as may be appointed from time to time
Anti-Social Behaviour, Crime and Policing Act 2014 Section 104(3) Point of Contact	Monitoring Officer	Such other persons as may be appointed from time to time
Data Protection – To act as the Council’s designated Data Protection Officer as required by the Data Protection Act 2018, s.69 to undertake the duties set out in Section 71 of the Data Protection Act 2018 and Article 39 of the General Data Protection Regulations (GDPR) EU 2016/679.	Head of Legal and Governance	Such other persons as may be appointed from time to time

SENIOR MANAGEMENT TEAM (to 30/12/22)





Part 4

Rules of Procedure

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Council Procedure Rules

1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and Business

The annual meeting will take place in May on a date and at a time fixed by the Council. In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:

- (i) elect a person to preside if the Chairman of the Council is not present;
- (ii) elect the Chairman of Council;
- (iii) elect the vice Chairman of the Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the Chairman and/or head of the paid service;
- (vi) elect the leader;
- (vii) appoint an overview and scrutiny committee, a Standards Committee and such other Committees as the Council considers appropriate;
- (viii) agree the scheme of delegation as set out in Part 3 of this Constitution;
- (ix) approve a programme of ordinary meetings of the Council for the year; and
- (x) consider any business set out in the notice convening the meeting.

1.2 Selection of Councillors and Committees and Outside Bodies

At the annual meeting, the Council meeting will:

- (i) decide which Committees to establish for the municipal year;
- (ii) decide the size and terms of reference for those Committees;
- (iii) decide the allocation of seats (and substitutes) to political groups in accordance with the political balance rules;
- (iv) receive nominations and appoint Councillors (and substitutes) to serve on each Committee, subject to the proviso that ordinary Members of the Executive Committee shall not be eligible to be ordinary Members of the Planning Committee and vice-versa. For the purposes of clarification the foregoing proviso shall not apply to the appointment of substitute Members. A substitute Member may be appointed without regard to any seat they have as an ordinary Member.

That in dealing with related matters in Committees Members should have regard to the need to declare any personal or prejudicial interest that they may have arising from membership of an earlier meeting.

- (v) delegate to those Committees the power to make appointments to outside bodies appropriate to their terms of reference.

- (vi) Appoint the Chairmen and Vice-Chairmen of Committees subject to the proviso that the maximum continuous period which a person may serve as a Chairman of the Planning Committee is limited to eight years.
- (vii) Approve a programme of ordinary meetings for Committees and Forums for the year subject to the proviso that, where the circumstances are deemed to be exceptional the date of a particular meeting may be changed by the Committee or body concerned or the Monitoring Officer appointed under the Local Government Act 1972 acting in consultation with the relevant Chairman and/or Vice-Chairman.
- (viii) Appoint the Chairmen and Members of the Housing Management Forum and Policy Forums and such other standing or ad-hoc forums as may at the time be appointed.

2. ORDINARY MEETINGS

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

- (i) elect a person to preside if the Chairman and Vice Chairman are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from Members;
- (iv) receive any announcements from the Chairman, Leader or Head of Paid Service;
- (v) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting in accordance with the Council's public participation scheme.
- (vi) deal with any business from the last Council meeting;
- (vii) receive reports from the Council's Committees and receive questions and answers on any of those reports;
- (viii) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (ix) consider motions; and
- (x) consider any other business specified in the summons to the meeting, and reports of the overview and scrutiny committee for debate.

2.1 Virtual Meetings

The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 make provisions for remote attendance at, and remote access to Council meetings held on or before 7th May 2021.

The Regulations enable the Council to hold meetings without all, or any, of the members being physically present in a room. They allow for remote meetings through electronic and digital means at virtual locations using video and telephone conferencing, live webcast and live interactive streaming.

The procedure rules in these Rules and the Virtual Meeting Rules and Protocol take precedence over Council Standing Orders in relation to the governance of remote meetings and will continue beyond 7th May should subsequent legislation permit.

3. EXTRAORDINARY MEETINGS

3.1 Calling extraordinary meetings

Those listed below may request the Monitoring Officer 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
- 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.

3.2 Business

The business to be transacted at an extraordinary meeting will be entirely restricted to that specified in the summons and will exclude, except where the summons indicates otherwise, any other business or proceedings provided for in these rules.

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

4.1 Allocation

That subject to 4.2 as well as allocating seats on Committees and Sub-Committees, the Council will allocate seats in the same manner for substitute Members.

4.2 Number

For each Committee or Sub-Committee, the Council will appoint the same number of substitutes in respect of each political group as that group holds ordinary seats on that Committee or Sub-Committee except that all ordinary Members of the Licensing Committee other than those appointed as ordinary Members of the Licensing Sub-Committee shall be appointed as substitute Members of that Sub-Committee.

4.3 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.

4.4 Substitution

Substitute Members may attend meetings in that capacity only:

- (i) to take the place of an ordinary Member for whom they are a designated substitute;
- (ii) where the ordinary Member will be absent for the whole of the meeting; and
- (ii) after notifying the Monitoring Officer before the commencement of the meeting of the intended substitution.

5. TIME AND PLACE OF MEETING

The time and place of meetings will be determined by the Monitoring Officer and notified in the summons.

6. NOTICE OF 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 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.

7. CHAIR OF MEETING

The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to Committee and Sub-Committee meetings, references to the Chairman also include the Chairman of Committees and Sub-Committees.

8. QUORUM

The quorum of a meeting will be one quarter of the whole number of 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.

9. QUESTIONS BY THE PUBLIC

9.1 General

Members of the public may make representations and ask questions of the Council and Members of the Executive Committee at ordinary meetings of the Council, and may present petitions and deputations in accordance with the Council's schemes within this constitution.

9.2 Order of Questions

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

9.3 Submitting Questions

A question can only be asked if it is delivered in writing or by email to Democratic Services by 5pm two working days before the day of the meeting.

Any request to speak should state the topic on which he/she wishes to speak or raise a question.

9.4 Number of Questions

At any meeting only one question can be asked by any person or organisation

- (a) A person who has spoken at a Council meeting shall not speak at the next subsequent meeting.
- (b) A subject or related matter which has been raised at a Council meeting cannot be raised at the next subsequent Council meeting.

9.5 Scope of Questions

The Chief Executive may reject a question if it:

- Is not about a matter for which the local authority has a responsibility or which affects the borough;
- 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 six months whether or not it has been put by the same person or organisation;
- Requires the disclosure of confidential or exempt information;
- Concerns the appointment, promotion, dismissal, salary, superannuation, conditions of service, or conduct of any person employed by the Council;
- Concerns a matter which is, or which it is known is going to be, the subject of judicial proceedings, tribunals, or public inquiries;
- Affects individual Councillors;

9.6 Replies to Questions

The Leader of the Council or Chairman of the Committee within whose powers and duties the topic falls may answer any questions raised, or it may be discussed by members under an agenda item.

Where not dealt with in the meeting a written response will be provided within 7 working days.

9.9 Reference of Question to a Committee

Any topics raised will not be the subject of debate or voting but where appropriate will stand referred to the appropriate Committee for consideration.

10. QUESTIONS BY MEMBERS

10.1 On Reports of Committees

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

10.2 Questions on Notice at Full Council

Subject to Rule 10.4, a Member of the Council may ask:

- the Chairman;
- the Leader or
- the Chairman of any Committee or Sub-Committee

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

10.3 Questions on Notice at Committees and Sub-Committees

Subject to Rule 10.4, a Member of a Committee or Sub-Committee may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affect the Borough and which falls within the terms of reference of that Committee or Sub-Committee.

10.4 Notice of Questions

A Member of a Committee or Sub-Committee may only ask a question under Rule 10.2 or 10.3 if either:

- (a) they have given at least four working days notice in writing of the question to the Monitoring Officer; or

- (b) the question relates to urgent matters, they have the consent of the Chairman to whom the question is to be put and the content of the question is given to the Chief Executive by not later than 9.30 am. on the day of the meeting.

10.5 Response

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication;
- (c) where the reply cannot conveniently be given orally, a written answer;
- (d) a reply by an Officer present where the person to whom the question has been put considers it appropriate.

10.6 Supplementary Question

A Member asking a question under Rule 10.2 or 10.3 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.

11. MOTIONS ON NOTICE

11.1 Notice

Except for motions which can be moved without notice under Rule 12, written notice of every motion, signed by at least two Members, must be delivered to the Chief Executive at least six clear days i.e. excluding the day of delivery, the day of the meeting, Saturdays, Sundays, and Bank Holidays before the date of the meeting.

These will be entered in a book open to public inspection.

11.2 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 they propose to move it at a later meeting or withdraw it.

11.3 Scope

Motions must be about matters for which the Council has a responsibility or which affect the Borough and comply with the terms of these rules.

12. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee or Members arising from an item on the summons for the meeting;
- (f) to receive reports or adopt recommendations of Committees or Officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular Council procedure rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules.
- (o) to not hear further a Member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4; and
- (p) to give the consent of the Council where its consent is required by this Constitution.

13. RULES OF DEBATE

13.1 No Speeches until Motion Seconded

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

13.2 Right to Require Motion in Writing

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

13.3 Seconders' Speech

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

13.4 Content and Length of Speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. Without the consent of the Chairman no speech may exceed ten minutes in the case of the mover of a motion or amendment and five minutes in all other cases.

13.5 When a Member May Speak Again

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

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

13.6 Amendments to Motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration.
 - (ii) to leave out words;

- (iii) to leave out words and insert or add others; or
- (iv) to insert or add words

as long as the effect of (ii) to (iv) is not to negate the motion.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of, except that.
 - (a) before the amendment under discussion has been disposed of, a Member may give notice of his/her intention to move a further amendment, and, the Chairman may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the Council's business.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

13.7 Alteration of Motion

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

13.8 Withdrawal of Motion

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

13.9 Right of Reply

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

13.10 Motions which may be moved during Debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a Member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4.

13.11 Closure Motions

- (a) A Member may move, without comment, the following motions at the end of a speech of another Member:
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chairman thinks the item had been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the 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.
- (d) 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.

13.12 Point of Order

A Member may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the rule or

law and the way in which he/she considers it has been broken. The ruling of the Chairman on the matter will be final.

13.13 Personal Explanation

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

14. PREVIOUS DECISIONS AND MOTIONS

14.1 Motion to Rescind a Previous Decision

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

14.2 Motion Similar to One Previously Rejected

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

14.3 Reports and Recommendations of Committees

Rules 14.1 and 14.2 shall not apply to motions moved in pursuance of a report or recommendation of a Committee.

15. VOTING

15.1 Majority

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

15.2 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.

15.3 Show of Hands

Unless a recorded vote is demanded under Rule 15.4, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

15.4 Recorded Vote

If two Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

15.5 Budget and Council Tax Setting – Recorded Vote

A recorded named vote is required at Budget Council meetings on agreeing the budget setting Council Tax or issuing precepts. The same requirements would cover voting on any amendments proposed at the meeting.

15.6 Right to Require Individual Vote to be recorded

N.B. This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993.

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.

15.7 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.

16. MINUTES

16.1 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.

16.2 No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting

N.B. This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993.

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.

16.3 Form of Minutes

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

17. RECORD OF ATTENDANCE

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

18. 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 20 (Disturbance by Public).

19. MEMBERS' CONDUCT

19.1 Standing to Speak

When a Member speaks at full Council they must stand and address the meeting through the Chairman. If more than one Member stands, the Chairman will ask one to speak and the other 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.

19.2 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.

19.3 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.

19.4 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 specific period. If seconded, the motion will be voted on without discussion.

19.5 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.

20. DISTURBANCE BY PUBLIC

20.1 Removal of Member of the Public

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

20.2 Clearance of Part of Meeting Room

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

21. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

21.1 Suspension

All of these Council Rules of Procedure except Rule 15.5 and 16.2 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.

21.2 Amendment

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

22. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

All of the Council Rules of Procedure apply to meetings of full Council. Only Rules 5-8, 10-13, 14-16, 18-22 (but not Rule 19.1) apply to meetings of Committees and Sub-Committees.

PUBLIC PARTICIPATION GUIDELINES

General Public Participation Scheme

- (a) As part of its commitment to community governance and openness, Barrow Borough Council welcomes and encourages attendance and contributions by the public at its meetings. This is known as public participation. Information on when the Council and its Committees meets can be found on the Council's website www.barrowbc.gov.uk or by contacting Democratic Services.
- (b) Some meetings, e.g. Planning Committee and Licensing Sub-Committees have separate procedures for speaking at those committees.

The General Public Participation Scheme applies to the following meetings –

- (i) Council (except the Annual Council meeting);
 - (ii) Executive Committee;
 - (iii) Licensing Regulatory Committee (policy matters) (There is a separate procedure for hearings for licensing applications);
 - (iv) Licensing Committee; and
 - (v) Overview and Scrutiny Committee
- (c) Where there is no specific agenda item for public participation, any requests to speak are at the discretion of the Chair.
 - (d) In addition, any part of a meeting where it has been decided that the press and public should be excluded means that public participation cannot be included in the business.
 - (e) Members of the public can make representations, put a question or present a petition to a meeting. (Petitioners should read the Council's Petition Scheme). However, it should be noted that public participants are not subject to the privilege rule and, therefore, individuals who take part should have regard to the laws governing defamation, libel and slander.
 - (f) Public Participation is open to the following people:
 - a resident and/or elector of the borough of Barrow-in-Furness;
 - a representative of a Barrow based group or organisation;
 - a representative of a town or parish council within the Borough of Barrow-in-Furness;
 - a business ratepayer of Barrow-in-Furness; or
 - anyone else, subject to the discretion of the Chair.
 - (g) Representations must relate to those issues which are the responsibility of the meeting to which they are to be made. For advice on this please contact Democratic Services.

- (h) Representations are not permitted where the issue relates to the circumstances of an individual, matters covered by legal or other proceedings or about a member of staff.
- (i) A period of 30 minutes is allotted at the start of each meeting to hear representations, but this can be extended at the discretion of the Chair in situations where there is a clear public interest in participation.
- (j) Anyone wishing to make representations should contact Democratic Services no later than 5pm two working days before the meeting. Generally, Speakers will be taken in the order that their requests to speak have been received with priority being given to requests in writing.
- (k) Requests should include name, address and contact telephone number and indicate if a question, petition or representation is being made.
- (l) The Council's Monitoring Officer reserves the right to omit or refuse a request which includes any matter which appears to be defamatory, frivolous, offensive or for any other legitimate reason. In these cases, where time permits, the person concerned will be informed in writing of the reason for omission or refusal.
- (m) Those asking a question should put their question as notified to Democratic Services. The Chair has discretion to vary the time limits for speaking but generally if making representations, speakers are allowed up to three minutes to put their case. In order to speak on behalf of a group, you must provide the names of all those on whose behalf you will be speaking. Those speaking on behalf of a group may have up to five minutes in which to make representations. This does not apply where the other individual is one of the following:
 - a family member
 - a partner
 - a business associate
 - a member of the same organisation

The Chair may refuse an individual's application to speak if it becomes clear that they would be doubly represented at the meeting.

Democratic Services will acknowledge all requests to speak within two working days of receipt of that request. If your request is received outside of the Council's office hours, the date of receipt will be taken as the next working day. If you do not receive an acknowledgement either within this time frame or before the meeting if sooner, please call Democratic Services who will be pleased to help.

- (n) Responses to representations or questions are at the discretion of the Chair and may (but not necessarily) take one of the following forms:
 - the Chair or officers may answer any questions raised;
 - the issue may be discussed by Members under an agenda item;
 - the meeting can resolve that the matter should be referred to the appropriate Committee; or
 - the Chair may decide that a written response is more appropriate. In this case, a written response will be given within seven working days of the meeting.

- (o) A person who has spoken at one of the Council's meetings (e.g. Council, Executive Committee, a committee or sub-committee meeting), may not speak for a period of six months on the same matter, or a related issue, at any subsequent meetings of the Council, Executive Committee, Committee or Sub-Committee, without the consent of the Chair.
- (p) Any disruptive behaviour may result in the Chair adjourning the meeting and/or the individual concerned being asked to leave.
- (q) The use of Social Media, filming, videoing, photographing or recording of Council meetings or other meetings which are open to the public is allowed, subject to the conditions of the protocol governing the use of mobile phones, social media, filming and recording at meetings attached as an annex to these guidelines.
- (r) The use of social media in formal meetings is permitted for members of the public, press and Councillors, so long as this does not cause any disruption or disturbance. The Chair's decision on whether a disruption or disturbance is being caused is final.
- (s) To minimise disruption to others attending the meeting, all attendees including Councillors must ensure that their phone or other mobile devices are switched off or set to silent mode during the meeting.
- (t) Members utilising the general public participation scheme should indicate in what capacity they are speaking when addressing any meeting on which they are not a member.
- (u) At any meeting of the Overview and Scrutiny Committee held to consider the call-in of an Executive Committee decision, all representations and questions must relate to the reasons for the call-in and must not address the wider context or original decision. For advice on this please contact Democratic Services or the Monitoring Officer. Public participation at such meetings will be taken following the initial presentation by those calling-in the decision and the response from the decision-maker, and prior to the Committee's debate. Petitions may not be submitted to meetings of the Overview and Scrutiny Committee held to consider a call in.

PUBLIC SPEAKING AT PLANNING COMMITTEE REGARDING SPECIFIC PLANNING APPLICATIONS OR ENFORCEMENT AGENDA ITEMS

The Borough Planning Committee consider that their long established policy of allowing applicants and objectors to speak at Committee constitutes good practice.

The arrangements for such presentations shall be equitable to both parties and be in accordance with the following procedure:-

- i. If an objector asks to speak, that objector together with the applicant will be invited to speak at the meeting when the application or matter is first considered.
- ii. If an applicant asks to speak, the applicant, together with all objectors to the proposals, will be invited to speak at the meeting. If there are many objectors they will be asked to appoint no more than three representatives to speak.

How do I register to speak?

You must give notice of your wish to speak by contacting the Planning Business Support team either by email at consultplaning@barrowbc.gov.uk or by telephone on 01229 876405 no later than 12 noon, three working days before the date of the Planning Committee. Planning Committee usually takes place on a Tuesday so you will usually be required to register by no later than 12 noon on the Thursday before that meeting.

You will need to provide:-

- Your name
- Your address
- A contact phone number and an email address
- The planning application or agenda item number of the item upon which you wish to speak.

Business Support will acknowledge all requests to speak within two working days of receipt of that request. If your request is received outside of the Council's office hours, the date of receipt will be taken as the next working day. If you do not receive an acknowledgement either within this time frame or before the Planning Committee if sooner, please call Business Support who will be pleased to help.

Please confirm your attendance no later than 12 noon on the Monday before the meeting date together with a written summary of what you intend to say. If you do not confirm your attendance we will remove you from the list of speakers and you will not be permitted to speak.

Anyone who has registered to speak on a specific planning application or enforcement agenda item should try to arrive at least 15 minutes before the start of the meeting, which are usually held in the Drawing Room at the Town Hall.

How long can I speak for?

People invited to speak at the Planning Committee will be allowed a maximum of five minutes to make their points.

You will be given a reminder shortly before your allocated time comes to an end. In order to ensure fairness to all parties, you will not be allowed to speak beyond your allocated time.

Can I speak on behalf of a group?

Yes. In order to speak on behalf of a group of people, you must provide the names of all those on whose behalf you will be speaking. In cases where there is a group of people wanting to speak, a maximum of 3 persons per side will be permitted to address the committee.

The Chair may refuse an individual's application to speak if it becomes clear that they would be doubly represented at the meeting

What can I say?

Any presentation must be limited to planning considerations.

The planning system operates to regulate the use of land in the public interest and not to protect private interests. The three possible decisions that the Planning Committee can take with regard to planning applications are to approve, refuse or defer.

By law, decisions must be based upon planning considerations, namely:-

- Development Plan policies of the Council (including adopted supplementary documents)
- The National Planning Policy Framework and other national government planning guidance; and
- Other material considerations which must be related to planning such as:-
 - loss of privacy
 - overlooking
 - highway impacts (safety, traffic, parking)
 - noise and disturbance
 - design, scale and appearance of the proposed development
 - flooding
 - effect on conservation areas/listed buildings, wildlife, trees

Decisions cannot, however, be based upon personal issues such as:-

- loss of private views
- business competition boundary disputes
- impact on property values
- impact on private rights
- private covenants and other property matters
- personal comments e.g. allegations about the character or the motive of the applicant

Please do not make statements of a personal or slanderous nature, be abusive or interrupt other speakers, or the Committee, during their debate. If you fail to abide by this requirement, you will not be permitted to address the Committee any further and will be required to leave the Chamber.

If you are unsure as to whether or not what you want to say is a planning consideration please contact the Planning Office 01229 876405 and a member of staff will be able to advise you.

If I am unable to attend can someone speak on my behalf?

If, due to unforeseen circumstances, you are unable to attend or address the Committee then you may appoint someone to speak on your behalf, subject to the approval of the Chair of the Planning Committee and the relevant authority being provided to the representative.

Please note: an agenda item will not be deferred if someone who has registered to speak fails to arrive in time for the item to be considered.

PROTOCOL ON USE OF MOBILE PHONES, SOCIAL MEDIA, FILMING AND RECORDING AT MEETINGS

1. Introduction

- 1.1 This protocol provides guidance to members of the public, press and Councillors on the use of mobile phones, social media and on filming and recording at all formal meetings of Barrow Borough Council (including Executive Committee, Committees and Sub-Committees).
- 1.2 Social media refers to the use of web-based technologies to share information and to interact with online communities, e.g. blogs, Twitter, Facebook.

2. General

- 2.1 It is important that Councillors who are members of the meeting can concentrate fully on proceedings and these Councillors must not be distracted by any filming and recording.
- 2.2 The Chair's decision on whether or not the meeting is being disrupted or disturbed is final. If that is the Chair's decision they have the authority to require the cessation of the use of social media or filming.
- 2.3 Whilst no prior permission is required, as a courtesy anyone proposing to film, record or take photographs during a meeting is requested to tell the Democratic Services Team before the start of the meeting and to provide their name and contact details.
- 2.4 The Council expects those recording the proceedings:-
 - Not to edit the film/ recording/ photographs in a way that could lead to misinterpretation or misrepresentation of the proceedings. This includes refraining from editing an image or views expressed in a way that may ridicule or show a lack of respect towards those being photographed/ recorded or filmed;
 - To comply with any request of a member of the public not be to filmed, recorded or photographed;
 - Not to provide an oral commentary during the meeting as this could be disruptive; and
 - Not to use flash photography.
- 2.5 If intending to bring large equipment or wishing to discuss any special requirements, please contact Democratic Services in advance of the meeting in order, where possible, for any necessary arrangements or adjustments to be made. The Chair may direct that audio/ visual recording

or photography must only take place from a specific location in the meeting room - normally from the public gallery area.

- 2.6 The Chair will, at the beginning of the relevant meeting, make an announcement that the meeting will be filmed, recorded or photographed and will ask if anyone objects to this.

3. Filming, Videoing, Photography and Recording of Meetings

- 3.1 The filming, videoing, photographing or recording of Council meetings or other meetings which are open to the public is allowed, providing it does not disturb the conduct of the meeting.
- 3.2 The Chair of the meeting will have the power to rescind this permission if it is disruptive or distracting to the good order and conduct of the meeting, for example through flash photography or intrusive camera equipment.
- 3.3 All those filming a meeting are requested to only focus on recording councillors, officers and the public who are directly involved in the conduct of the meeting.
- 3.4 If a meeting passes a motion to exclude the press and public then, in conjunction with this, all rights to film, video photograph or record the meeting are removed.
- 3.5 The Council cannot accept liability for any equipment that may be lost, stolen or damaged at its public meetings.

4. Filming Members of the Public

- 4.1 In the case of members of the public speaking at meetings (at Planning Committee, for example) the Chair will ask each individual to give their express permission to being filmed and they will not be filmed if they actively object.

5. Use of Mobile Devices and Social Media

- 5.1 To minimise disruption to others attending the meeting, all attendees including Councillors must ensure that their phone or other mobile devices are switched off or set to silent mode during the meeting.
- 5.2 The use of social media in formal meetings is permitted for members of the public, press and Councillors, so long as this does not cause any disruption or disturbance. The Chair's decision on this point is final.
- 5.3 No Councillor in attendance, whether a decision-maker or observer, is permitted to use social media or mobile devices during a private session (when the press and the public are excluded), or to disclose in any way the content of the items under discussion.
- 5.4 The Members' Code of Conduct will apply when using social media. Inappropriate comments made during a meeting could open Councillors to potential complaints or investigation under the Code of Conduct.

6. Legal Responsibility

- 6.1 Recording and reporting the Council's meetings is subject to the law and it is the responsibility of those doing the recording and reporting to ensure compliance. This will include the Human Rights Act, the Data Protection Act and the laws of libel and defamation.

7. Useful contacts

Members of the public - Democratic Services on Tel: 876312 or ctteadmin@barrowbc.gov.uk

Access to Information Procedure Rules

1. SCOPE

These rules apply to all meetings of the Council, Overview and Scrutiny Committee, Area Committees (if any), policy and other Committees and the Standards Committee (together called meetings).

2. ADDITIONAL RIGHTS TO INFORMATION

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

3. RIGHTS TO ATTEND MEETINGS

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

4. NOTICES OF MEETING

The Council will give at least five clear days' notice of any meeting by posting details of the meeting on the public notice boards at the Town Hall, Barrow-in-Furness.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and reports open to the public available for inspection at Central Reception at the Town Hall, Barrow-in-Furness at least five clear days before the meeting. If an item is added to the agenda later, the designated Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors.

6. SUPPLY OF COPIES

The Council will supply copies of:-

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

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

7. ACCESS TO MINUTES ETC. AFTER THE MEETING

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

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

8. BACKGROUND PAPERS

8.1 List of Background Papers

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

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

but excluding published works or those which disclose exempt or confidential information (as defined in Rule 10).

8.2 Public Inspection of Background Papers

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

9. SUMMARY OF PUBLIC'S RIGHTS

These Rules constitute a summary of the public's rights to attend meetings and to inspect and copy documents and as such are kept at and available to the public at the Town Hall, Barrow-in-Furness.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential Information – Requirement to Exclude Public

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

10.2 Exempt Information – Discretion to Exclude Public

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

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

10.3 Meaning of Confidential Information

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

10.4 Meaning of Exempt Information

Exempt information means information falling within the following ten categories:-

PART 1

Description 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.

PART 2

Qualifications – England

8. Information falling within paragraph 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.
10. Information which –
 - a) Falls within any of paragraphs 1 to 7 above; and
 - b) Is not prevented from being exempt by virtue of paragraph 8 or 9 above, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs and public interest in disclosing the information.

Information falling within any of paragraphs 1-10 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked “not for publication” together with the category of information likely to be disclosed.

Budget and Policy Framework Procedure Rules

1. The framework for decision making

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

2. Process for developing the framework

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

- (a) Each year the Executive Committee will publish a programme for establishing the budget and policy framework for the following year. Within this programme, it will identify any strategic policy or resource issues on which it wishes to request studies by the Overview and Scrutiny Committee.
- (a) Policy studies undertaken by the Overview and Scrutiny Committee should engage as widely as possible with citizens and stakeholders in the community and use a variety of methods to gauge public views. The results should be presented to the Executive Committee, who will then draw on them in developing their proposals to Council.
- (c) The policy and budget framework presented to Council will be available for public consultation.
- (d) Virement within the budget will be permitted in accordance with the Council's Financial Regulations. Any other changes to the policy and budgetary framework are reserved to the Council.

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by policy committees or Officers with delegated authority must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by a policy committee or Officer with delegated authority except changes necessary to ensure compliance with the law, ministerial direction or government guidance.

Overview and Scrutiny Procedure Rules

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

The Council will have one Overview and Scrutiny Committees as set out in Article 6 and will appoint Members as it considers appropriate from time to time. The Committees may appoint Sub-Committees for a fixed period, on the expiry of which they shall cease to exist.

- (a) The Overview and Scrutiny Committee will perform all overview and scrutiny functions on behalf of the Council. The Overview and Scrutiny Committee will consist of a 12 Members of the Council selected in accordance with the political balance rules.
- (b) The Committee will:
 - (i) Perform Overview and Scrutiny Functions in respect of the specific subjects as listed in Table 1.
 - (ii) Appoint such Sub-Committees as it considers appropriate to fulfil those overview and scrutiny functions.
 - (iii) Approve an annual overview and scrutiny work programme in respect of the subjects within its remit, including the programme of any Sub-Committees it appoints so as to ensure that its time is effectively and efficiently utilised.
 - (iv) Put in place a system to ensure that referrals to the Executive Committee, either by way of report or for consideration are managed efficiently.
- (c) The Overview and Scrutiny Committee may in each municipal year appoint Sub-Committees to deal with particular issues including the development of the Council budget.

Such Sub-Committees will be appointed for a fixed period and shall be discontinued either after their work has been concluded by the submission of recommendations to the Overview and Scrutiny Committee or at the end of the municipal year in which they have been appointed.

2. Who may sit on the Scrutiny Committee?

One Executive Committee Member from each political group may be appointed to the Overview and Scrutiny Committee. The Leader of the Council should not sit on the Overview and Scrutiny Committee. All other Councillors qualify to sit on the Committees and any Sub-Committee established.

3. Co-optees

The Overview and Scrutiny Committee or Sub-Committees may include persons who are not Members of the Council as non-voting co-optees.

4. Meetings of Overview and Scrutiny Committee

Ordinary meetings of the Overview and Scrutiny Committee will be in accordance with a programme of meetings agreed by the Council at its annual meeting in accordance with Council Procedure Rule 1.2(vii). In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting may be called by the Chairman of the Committee, by any three Members of the Committee or by the Monitoring Officer if he/she considers it necessary or appropriate.

5. Quorum

The quorum for the Overview and Scrutiny Committee shall be as set out for Committees in the Council Procedure Rules in Part 4 of this Constitution.

The quorum of a Sub-Committee shall be no fewer than two Members.

6. Who Chairs Overview and Scrutiny Committee meetings?

The Council appoints the Chairman of the Overview and Scrutiny Committee from among the Councillors on the Committee except that the person appointed may not be a Member of the Executive Committee. The Chairman of the Overview and Scrutiny Committee will be selected from the largest opposition political group other than that of the Chairman of the Executive Committee.

7. Work programme

The Overview and Scrutiny Committee and any Sub-Committee will be responsible for setting their own work programme. They will be expected to review at least one major policy issue during the municipal year. They must give serious consideration to the number of issues to be reviewed during the year to ensure that they are able to allocate resources sufficient to facilitate a thorough review of the issues selected.

8. Agenda Items

Any Member of an Overview and Scrutiny Committee or a Sub-Committee shall be entitled to give notice to the Monitoring Officer 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 the Committee or Sub-Committee. On receipt of such a request the Monitoring Officer will ensure that it is included on the next available agenda.

Any Member of the Council who is not a Member of an Overview and Scrutiny Committee may give written notice to the Monitoring Officer that they wish an item to be included on the agenda of the relevant Overview and Scrutiny Committee. If the Monitoring Officer receives such a notification, then he/she will include the items for consideration on the first available agenda of the Committee.

Once the item has been dealt with, no one can propose a similar item for six months.

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

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

10. Reports from Overview and Scrutiny Committee

- (a) Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Monitoring Officer for consideration by the Executive Committee (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).

- (b) If the Overview and Scrutiny Committee cannot agree on one single final report to the Council or Executive Committee as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Executive Committee with the majority report.
- (c) The Council or Executive Committee shall consider the report of the Overview and Scrutiny Committee following it being submitted to the Monitoring Officer and included on the agenda for that next ordinary meeting.

11. Making sure that Overview and Scrutiny reports are considered by the Executive Committee

Once the Overview and Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its final report to the Monitoring Officer who will allocate it to either or both the Executive Committee and Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework.

If the Monitoring Officer 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 Committee will have six weeks in which to respond to the 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 Committee to the overview and scrutiny proposals.

12. Rights of Overview and Scrutiny Committee members to documents

Subject to Rule 12.1 below, the Overview and Scrutiny Committee (including its sub-committees) will be entitled to copies of any document and notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

12.1 Limit on Rights

The Overview and Scrutiny Committee will not be entitled to:

- (a) Any document that is in draft form;
- (b) Any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (c) The advice of a political adviser.

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 of the Council functions within its specific remit. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Executive Committee, the Head of Paid Service and/or any relevant Officer 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) Where any Member or Officer is required to attend an Overview and Scrutiny Committee under this provision, the Chairman of that Committee will inform the Monitoring Officer.

The Monitoring Officer shall inform the Member or Officer in writing giving at least ten working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (c) Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Overview and 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 for example wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and shall invite such people to attend.

It is recognised that attendance is entirely optional for the persons concerned.

15. Call-In

Call-in should only be used in exceptional circumstances. These are where Members of the Overview and Scrutiny Committee have evidence which suggests that the policy committee did not take a delegated decision in accordance with the policy framework and the principles set out in Article 11 (Decision Making).

A request for call-in must be referred to the Monitoring Officer who, subject to the exception in (g) below, shall prepare a report for consideration by the Overview and Scrutiny Committee which deals particularly with the purported breaches of the policy framework and principles of Article 11.

- (a) When a delegated decision is made by a Policy Committee or an Area Committee or under joint arrangements, 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 days of being made.

All Councillors will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless the Overview and Scrutiny Committee objects to it and calls it in.
- (c)
 - (i) During that period, the Monitoring Officer shall, subject to (h) below call-in a delegated decision for scrutiny by the Committee if so requested by the Chairman or any three Members of the Committee, and shall give appropriate notice of the call-in.
 - (ii) He/she shall call a meeting of the Committee on such date as he/she may determine, where possible after consultation with the Chairman of the Committee, and in any case within seven working days of the decision to call-in.
- (d) 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 body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision making body they shall then reconsider the matter within a further seven working days, amending the decision or not, before adopting a final decision.

- (e) If following an objection to the decision, the Overview and Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making body, the decision shall take effect on the date of scrutiny meeting, or the expiry of the period in (c) (ii) above.
- (f) Any matter referred to full Council under this procedure will be determined by the Council.

EXCEPTIONS

- (g) In order to ensure that call-in is not abused, or causes unreasonable delay, the following limitation is to be placed on its use.

The Monitoring Officer has satisfied himself/herself that the decision has been taken in accordance with the principles of Article 11 (Decision Making) and the policy framework and has notified his decision and reason in writing to the Members concerned.

CALL-IN AND URGENCY

- (h) The call-in procedure set out above shall not apply where the decision being taken by a policy committee 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 shall state whether in the opinion of the decision making body, the decision is an urgent one, and therefore not subject to call-in.

The Chairman of the Council 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 Council, together with the reasons for urgency.

- (i) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

16. The party whip

When considering any matter in respect of which a Member of an Overview and Scrutiny Committee or 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/Sub-Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

17. Procedure at Overview and 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 whipping declaration);
 - iii) consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
 - iv) responses of a policy committee to reports of that Overview and Scrutiny Committee; and
 - v) the business otherwise set out on the agenda for the meeting.

- (b) Where an Overview and Scrutiny Committee conduct investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
 - i) that the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
 - iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

- (c) Following any investigation or review, the Committee/Sub-Committee shall prepare a report, for submission to the Executive Committee and/or Council as appropriate and shall make its report and findings public.

Table 1:

Terms of Reference: Overview and Scrutiny Committee

Terms of Reference

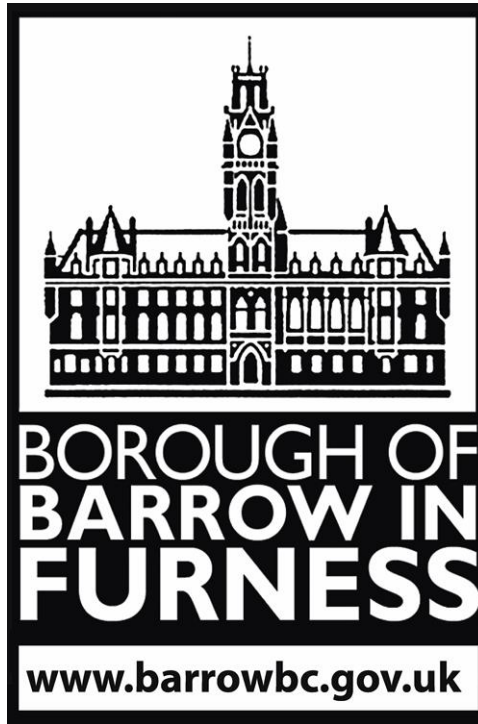
To investigate, scrutinise, monitor, oversee and comment on service delivery mechanisms, policy implementation, or any other issue affecting the Borough or its residents provided that they have previously been considered by either the Executive Committee or Council.

Areas of Responsibility

Allotments
Building Control
Business Rate Collection
Capital Programme
Cemeteries and Crematorium
Coastal Protection
Community Centres
Corporate and Democratic Services
Crime and Disorder Reduction Partnership
Council Tax Collection
Cultural Services
Development Control
Dog Warden
Economic Development
Elections
Emergency Planning
Estates
Financial Services
Health and Safety
Highways and Parking
Housing Services
Information Technology
Land Searches
Legal Services
Licensing
Local Authority Benefits
Markets
Neighbourhood Renewal
Personnel
Planning
Policy and Strategy
Public Conveniences
Public Protection Services
Recycling
Regeneration Partnerships
Sports and Recreation
Streetcare
Town Centre Management
Tourism

Role of Overview and Scrutiny Committee

- To review and monitor performance against targets, to promote and ensure efficient and effective performance standards and quality service delivery.
- To secure value for money in the proper use of resources.
- To carry out reviews of policy and policy implementation.
- To review and monitor performance against targets.
- To undertake reviews of budget proposals.
- To assess the impact of public services on the Community.
- To review the decisions of the Executive Committee.



Financial Regulations

**Director of Resources
Resources Directorate**

Reviewed March 2022

Financial Regulations

Barrow Borough Council is committed to ensuring a sound financial management framework is in place that is relevant and provides the necessary financial controls to meet the demands of delivering local services.

The Financial Regulations also provide clarity about the financial accountabilities of individuals - Members, the Chief Executive and Head of Paid Service, the Monitoring Officer, the Director of Resources and Section 151 Officer, other Heads of Service and staff generally. These Regulations are therefore formally endorsed by the Council as a key part of the Council's Constitution.

The Financial Regulations provide the overall key control framework to enable Barrow Borough Council to exercise effective financial management and control of its resources and assets. Another key purpose of the Regulations is to support and protect Members and staff in the performance of their duties where financial issues are involved.

These Regulations need to be read in conjunction with the remainder of the Constitution and any other regulatory documents of the Council.

Please address queries or comments regarding the Council's Financial Regulations to the Director of Resources.

Section 1: General

WHY ARE THESE REGULATIONS IMPORTANT?

It is important that the Council has a sound and effective financial management framework in place to safeguard the Council's financial arrangements and activities, to support staff and to minimise risk. The Local Government Act 1972, Section 151 requires the Council to nominate one of its officers to be responsible for the proper administration of its financial affairs. The officer so appointed is the Director of Resources and in their absence the Accountancy Services Manager and the Financial Services Manager take on these delegations unless otherwise stated. Financial Regulations form part of the Council's approach to corporate governance and provide a control framework through which the Director of Resources carries out their statutory duty on behalf of the Council.

1. Application of Financial Regulations

Financial Regulations are the framework for controlling and managing the Council's financial affairs. They apply to every Member and officer of the Council and anyone acting on its behalf:

- a. These Regulations identify the financial responsibilities of the Full Council, the Executive Committee, the Audit and Governance Committee, the Head of Paid Service, the Section 151 Officer and Heads of Service generally. References to Heads of Service include the Chief Executive and Directors. References to the Director of Resources refer to their role as Section 151 Officer.
- b. References in these Regulations to Heads of Service also apply to individual department and cost centre managers.
- c. These Regulations apply equally to all external agencies and their employees incurring expenditure or receiving income on behalf of the Council. Accordingly, Heads of Service will ensure that partnership and other arrangements with external parties are not set up to operate in conflict with these Regulations as far as the Council's involvement is concerned.
- d. These Regulations will apply until such time as they are rescinded, amended or suspended by the Council.

2. General responsibility

- a. All Members and staff have a general responsibility for taking reasonable action to provide for the security of any assets under their control, and for ensuring that the use of resources is legal, is properly authorised and provides the best value for money.
- b. Any officers of the Council receiving any financial related Government Department correspondence will immediately forward a copy to the

Director of Resources. The Director of Resources must be consulted in connection with any correspondence or discussions that have financial implications.

- c. All Members and staff of the Council must abide by the codes and protocols of the Council.
- d. Money held or received on behalf of the Council will not be borrowed or used to en-cash personal cheques.
- e. Heads of Service are responsible for informing the Director of Resources of any matter liable to materially affect the finances of the Council including negotiations with Government Departments, before any commitment is incurred or arrangements reached.

3. Compliance

Heads of Service are responsible for making all staff in their departments aware of the existence of and content of these Financial Regulations and for their compliance with them.

4. Review

The Director of Resources will maintain a continuous review of the Financial Regulations and submit any necessary additions or changes for approval by Council. The Director of Resources will report, where appropriate, breaches of the Financial Regulations to the Audit and Governance Committee.

Section 2: Internal Controls

WHY ARE THESE REGULATIONS IMPORTANT?

The functions of the Council are diverse and therefore to ensure delivery of the Council's strategic objectives, a framework of internal control is required.

The Council has statutory obligations and therefore requires internal controls to identify, meet and monitor compliance with these obligations.

The Council faces a wide range of financial, administrative and commercial risks, from both internal and external factors, that need to be managed to enable the Council to achieve its objectives. Internal controls are necessary to manage these risks.

A system of internal controls is established in order to provide measurable achievement of: efficient and effective operations, reliable financial information, compliance with laws and regulations, and risk management.

1. The Director of Resources has statutory duties in relation to the financial administration and stewardship of the Council. This responsibility cannot be overridden. The statutory duties arise from:
 - a. Section 151 of the Local Government Act 1972.
 - b. The Local Government Finance Act 1988.
 - c. The Local Government and Housing Act 1989.
 - d. The Accounts and Audit (England) Regulations 2011 (as amended).
 - e. The Local Government Act 2003.
2. The Director of Resources is responsible for:
 - a. The proper administration of the Council's financial affairs.
 - b. Setting financial management standards and monitoring compliance with them.
 - c. Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.
 - d. Providing financial information.
 - e. Preparing the revenue budget and capital programme.
 - f. Treasury management.
 - g. Reporting on the robustness of estimates made for the purposes of preparing budgets and the adequacy of the proposed financial reserves.
 - h. Maintaining an effective Internal Audit service.

3. The Director of Resources will report to the Full Council, Executive Committee and external auditor in fulfillment of their statutory obligations under Section 114 of the Local Government Act 1988 or otherwise if the Council or any of its officers:
 - a. has made, or is about to make, a decision that involves incurring unlawful or unauthorised expenditure
 - b. has taken, or is about to take, an unlawful or unauthorised action that has resulted or would result in a loss or deficiency to the Council
 - c. has made or is about to make an unlawful or unauthorised entry in the Council's accounts
4. The Director of Resources is responsible for recommending Contract Standing Orders and monitoring compliance with them.
5. Heads of Service are responsible for ensuring that:
 - a. Members of the Executive Committee are advised of the financial implications of all proposals and that these have been previously agreed by the Director of Resources
 - b. contracts are duly signed on behalf of the Council and the Council Seal is applied where applicable
 - c. the approval of the Director of Resources is sought on any matter liable to affect the Council's finances materially, before any commitments are incurred
6. The Director of Resources will assist the Council to put in place an appropriate control environment and effective internal controls that provide reasonable assurance of effective operations, financial stewardship, probity and compliance with laws and regulations. The Director of Resources shall eliminate practices that are identified as inefficient or wasteful of Council resources.
7. Heads of Service will ensure that:
 - a. managerial control systems operate effectively throughout their departments. These will include the setting of objectives and plans, the monitoring of financial and other performance, and the taking of appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities and ensuring staff have a clear understanding of the consequences of any lack of control.
 - b. financial and operational control systems and procedures operate effectively throughout their departments. These will include physical safeguards for assets, segregation of duties, checking and authorisation procedures and information systems.
 - c. key controls and control objectives for internal control systems are reviewed regularly in order to be confident as to the proper use of resources, achievement of objectives and management of risk.
 - d. processes are managed so as to check that established controls are being adhered to and are effective.

- e. existing controls are reviewed in the light of changes affecting the Council and new controls are established and implemented in line with guidance from the Director of Resources.
 - f. controls that are no longer necessary, or no longer cost or risk effective, are removed
8. The Director of Resources will ensure that there is an effective and properly resourced Internal Audit function.
9. As part of the system of internal controls a Programme Board has been established comprising of Senior Management Team supported by relevant officers which will have oversight of the major contracts and projects which are reported into the Board on a regular basis.

Section 3: Accounting

WHY ARE THESE REGULATIONS IMPORTANT?

Maintaining proper accounting records is one of the ways the Council discharges its responsibility for stewardship of public resources. The Council has a statutory duty to prepare its annual Statement of Accounts in a way that gives a true and fair view of its operations during the year. The accounts are subject to external audit, which provides assurance that they have been prepared properly, that proper accounting practices and statutory requirements have been followed. There is also a statutory right for members of the public to inspect the accounts and relevant supporting documentation.

1. The Director of Resources is responsible for:
 - a. selecting and applying appropriate accounting policies
 - b. determining accounting procedures and policies
2. The Director of Resources will:
 - a. make arrangements for the proper administration of the Council's financial affairs
 - b. apply accounting policies consistently
 - c. maintain proper accounting records
 - d. ensure that the Statement of Accounts for the previous financial year is completed, approved by the appropriate Committee and published within the corporate and statutory timetable and in accordance with relevant Codes of Practice
3. Heads of Service will ensure:
 - a. that all the Council's transactions, material commitments, contracts and other essential accounting information are recorded completely, accurately and promptly
 - b. that in the allocation of accounting duties of any kind:
 - i. the duty of providing information, calculating, checking and recording sums due to or from the Council will be separated from the duty of collecting or paying such sums
 - ii. officers charged with the duty of examining and checking accounts of cash or stocks transactions will not themselves be engaged in any of those transactions
 - c. that the Director of Resources is supplied with such information as may be requested from time to time for the purpose of the proper administration of the Council's affairs
4. The Council will ensure that where there are group accounting requirements, i.e. Barrow Forward Limited)
 - a. the Director of Resources is provided with all of the information required to produce the group entity Statement of Accounts within statutory deadlines
 - b. there is an established process to obtain assurances and evidence to support transactions and balances held at any point in time and in particular at year-end and in response to the Council's own annual audit
 - c. entities have the same financial year as the Council
 - d. the arrangements for retaining the appropriate financial records is robust
 - e. the external reporting required, such as company accounts, is arranged with suitably qualified persons
 - f. monitoring and reporting includes financial information
 - g. an annual budget requirement is established

Section 4: Revenue Budgets

WHY ARE THESE REGULATIONS IMPORTANT?

The Council is responsible for producing an overall policy framework. The purpose of the framework is to explain overall priorities and objectives, and ensure that resources follow the identified priorities, current performance and proposals for improvement. The revenue budget is important in this context because, together with the capital programme (see Section 5), it expresses the approved policies and service levels of the Council in financial terms.

Once approved, the revenue budget confers authority on managers to incur expenditure to achieve the aims and objectives of the Council. If expenditure plans cannot be met within the approved budget, then they can only proceed with an approval to divert funds (as provided for in Section 7(4)).

1. The Director of Resources will:
 - a. recommend to the Executive Committee appropriate guidelines for preparation of the annual budget
 - b. recommend to the Executive Committee the Council's Medium Term Financial Plan incorporating the annual budget and the financial forecast for at least the following two financial years
 - c. recommend the level of financial reserves for the annual budget and future financial plans
 - d. issue appropriate guidance to Heads of Service and prepare a corporate budget timetable
 - e. ensure the approved budget guidelines are complied with so that statutory and other deadlines can be met

2. Heads of Service will:
 - a. submit to the Director of Resources estimates in accordance with the budget guidelines and within agreed time scales
 - b. ensure that the estimates are prepared having regard to the Council priorities and other corporate aims and objectives
 - c. for each cost centre, supply to the Director of Resources an estimated profile of the rate of expenditure or income across the budget year
 - d. provide any information the Director of Resources may require

3. The Director of Resources will report to the Executive Committee (via the Housing Management Forum for the Housing Revenue Account) and to Full Council:
 - a. on the revenue estimates, ensuring that the context and format comply with legal requirements and relevant Codes of Practice
 - b. on the robustness of the estimates made for the purposes of calculations and the adequacy of the proposed financial reserves

- c. on any significant surplus or deficit arising on the Collection Fund with a recommended course of action
 - d. on the final proposed budget to enable the Leader of the Council to make a recommendation to Full Council on the appropriate levels of provisions and reserves, and on the levels of Council Tax for the year
4. Final acceptance of revenue estimates can only be made by Full Council.
 5. Subject to (6) below, the approval of a budget for the year by Full Council confers authority to spend in accordance with the budget for that year. Commitments affecting future financial years may only be made where the provisions of Section 7(6) are satisfied. Heads of Service are responsible for co-ordinating programmes of expenditure and income that will achieve the objectives on which the budget was based.
 6. Heads of Service will not enter into any new arrangements or other contractual commitments with long-term revenue consequences without the prior written consent of the Director of Resources. Such arrangements may be defined for this purpose as any lease, contract hire or other contract or series of contracts under which the use of an asset is obtained in exchange for a series of revenue payments which extend beyond the end of the following financial year.
 7. If Heads of Service need to incur expenditure outside the approved budget provision, or anticipates an under spend against an approved budget head, the procedures set out in Section 7(5a) and 7(3) will apply.

Section 5: Capital Programme

WHY ARE THESE REGULATIONS IMPORTANT?

The revenue budgets (Section 4) and the capital programme together express the approved policies and service levels of the Council in financial terms. It is important to ensure that the Council achieves maximum economy, efficiency and effectiveness from the use of its capital resources and directs those resources into the agreed priority areas. Unlike the revenue budget however, due to the uncertainty of capital resources and the timing of capital projects, total capital expenditure is often over or under programmed against estimated resources, so special controls are needed to ensure commitments do not exceed the resources available.

1. The Director of Resources is responsible for preparing a Capital Strategy with periodic reviews submitted to the Executive Committee for approval.
2. The Director of Resources will:
 - a. maintain current estimates of resources available to finance capital expenditure in the current year and at least the following two financial years
 - b. maintain a capital programme for approval periodically by the Executive Committee, based on the current Council priorities and other relevant corporate plans and strategies.
 - c. following assessment by the Programme Board receive all formal appraisal reports for capital project proposals and approve their submission where relevant to the Executive Committee
3. Heads of Service will:
 - a. submit to the Programme Board, estimates of the cost of capital spending proposals and the estimated amount and timing of any capital receipts and other contributions receivable
 - b. ensure that the estimates submitted are prepared having regard to the Council priorities and other corporate aims and objectives
 - c. ensure that all capital project proposals are the subject of a formal appraisal by the Programme Board defining the need, purpose, options, risks and financial implications which must include all capital considerations and subsequent revenue implications
 - d. provide any other information the Director of Resources may require for the review, monitoring or control of the capital programme
4. In working up any capital scheme, Heads of Service will have regard to the risk of triggering claw back or breaching restrictive covenants or other contractual conditions in relation to land or otherwise.

5. The inclusion of a capital scheme within an approved capital programme will confer authority to spend, including expenditure which may fall in a subsequent financial year, subject to:
 - a. the provisions of the Council's Contracts Standing Orders
 - b. the provisions of (7) below
 - c. the Director of Resources having first confirmed in writing that sufficient resources are available for the purpose
 - d. scheme details being approved by the Executive Committee where necessary
6. If Heads of Service wish to incur expenditure outside the approved capital programme provision, the procedures set out in Section 7(5b) will apply.
7. Heads of Service will give the Director of Resources early warning of known under spends, overspends and changes to planned resources so that the availability of uncommitted capital resources may be monitored effectively.

Section 6: Authorised Signatories

WHY ARE THESE REGULATIONS IMPORTANT?

Officers with delegated authority to incur expenditure on behalf of the Council must act in accordance with the codes and protocols of the Council and where appropriate operate within the Council's Contract Standing Orders.

Each officer has a financial limit set on the activities that they are authorised to commit up to. In addition to this, officers may have authority to approve contracted payments over and above the financial limit for day-to-day commitments for their budgets.

1. The names of officers authorised to sign for cost centres and contractual payments will be agreed with the Director of Resources on an approved form, with the officers' specimen signatures provided. The approved form is to be signed by the cost centre manager and relevant Head of Service, prior to the Director of Resources' review and authorisation.
2. The certification by or on behalf the cost centre manager will be taken to mean that the authorising officer is satisfied that the expenditure is authorised, properly and necessarily incurred and payable by the Council.
3. The Director of Resources will be notified immediately of any authorised signatories who leave the Council's employment or cease to be authorised to sign. The Director of Resources will immediately give authorisation to remove all access to financial systems.
4. All authorised signatories will sign in their own hand. Electronic Certification may be used if this is agreed between the parties.
5. The Director of Resources will maintain a register of authorised signatories which will be subject to review.

Section 7: Budgetary Control

WHY ARE THESE REGULATIONS IMPORTANT?

Budgetary control ensures that once Full Council has approved a revenue budget or a capital programme, the resources allocated are used for their intended purposes, i.e. the agreed priority areas, and are properly accounted for. It is a continuous process, enabling the Council to review and adjust its budget targets during the financial year to make the most effective use of resources in delivering the Council's policies and objectives. The budgetary control framework also sets out the accountabilities of managers for defined elements of the budget.

By continuously identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity.

To ensure that the Council as a whole does not over or under spend, each service is required to manage its own expenditure within approved resources and to identify any surplus resources for diversion to other areas.

1. Overall responsibility for budgetary control

The Director of Resources is responsible:

- a. for the overall financial control of the revenue budgets and capital programme of the Council
- b. for providing quarterly financial performance information to the Executive Committee
- c. for subdividing service budgets within the overall budget framework according to Council structure and services, having regard to relevant Codes of Practice
- d. for allocating the revenue budgets and capital programme wholly among responsible Heads of Service
- e. for supplying timely information on receipts and payments on each cost centre and capital scheme, sufficiently detailed to enable managers to fulfill their budgetary control responsibilities

2. Responsibility for control of individual budgets

Heads of Service are responsible:

- a. for the budgets and programmes allocated to them, for delivering the levels of service on which they were based, and for compliance with their financial obligations
- b. for monitoring levels of service and performance within services, as measured by expenditure and income incurred against relevant cost centres and capital programme provision, and by benchmarking their service against similar providers to demonstrate value for money

- c. for seeking virements, either to increase or to reduce the provision allocated to particular budget heads or capital schemes, in accordance with (4) below in order to maintain budget provisions in line with the service levels required
- d. for exercising powers delegated to them to enter into new financial commitments only where adequate provision has been made in the revenue budget or capital programme and where the revenue consequences for future financial years are in accordance with (6) below
- e. for providing any additional information the Director of Resources may require

3. Variances from budget

The Director of Resources is responsible:

- a. for reporting significant variances to the Executive Committee where a Head of Service fails to take action under (4) to (6) below
- b. for agreeing annually:
 - i. a list of expenditure proposals for which revenue budget provision had been made in the previous year and for which the particular goods or services had not been supplied before the financial year end
 - ii. a list of expenditure proposals on capital schemes for which provision had been made in the capital programme for the previous year but which was under or overspent so that supplementary estimates may be considered for the ensuing financial year in accordance with (5) below

4. Virements between budgets

- a. Subject to appropriate consultation, budget allocations may be moved between revenue cost centres for the purpose of maintaining approved service levels, in accordance with the following scheme of virements:
 - i. Up to £5,000 by the Heads of Service
 - ii. Up to £25,000 by the Accountancy Services Manager and the Financial Services Manager
 - ii. Over £25,000 by the Director of Resources and any virements over £50,000 will be identified in the budget monitoring report

and in making any such decision, due regard will be had to any budget implications for future financial years.

- b. Heads of Service may only make virements between the direct costs under their control; this includes items such as supplies and services and excludes items such as staffing and allocated support services.
- c. Virement between the General Fund and the Housing Revenue Account is not permitted, nor between revenue and capital.
- d. Virement between cost centres within the discrete funds is possible with the mutual consent of the relevant Heads of Service.

5. Supplementary estimates

a. Revenue expenditure

Where no provision currently exists in the revenue budget, or where the provision made for an existing budget head is insufficient and a virement is not available under (4) above, then new or additional budget provision may be established using financial reserves in accordance with the Reserves and Balances policy.

For unbudgeted but necessary expenditure that could impact on service delivery if not incurred, the following scheme of supplementary estimates should be followed:

- i. does not exceed 1% of the net revenue budget - by the Director of Resources after appropriate consultation with the Chief Executive. The Director of Resources must report these items to the Executive Committee at the earliest opportunity
- ii. exceeds 1% of the net revenue budget - by the Executive Committee
- iii. where general earmarked reserves are available - by the Director of Resources or a specific reserve has its purpose changed to allow its immediate use - by the Executive Committee

For emergencies, unexpected events or unbudgeted statutory items the Director of Resources can authorise a supplementary estimate and must report these items to the Executive Committee at the earliest opportunity.

The Executive Committee can, on the recommendation of the Director of Resources, eliminate or reduce the funds in earmarked reserves by adding them to the revenue balance.

In making any such decision, due regard will be given to any budget implications for future financial years.

b. Partnership Expenditure and Additional External Funding

Where no provision currently exists in the revenue budget or capital programme for specific projects or activities which are to be wholly or partly funded by external agencies, partners or new/additional external funding is drawn into the Council, then the above criteria for supplementary estimates will apply to the value of the Council's net financial contribution to the revenue or capital cost of the project.

Where the impact is a net zero, the Director of Resources, Accountancy Services Manager and Financial Services Manager are empowered to adjust revenue budgets and capital programmes to reflect the gross value of all such arrangements and transactions.

Heads of Service must liaise with the Director of Resources and the Monitoring Officer, and refer to Section 9 of these Regulations, prior to undertaking any bidding for external funding or setting up any partnerships.

6. Commitments of revenue expenditure affecting future financial years

The following arrangements will apply in relation to the commitment of expenditure prior to the approval of the revenue budget for the financial year concerned:

- a. Heads of Service may commit expenditure affecting future financial years provided the estimated cost in real terms does not exceed the current year's budget provision and that the written consent of the Director of Resources is obtained where Section 4(5) applies.
- b. Heads of Service may only commit expenditure on new or extended services with the approval of the Executive Committee.

7. Other matters affecting budgets

Heads of Service are responsible for alerting the Director of Resources of any issues with the potential to affect revenue or capital budgets or resources in the current year or future years, and where significant the Director of Resources will report such matters to the Executive Committee at the appropriate time.

No recurring expenditure will be committed that would take the General Fund or Housing Revenue Account in excess of the agreed budget, without a supplementary budget agreed by Full Council following Executive Committee recommendation.

Section 8: Procuring and paying for Works, Supplies and Services

WHY ARE THESE REGULATIONS IMPORTANT?

The letting of public contracts should be done with demonstrable transparency and in accordance with Council policies, including the policy on fraud and corruption. It is essential for maintaining public confidence that the Council and its officers are seen to act with complete fairness and impartiality in the letting of contracts.

The Council has a statutory duty to achieve best value for money, partly through economy and efficiency. The Council's procedures should help to ensure that services obtain value for money from their purchasing arrangements. All of the Council's procurement and payment activities must be in compliance with the provisions of the Bribery Act 2010.

In compliance with the Public Services (Social Value) Act 2012, all major procurement shall recognise the impact of the social and economic well-being of the Borough and in particular ensure that, wherever possible, procurement supports the local economy. Whilst looking at Social Value the Best Value duty remains throughout.

These Regulations should be read in conjunction with the Council's Contract Standing Orders.

For procurement, the adopted principle is that the Council aims to deliver value for money when procuring goods and services. This is balanced with consideration to sustainability, the local economy and fair competition to all providers.

1. Placing Orders for Works, Supplies and Services

- a. The Contract Standing Orders contain the Council's procurement rules and thresholds for low value procurement, sub-threshold procurement and above threshold procurement.
- b. The Contract Standing Orders apply to all procurement activities.
- c. All officers entering into contractual arrangements must enter the necessary information into the Council's electronic contract register.
- d. For all procurements above the threshold a Procurement Checklist is required.

2. Other contract terms

Heads of Service will:

- a. in consultation with the Director of Resources include in every contract appropriate clauses to cover financial and insurance requirements, and to provide sufficient security for due performance
- b. put in place adequate procedures for the effective cost control of all contracts

3. Receipt of Works, Supplies and Services

Heads of Service will put in place adequate systems for verifying the performance of work or the receipt of supplies and services. In particular controls will be established to ensure that:

- a. the work done or supplies and services received are as specified
- b. the quality or workmanship is of the required standard
- c. the expenditure has been duly authorised, is properly payable by the Council and is within budget estimates
- d. the price to be paid is correct
- e. the account has not previously been passed for payment
- f. appropriate entries have been made in inventory, stock or other records
- g. the account is arithmetically correct

4. Payment for Works, Supplies and Services

- a. Heads of Service will make adequate and effective arrangements approved by the Director of Resources for checking and certifying invoices and other requests for payment without undue delay.
- b. All certified invoices will be dealt with in a manner set by the Director of Resources and will, where possible, quote the Council's official purchase order number.
- c. The Director of Resources or their representative has the right to perform checks against any invoice, before or after payment, to ensure correct procedures have been applied.
- d. The Director of Resources will decide the most effective way for the Council to make payments; payments may only be made by direct debit with the prior approval of the Director of Resources, Accountancy Services Manager or Financial Services Manager.
- e. Proforma invoices will only be used for the purposes approved by the Director of Resources.
- f. Minor items of expenditure, up to a limit set by the Director of Resources, may be paid under petty cash procedures determined by the Director of Resources.

5. General

- a. Every Member and officer engaged in contractual or purchasing decisions on behalf of the Council will declare any links or personal interests they may have with purchasers, suppliers and contractors, and will comply with the provisions of the appropriate Codes of Conduct.
- b. Heads of Service will ensure that the final account is cleared by Internal Audit before any retention is paid.
- c. Heads of Service will ensure that the duties of ordering works, supplies or services, receiving them, certifying and approving for payment are not performed by the same officer.
- d. All Information Technology hardware and software acquisitions must be made in consultation with the IT Manager and for financial systems or those that interact with such systems, with the additional approval of the Director of Resources.

Section 9: Work carried out for others

WHY ARE THESE REGULATIONS IMPORTANT?

Legislation enables the Council to provide a range of services to other bodies. Such work may help maintain economies of scale and existing expertise. It may also be helpful to share the Council's facilities, expertise and resources with others under partnership arrangements. Effective controls should be in place to ensure that any risks associated with such work are minimised and that the work falls within the Council's statutory powers.

1. Financial Regulations apply equally to any service carried out by the Council on behalf of any other Council, body or person. Heads of Service will not set up partnership or other arrangements with external parties to operate in conflict with these Regulations as far as the Council's involvement is concerned.
2. Heads of Service will:
 - a. properly assess the financial implications of the proposal prior to commitment following consultation with the Director of Resources
 - b. draw up contracts having regard to the Council's powers, relevant policies and protocols and in compliance with any insurance or other requirements of the Director of Resources
 - c. have regard to the Contract Standing Orders and other requirements of the Director of Resources.

Section 10: External funding and partnership arrangements

WHY ARE THESE REGULATIONS IMPORTANT?

Partnerships play a key role in delivering community strategies and in helping to promote and improve the well being of the Borough. The Council works in partnership with others - public agencies, private companies, community groups and voluntary organisations - and its distinctive leadership role is to bring together the contributions of the various stakeholders. The Council will mobilise investment, bid for funds, champion the needs and harness the energies of local people and community organisations. It will be measured by what it achieves in partnership with others.

Partnerships can provide ways to access new resources and share risk. They can also lead to innovative and improved ways of delivering services whilst forging new relationships. Whilst external funding is a very important source of income, funding conditions need to be carefully considered to ensure they are compatible with the aims and objectives of the Council. In some instances, tight specifications may not be flexible enough to link to the Council's overall plan. Also, new ways of working can increase the Council's exposure to fraud and to irregularities in the operation of, for example, VAT, insurances, and pay.

1. Bidding for external funding

- a. Heads of Service will seek external resources only to further the priorities and aims of the Council.
- b. Before making a bid for resources which, if successful, would require any financial commitment from the Council, Heads of Service will ensure that appropriate budgets have been approved or earmarked in accordance with these Regulations.
- c. In working up bids, Heads of Service will use appropriate project appraisal processes to assess the viability of the project in terms of resources, staffing and expertise, to identify and assess all potential risks, and to ensure achievement of the required outcomes.

2. Setting up partnerships

- a. Heads of Service will agree and formally accept the roles and responsibilities of each of the partners involved in a project before the project commences.
- b. Where the Council is to be the lead partner or the accountable body where other public funds are involved, the responsibilities of the Council and the obligations of the various partners are to be clearly defined and understood. Heads of Service will consult the Director of Resources on:

- i. any financial control, insurance and audit requirements including physical access to be incorporated in the partnership arrangements
 - ii. the overall financial implications for the Council.
- c. Prior to entering into any commitment, the relevant Heads of Service will ensure that any match funding or other financial obligations of the Council are provided for within revenue or capital programmes and that arrangements are made for future years' financial provisions to reflect these obligations. This should include any audit and other consequential fees as appropriate.

3. Working with partners

- a. These Financial Regulations and the Council's Contract Standing Orders will apply equally to any orders for works, goods or services which are the responsibility of the Council under the partnership arrangements.
- b. Heads of Service will ensure that all formal contracts are referred to Internal Audit for the proper stage checks to be performed and as soon as the final account is agreed, before any retention is paid. For all contracts awarded under the Council's Contract Standing Orders the responsible Officer will complete the Procurement Checklist.
- c. The relevant Heads of Service will comply with any key conditions of funding and any statutory requirements.
- d. Any variation in resources to be contributed by the Council, or in the overall resources of the partnership where the Council is the accountable body, will be dealt with in the same way as other budget variations as set out in Section 7 (Budgetary Control).
- e. The relevant Heads of Service will ensure that any financial control, insurance and audit requirements of the partnership are met.
- f. The relevant Heads of Service will communicate regularly with the other partners throughout the project so that problems are identified and shared to achieve their successful resolution.

Section 11: Income

WHY ARE THESE REGULATIONS IMPORTANT?

It is essential that all income due to the Council is identified, collected, receipted and banked promptly. To achieve this it is necessary to put effective income systems in place.

It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cash flow and also avoids the time and cost involved in administering debts.

1. General

Heads of Service will implement arrangements made by them under this Section only with the approval of the Director of Resources.

2. Prompt identification of sums due to the Council

Heads of Service will make adequate and effective arrangements for the prompt identification of all sums due to the Council.

3. Prompt recording in the Council's accounts of all sums due

- a. Heads of Service will make adequate and effective arrangements for recording all sums due in the Council's accounts.
- b. Apart from local taxes, housing rents, fines and licences, accounts for sums due may only be raised on the Council's corporate debtors system unless alternative arrangements have been approved by the Director of Resources.

4. Collection and receipting of all income

- a. Heads of Service will make adequate and effective arrangements for the collection and receipting of all income and for the security of all cash and other valuables having regard to agreed insurance limits for locked safes.
- b. Heads of Services will only introduce new methods of collection after consultation and approval of the Director of Resources.
- c. Acknowledgement for money received must only be made on official Council receipts or other form authorised by the Director of Resources for that purpose.
- d. Books and forms relating to the collection of income due to the Council will be kept in a manner set by the Director of Resources.

5. Banking of income

Heads of Service will make arrangements with the Director of Resources for the prompt and secure transfer of cash from the Council's offices and facilities to the Council's bankers.

6. Reconciliation of income

Heads of Service will make adequate and effective arrangements for the sums collected and banked to be reconciled with the records of sums due.

7. Debt recovery

In all cases Heads of Service will take prompt and appropriate actions to recover all sums overdue to the Council.

8. Writing off sums due

- a. Heads of Service are responsible for recommending the write off of irrecoverable debts to the Director of Resources.
- b. Where an individual debtor owes the Council no more than £25,000 (Borough share), the Director of Resources may approve the write off of that debt where there is satisfactory evidence that it is irrecoverable. In any other case, the debt may be written off only with the approval of the Executive Committee. However, there may be occasions when an immediate write off decision above £25,000 is necessary, for example at year end, to enable the completion of the final accounts within the statutory timescale. In such cases the Director of Resources will have authority to approve a maximum Business Rate write off of £62,500.
- c. The Director of Resources will report annually the total amount written off to the Executive Committee.

9. Reviews of fees and charges

- a. Heads of Service will, in consultation with the Director of Resources, review all fees and charges at least annually in accordance with guidelines approved by the Executive Committee.
- b. Heads of Service are responsible for revised fees and charges being correctly implemented from the authorised date.

10. Segregation of duties

The duty of providing information, calculating, checking and recording sums due to or from the Council will be separated as completely as possible from the duty of collecting such sums.

11. Revenues and Taxation

The Director of Resources is responsible for:

- a. Setting the Council Tax Base.
- b. Calculating the Council Tax Requirement.
- c. Calculating the Council Tax as required by legislation; by Parish and by Band.
- d. The award of mandatory or discretionary, exemptions, disregards and discounts.
- e. Council Tax billing.
- f. The collection and recovery of Council Tax due.
- g. Applying any applicable or relevant changes in the Housing Benefit Regulations to the Local Council Tax Reduction Scheme.
- h. Determining, assessing, awarding and paying Housing Benefit and Council Tax Support.
- i. Dealing with all matters relating to the Business Rate Retention Scheme and agency arrangements, including billing, collection, recovery and the award of mandatory or discretionary, exemptions and reliefs.
- j. Determining membership of the Cumbria Business Rate Pool.
- k. Payment of precept demands.

12. Business Improvement District (BID)

The Director of Resources is responsible for:

- a. BID levy billing.
- b. The collection and recovery of BID levy due.
- c. Payment of the levy collected to the BID.
- d. Recovering the cost of administering the BID billing and collection process.

Section 12: Value Added Tax

WHY ARE THESE REGULATIONS IMPORTANT?

Value Added Tax (VAT) is a tax applied to many of the goods and services the Council either buys in or supplies to others. VAT therefore impacts on many of the Council's financial transactions. Whilst generally speaking the Council is able to reclaim the VAT it pays on buying in goods and services, this ability is limited in relation to certain types of services made by the Council. VAT is a very complex tax, particularly where it relates to land and property transactions and partnership arrangements. It is essential that the VAT implications of all major projects, partnership arrangements and land and property transactions be evaluated well in advance of commitments being made. If this is not done the Council could be faced with a substantial irrecoverable VAT bill that is both unplanned and unbudgeted. Her Majesty's Revenues and Customs (HMRC) also have the power to impose penalties (fines) for late or non-compliance with VAT rules.

1. The Director of Resources is responsible for the determination of all arrangements for the collection, recording, payment and recovery of VAT.
2. The Director of Resources will:
 - a. maintain complete and accurate accounting records of all the Council's VAT transactions
 - b. submit the Council's VAT return to HMRC monthly in accordance with statutory deadlines
 - c. prepare the Council's partial exemption calculation as at the end of each financial year
 - d. conduct all negotiations with HMRC in respect of VAT matters affecting the Council
 - e. provide guidance, advice and training to Council staff on all aspects of VAT as they affect the Council
3. Heads of Service will:
 - a. properly account for VAT on all transactions under arrangements determined by the Director of Resources
 - b. consult the Director of Resources in all cases where the VAT treatment of any transaction is unclear so that the matter can be reviewed and appropriate treatment determined
 - c. consult the Director of Resources in all cases where new projects, schemes or services are proposed, **well in advance** of commitments being made, so that any impact on the Council's VAT position can be assessed and any necessary action taken to protect the Council's VAT recovery position

- d. co-operate with any VAT inspector and give access at all reasonable times to premises, personnel, documents and assets which they consider necessary for the purposes of their work
-

Examples of activity with potential VAT implications

Examples of the types of new activity that could have an impact on the Council's VAT position are shown below. However this list is not exhaustive and consultation should take place when any new or innovative scheme is proposed:

- *a new service*
 - *a significant extension to an existing service*
 - *a capital new-build scheme*
 - *a land or property transaction, including any involving a land exchange*
 - *a new or extended partnership arrangement*
 - *a scheme involving third party funding*
 - *an agency arrangement*
 - *any scheme where there is consideration in kind*
-

Section 13: Banking

WHY ARE THESE REGULATIONS IMPORTANT?

The Council has a duty to ensure that all monies are properly safeguarded and only utilised for authorised purposes. It is therefore necessary to have controls to ensure the proper authorisation and control of all bank accounts, all payments made from them and all income deposited into them.

1. Operation of bank accounts

- a. The Director of Resources is responsible for opening, closing and operating all bank accounts and related facilities in the Council's name.
- b. All communications with the Council's bankers concerning its bank accounts and any changes in banking arrangements will be made under arrangements approved by the Director of Resources.

2. Authorisation of signatories

Only officers personally mandated by the Director of Resources may authorise payments and other documents transferring funds out of the Council's bank accounts.

3. Payments from Council bank accounts

- a. All payments from the Council's bank accounts will be, so far as is practicable, made by automated bank transfer but the Director of Resources may exclude from this regulation such payments as the Director of Resources may consider appropriate from time to time.
- b. No payments will be made from the Council's bank accounts unless approved personally by a signatory authorised in accordance with (2) above.

4. Custody of banking facilities

Banking facilities will be held by the Director of Resources, Accountancy Services Manager and Financial Services Manager for use only in exceptional cases.

5. Banking of income

Heads of Service will make arrangements with the Director of Resources for the prompt and secure transfer of cash from the Council's offices and facilities to the Council's bankers.

6. Reconciliation

The Director of Resources will regularly and promptly reconcile the Council's bank accounts with the accounting records.

Section 14: Security and Inventories

WHY ARE THESE REGULATIONS IMPORTANT?

The Council holds assets in the form of land and buildings, fixed plant, vehicles and machinery, furniture and equipment, software and data, cash and other items of value. It is important that assets are used efficiently in service delivery, that they are adequately insured and that there are arrangements for the security of both assets and information required for service operations. Up to date records are a prerequisite for sound asset management. See also Sections 15 (Stocks) and 17 (Insurances).

1. Proper use of the Council's resources

Resources are to be used solely for the purposes of the Council and are to be properly accounted for.

2. Asset Register

The Director of Resources is responsible, in consultation with other Heads of Service, for the compilation and maintenance of the Council's official accounting Asset Register covering land and property and other fixed assets.

Officers involved in the disposal of Council assets will:

- a. comply with the legal requirements of the Head of Legal and Governance and Director of Resources
- b. comply with the financial and accounting requirements of the Director of Resources

3. Inventories

- a. Each Head of Service is responsible for maintaining an inventory of moveable assets under procedures determined by the Director of Resources.
- b. Inventories are to be reviewed at least once each year with an updated schedule retained by the Heads of Service and copied to the Director of Resources.

4. Security

- a. Heads of Service will make proper arrangements for:
 - i. the security of all buildings and other assets under their control
 - ii. the safe custody of all documents held as security
 - iii. keys to safes and similar receptacles for valuables to be kept in secure places
- b. The security of personal possessions in the work environment is the responsibility of the owner. The Council will accept no responsibility for the security of any items not necessary for the services of the Council.

Section 15: Stocks

WHY ARE THESE REGULATIONS IMPORTANT?

It is important that the stocks held by the Council are safeguarded and used efficiently in service delivery. There therefore needs to be adequate arrangements for the receipt, security and issue of stocks and for the disposal of surplus or redundant items.

1. Receipt, Control and Custody

Heads of Service will make adequate and effective arrangements for the custody, care and physical control of all stocks in their departments.

2. Stocks Records

- a. In consultation with the Director of Resources, Heads of Service will maintain adequate records of all issues and other movements of stocks.
- b. Heads of Service will provide to the Director of Resources each year a stock certificate detailing stocks and stores in hand at 31st March.

3. Maintenance of stocks

- a. Heads of Service will maintain stocks at reasonable levels, agreed with the Director of Resources, and subject them to a regular independent physical check.
- b. All discrepancies will be investigated, pursued to a satisfactory conclusion and removed from the Council's records by making stock adjustments as necessary. Gains and losses resulting from stock adjustments will only be written off or adjusted in the records under arrangements approved by the Director of Resources.

4. Disposal of surplus, obsolete or redundant stocks or equipment

Heads of Service will ensure that all stocks and equipment no longer required are disposed of economically and accounted for under arrangements approved by the Director of Resources.

5. Delegation

All staff responsible for stocks are required to take an uninterrupted holiday of at least two weeks duration in each financial year.

Section 16: Cash Holdings

WHY ARE THESE REGULATIONS IMPORTANT?

It is important that all cash held by Council departments is safeguarded and used effectively in service delivery. There therefore needs to be adequate arrangements for the receipt, security and issue of petty cash reimbursements and the security of all cash floats held in Council departments.

1. Receipt, Control and Custody

Heads of Service will make adequate and effective arrangements for the custody, care, security and physical control of all petty cash and cash floats in their departments.

2. Petty Cash and Cash Float Records

- a. In consultation with the Director of Resources, Heads of Service will maintain adequate records of all petty cash reimbursements and float replenishments.
- b. In consultation with the Director of Resources, Heads of Service will maintain effective control and security over till floats and change floats held in their departments.
- c. Heads of Service will provide to the Director of Resources each year a cash imprest certificate detailing all floats and vouchers in hand at 31st March.

3. Maintenance of floats

- a. Heads of Service will maintain cash floats and subject them to a regular independent physical check by their officers.
- b. Petty cash floats will be reimbursed monthly.
- c. All discrepancies will be investigated and pursued to the Director of Resources' satisfaction.

4. Delegation

- a. Every transfer of official money from one officer to another will be evidenced in the record of the department concerned by the entry of the amount and signature of the receiving officer.
- b. Before an officer leaves the employment of the Council or ceases to be entitled to hold a cash float, the Head of Service will agree the unexpended balance and will submit a float replenishment; till and change floats will be balanced.
- c. All staff responsible for cash are required to take an uninterrupted holiday of at least two weeks duration in each financial year.

Section 17: Insurances

WHY ARE THESE REGULATIONS IMPORTANT?

The provision of insurance cover is one of the major methods of responding to corporate and service risks identified under the Council's risk management arrangements. Cover can be arranged either externally with major insurance companies or through an internal insurance pool. Accurate record keeping and timely provision of information are essential if the Council's insurance cover is to be effective. This Section should be read in conjunction with that relating to Risk Management (see Section 18).

1. The Director of Resources is responsible for:
 - a. effecting all insurance cover on a corporate basis, through external insurance or through internal self-insurance arrangements as the Director of Resources considers appropriate
 - b. negotiating all claims in consultation with relevant Heads of Service where necessary
2. Heads of Service will notify the Director of Resources immediately:
 - a. of all new risks, properties, vehicles or other assets that require insurance
 - b. of any alterations to such risks or assets affecting existing insurances
 - c. should any of the Council's assets be damaged, lost or stolen
 - d. should any of the Council's assets be relocated to different premises
 - e. of any loss, liability, damage or personal injury that may lead to a claim against the Council

and will provide any related information or explanation required within time scales determined by the Director of Resources.
3. Heads of Service will ensure that no employee or other person covered by the Council's insurances admits liability (orally or in writing) or makes any offer to pay compensation, because this may prejudice a proper assessment of the Council's liability.
4. Heads of Service will maintain proper records relating to insurances effected by the Council, under arrangements approved by the Director of Resources.
5. Heads of Service will consult the Director of Resources on the terms of any indemnity that the Council is requested to give.
6. Heads of Service will consult the Director of Resources to determine the minimum level of insurance cover required of any person or body (including all Council contractors) to indemnify the Council or to effect insurance cover in accordance with the Council's requirements.
7. The Director of Resources will ensure that insurers are subject to competitive tendering, possibly using brokerage services, at least once every five years.

Section 18: Risk Management

WHY ARE THESE REGULATIONS IMPORTANT?

The Council faces numerous risks: to people (including its employees), to property, to its reputation and to continuity of service delivery. Risk is the threat that an event or action will adversely affect the Council's ability to achieve its objectives and to successfully execute its strategies. This will include both external and internal risks. Risk Management is the process by which risks are identified, evaluated and managed. Risk management seeks to protect the Council and enable achievement of stated aims and objectives. It also seeks to maximise the rewards that can be gained through effectively managing risk. It is the responsibility of the Executive Committee to approve the Council's risk management policy and strategy and of the Audit and Governance Committee to promote a culture of risk management awareness throughout the organisation.

This Section should be read in conjunction with that relating to Insurance (see Section 17), which is just one tool used in the control of organisational risk.

1. The Executive Committee will approve the Council's corporate risk management policy and strategy.
2. The Audit and Governance Committee will promote a culture of risk management awareness.
3. The Chief Executive will:
 - a. develop risk management processes and procedures to assist in the identification, assessment, reduction and control of material risks
 - b. undertake regular monitoring and review of the corporate and service arrangements for effective risk management
 - c. regularly report the status of monitoring arrangements to the Audit and Governance Committee
4. Heads of Service are responsible:
 - a. for risk management within all areas under their control, having regard to appropriate advice from the Chief Executive
 - b. for carrying out regular reviews of risk, risk reduction strategies and the operation of appropriate controls (including business continuity plans) within their departments
5. Heads of Service will consult the Director of Resources on the terms of any indemnity that the Council is requested to give.
6. Heads of Service will promptly notify the Chief Executive of all new risks that are material, as they are identified.

Section 19: Internal Audit

WHY ARE THESE REGULATIONS IMPORTANT?

The requirement for an Internal Audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations more specifically require that a “relevant body will maintain an adequate and effective system of Internal Audit of their accounting records and control systems”.

Accordingly, Internal Audit provides one aspect of an independent and objective assurance in the review of the system of internal control as a contribution to the proper, economic, efficient and effective use of resources. In fulfilling this responsibility the Internal Audit service comply with best practice as set out by CIPFA’s Code of Practice for Internal Audit in Local Government, the Institute of Internal Auditors and the Public Sector International Auditing Standards.

1. The Director of Resources will ensure that the Internal Audit service is independent in its planning and operation. Clear and detailed terms of reference will exist for the Internal Audit service, which will be approved and regularly reviewed by the Audit and Governance Committee.
2. The Director of Resources or their authorised representative will have authority to enter at all reasonable times any offices, premises or land under the control of the Council and will have unrestricted access to all records, documents and correspondence relating to any matter under consideration, without limitation.
3. All staff and contractors will provide such information and explanations as the Director of Resources considers necessary and will produce upon demand cash, stocks, documents or other property of the Council under their control.
4. Heads of Service will comply with all requests for evidence and specifically in relating to contracts awarded under the Contract Standing Orders. Heads of Service will ensure that the final account of a staged payment contract is cleared by Internal Audit before any retention is paid.
5. Heads of Service, Senior Managers and other staff will immediately notify the Internal Audit service on behalf of the Director of Resources upon discovery or suspicion of any financial irregularity, whether affecting cash, stocks, property, financial records or otherwise. The Director of Resources will notify the Chief Executive in all significant cases.

6. The Council will set out in policy documents its approach to fraud, bribery and corruption and to “whistleblowing” (see also Section 20).
7. The Internal Audit service will operate an independent fraud hotline for the Council. This will be available to officers and members of the public.
8. Copies of all final audit report summaries will be considered by the Audit and Governance Committee.
9. The Head of Internal Audit has direct access to the Chief Executive, to all levels of management, to the Chairman of the Audit and Governance Committee, the Leader of the Council and the External Auditor.

Section 20: The Council Acting Against Fraud

WHY ARE THESE REGULATIONS IMPORTANT?

The Council is determined to prevent its involvement in activities of fraud and corruption. In order to ensure that, not only, does it minimise opportunities for fraud and corruption to go undetected, but that waste of resources is also minimised, the Council has established an Anti-Fraud and Corruption strategy.

Members and officers are required to make declarations of interests and influences.

Within the Council framework the Audit and Governance Committee have a role in promoting the Council's position against fraud, bribery and corruption, by reviewing Council business and the implementation, by officers, of Council decisions. In addition the Audit and Governance Committee remit includes the standards of conduct for Members.

Internal Audit and External Audit are key partners in the effective review of anti-fraud and corruption measure that the Council has put in place.

1. The principles of public life apply to anyone who works as a public office holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services. The principles are:
 - a. Selflessness
 - b. Integrity
 - c. Objectivity
 - d. Accountability
 - e. Openness
 - f. Honesty
 - g. Leadership
2. Members and officers make declarations about interests and influences. All Members annually declare their direct interests, which are recorded in a register held by Democratic Services and are available for public inspection. Members are required to notify any change in their interests within 28 days of that change. Officers are required to register their interests and influences with the HR department.
3. The Audit and Governance Committee is responsible for promoting and maintaining high standards of conduct for elected members.

4. Internal Audit review, through a risk assessment and significance analysis process, the services and functions of the Council to assist in ensuring the adequacy of the Council's internal control environment. In addition they perform periodic spot checks to ensure established controls remain in place.

5. Whistleblowing

- a. The Public Interest Disclosure Act 1998 promotes responsible whistleblowing and provides protection for employees and members who raise concerns internally and then where appropriate externally.
- b. All reported concerns (except for reports relating to housing benefit or council tax support – see c.) will be confidentially investigated by Internal Audit.
- c. Reports relating to housing benefit will be passed to the DWP. Reports relating to council tax support will be investigated by the Revenues and Benefits department where appropriate.
- d. Where investigations show the probability of abuse, the matter and findings should be referred to the Director of Resources (unless the Director of Resources is seen to have a substantial interest in the abuse) who will determine, in consultation with the Chief Executive, any follow up action including sanctions and prosecution where appropriate.

6. Bribery Act 2010

The Bribery Act 2010 came into force on the 1st July 2011. It has created a new corporate offence of failing to prevent bribery by third party service providers, to which there is a complete defence of having in place adequate procedures designed to prevent service providers from engaging in bribery.

- a. **Principal bribery offences**
This is giving, offering, receiving and accepting bribes; this covers any advantage given to a person in the course of their work or public function to get that person to behave improperly (usually to show favour in circumstances in which the person should not be showing favour).
- b. **Secondary bribery offences**
This is the offence of “failure to prevent bribery” when a third party service provider gives a bribe with the intention of benefitting the Council. If adequate procedures designed to prevent bribery are in place, then this is a complete defence. The onus is on the organisation to prove that it had adequate procedures.

Section 21: External Audit and Inspection

WHY ARE THESE REGULATIONS IMPORTANT?

Public Sector Audit Appointments Ltd began appointing external auditors to each Council from 1st April, 2015, and the Council has continued to opt into that national procurement ever since. The basic duties of the external auditor are governed by statute.

The Council may from time to time also be subject to audit, inspection or investigation by various other external bodies. The External Auditor, government department inspectorates and bodies such as HMRC and the Inland Revenue have statutory rights of access. Rights of access are also sometimes granted under contractual arrangements, including partnerships where the Council is not the lead body. It is important that all officers of the Council respond to external scrutiny in a timely, professional and helpful manner.

1. The Director of Resources will facilitate the co-ordination of the work of internal and external audit together with ensuring appropriate consideration of External Audit reports by the Audit and Governance Committee.
2. External Auditors began to be appointed by Public Sector Audit Appointments Ltd from 1st April, 2015 and the Council has continued to opt into that national procurement ever since. The External Auditors have specific responsibilities in relation to the Council's accounts, corporate governance arrangements and value for money:
 - a. For the audit of the Council's financial statements.
 - b. For the Council's Annual Governance Statement.
 - c. For the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources.

The External Auditors provides other services, in particular the audit of external grants claims.

3. Co-ordination of all other inspection and independent review work will be the responsibility of the relevant Heads of Service.
4. Heads of Service will give External Auditors and any other inspectors' access at all reasonable times to premises, personnel, documents and assets which they consider necessary for the purposes of their work.

Section 22: Treasury Management and Leasing

WHY ARE THESE REGULATIONS IMPORTANT?

Treasury Management is in place to provide assurance that the Council's money and overall cash flow are properly managed, in a way that balances risk with return but with overriding consideration being given to the security of investments.

The signing of leases and other forms of credit can have a wider financial impact than just the rental payments. It is therefore necessary that the Director of Resources be given the opportunity to evaluate the costs of any potential agreement before it is legally binding.

1. General

The Director of Resources is responsible for all investment, borrowing and leasing undertaken in the name of the Council.

2. Treasury Management

The Director of Resources will:

- a. prepare annually a Treasury Management Policy Statement setting out the duties of Members and officers covering all aspects of treasury management for consideration by the Executive Committee and recommendation to Full Council
- b. prepare annually a Treasury Management Strategy setting out the Council's strategy for consideration and approval by the Executive Committee
- c. prepare annually an Investment Strategy for consideration and approval by the Executive Committee
- d. recommend to the Council, before the commencement of each financial year (when setting the budget) a range of Prudential Indicators, including borrowing limits, to be set for that financial year in accordance with statute and the CIPFA Prudential Code
- e. arrange the borrowing and investments of the Council in such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the Council's Treasury Management Policy Statement and its annual Strategy
- f. make all investments, borrowings and other financing transactions only in the name of the Council

3. Leasing and Similar Credit Arrangements

Leasing and other similar credit arrangements, including new or extended leases of land and property, may only be entered into with the written consent of the Director of Resources. Such arrangements may be defined for this purpose as any lease, contract hire or other contract or series of contracts under which the use of an asset is obtained in exchange for a series of payments which extend beyond the end of the following financial year.

Section 23: Pay and Conditions of Employment

WHY ARE THESE REGULATIONS IMPORTANT?

Staffing costs are the largest single item of expenditure for most Council services. It is therefore important that payments are accurate, timely, made only where they are due and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members' allowances are paid in accordance with the scheme adopted by Full Council.

Like all organisations, the Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax can be severe. It is therefore important for all officers to be aware of their role.

1. General

Terms and conditions of employment are to be determined by the Council and the Director of Resources. The Director of Resources is responsible for the administration of all arrangements for the payment of salaries, pensions, travel and subsistence claims and other emoluments to existing and former employees, and for all related matters.

2. Deductions from Pay

The Director of Resources will make proper arrangements for all statutory and other deductions from pay, including tax, national insurance and pension contributions, and payment of such sums to the bodies concerned.

3. Terms of employment

Heads of Service will promptly notify the Director of Resources of:

- a. the terms and conditions applying to new contracts of employment
- b. any changes or events affecting the salaries, wages or emoluments of the Council's employees
- c. all resignations, retirements and terminations of employment

4. Provision of Information

Heads of Service will provide to the Director of Resources:

- a. all relevant information in an agreed format and within agreed time scales to enable the prompt and accurate payment of all elements of pay
- b. notification of the impending departure of any employee.

5. Members' Allowances

Payments to elected Members of the Council will be made by the Director of Resources in accordance with the Council's Members Allowances Scheme.

Section 24: Reports to Members

WHY ARE THESE REGULATIONS IMPORTANT?

New and changing policies of the Council result from consideration of reports from officers. Policies could therefore be set on the basis of insufficient or misleading information if both the financial and risk management implications have not been considered, and if commitments are made these could lead to financial difficulties for the Council.

1. Reports will only be put before the Council, Committees, Forum or Working Parties Members if the financial and risk management implications for the Council have been considered and presented fairly in the report. Informal advice to Members will also have regard to any significant financial implications.
2. Consultation will take place as appropriate between the authors of reports, the Director of Resources and any other Heads of Service affected, in good time for any financial and risk management implications to be properly identified.
3. Where there are no financial or risk management implications or they are negligible, the report will say so.

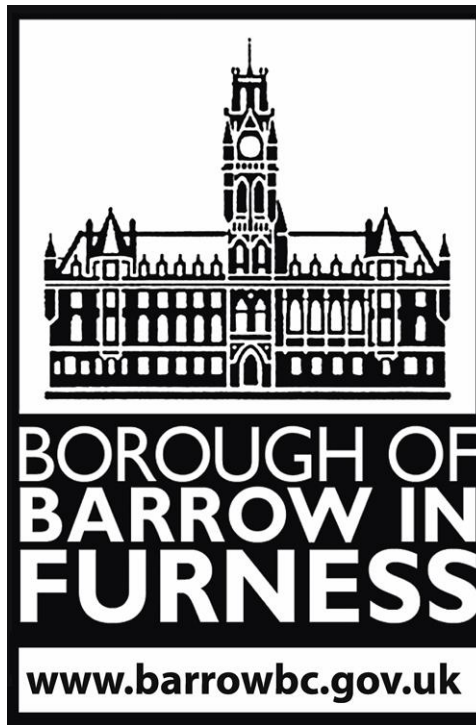
Examples of proposals with potential financial implications

Broadly speaking any actual or proposed action or decision that affects the Council's finances in any way has a financial implication.

Listed below are examples of actions or decisions that are likely to have a financial implication. However this list is not exhaustive and it should be borne in mind that other areas of action or decision will undoubtedly have financial implications too.

- *Anything that affects the current year's budget or capital programme, for example:*
 - *a new service*
 - *an improved service level*
 - *cessation of a service*
 - *a reduction in service level*
 - *a new capital project*
- *Anything that affects the budget or capital programme of future years, for example:*
 - *ongoing net cost of a new or improved service*
 - *ongoing net revenue cost of a new capital project*
 - *reduced ongoing effect of service cessation or reduction*
 - *reduced ongoing effect of the sale or disposal of a capital asset*

- *Anything that affects the Council's level of income, for example:*
 - *an increase or reduction in charges*
 - *introduction of a charge for a service currently provided free*
 - *free provision of a service currently provided at a charge*
- *Anything that affects the Council's ability to recover VAT, for example:*
 - *provision of a new exempt or partly exempt service*
 - *a new capital project or existing capital asset to be used for exempt or partly exempt purposes*
 - *transfer of a service or undertaking to another body*
 - *See Section 12 for more detail*
- *Anything that affects the Council's entitlement to government grant, for example:*
 - *action which may result in an increase or reduction of grant entitlement*
- *Anything that enables the Council to attract outside funding from any source, for example:*
 - *a new partnership*
 - *a new third party funding arrangement or a new agency arrangement*
- *Anything that could potentially expose the Council to legal action, government surcharge or other financial penalty, for example:*
 - *an action which could be subject to legal challenge*
 - *an action which could lead to fines or penalties being imposed on the Council*
- *Any action that may result in the payment of redundancy or other staff severance costs, for example:*
 - *cessation of a service leading to a surplus of staff*
 - *reduction in a service level leading to a surplus of staff*
 - *externalisation of a service (including where TUPE applies)*
- *Any action that would affect the market value of a Council asset, for example:*
 - *a reduction in the maintenance level of an asset leading to a lower asset value*
- *Any action likely to increase the Council's insurance costs, for example:*
 - *the use of a Council asset for what is perceived to be a higher risk purpose*
 - *a worsening claims record*
 -



Contract Standing Orders

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Barrow Borough Council Contract Standing Orders

1. Introduction and Basic Principles

- 1.1 Barrow Borough Council (“the Council”) has a devolved procurement service. Corporate Procurement keeps control of the key documentation such as the Procurement Strategy and provides advice and guidance on process (Including the Procurement Handbook), with responsibility for operational procurement sitting with Procuring Officers across each of the Council service areas.
- 1.2 These Rules are standing orders pursuant to s.135 of the Local Government Act 1972. These Rules must be read in conjunction with the Council’s wider Constitution, and any guidance documents issued by Corporate Procurement.
- 1.3 Compliance with the documents referenced at 1.2 is mandatory for all Members and Officers of the Council, who will ensure that all procurement activity is legally compliant, transparent, fair, and competitive. Members and Officers of the Council must act in a manner which is accountable, consistent, efficient, and responsive. If any Officer does not follow these Rules, this may result in disciplinary action being brought against such an employee and/or senior officer responsible for ensuring compliance.
- 1.4 All procurement activity shall adhere to the principles of non-discrimination, transparency, equal treatment, and proportionality, and shall comply with UK law, the Council’s Constitution including these Rules, Financial Regulations, Codes of Conduct, and any guidance provided by Corporate Procurement.
- 1.5 Through the application of these Rules, Members and Officers of the Council will ensure that the Council obtains best value and addresses, in its procurement activity, the local requirements and aspirations for the Borough, which are agreed by Members from time to time and referred to as ‘corporate priorities’.
- 1.6 These rules apply to all expenditure for the awarding of Contracts, Framework Agreements, DPS’, or PDPS’ for Supplies, Services, Works, or Concessions where the Council is the contracting authority or commissioner, regardless of the origin of funding for that expenditure. This includes any agent, consultant, or contractual partner acting on behalf of the Council for any procurement expenditure.
- 1.7 Corporate Procurement shall be responsible for the periodic review of these Rules and may present recommendations for amendment of these Rules for consideration by the Council and subject to the Council’s ratification processes.

2. Interpretation & Definitions

- 2.1 Interpretation of these Rules and determination of any procedures to be followed as described in these Rules are the responsibility of Corporate Procurement who, in cases of doubt, may seek advice from Monitoring Officer, Section 151 Officer and/or Internal Audit.
- 2.2 Any sums of money stated in these rules are exclusive of Value Added Tax, unless otherwise stated.

2.3 In these Rules, the words or phrases below have the following meanings:

Agreement	Means a legally binding agreement between the Council and the Contractor for the provision of all Supplies, Services, the execution of Works, or Concessions and which incorporates the terms and conditions under which the Supplies, Services, execution of Works and Concessions will be provided. This includes Contracts, Framework Agreements, Dynamic Purchasing Systems, and Pseudo-Dynamic Purchasing Systems
Agreement Extension Form	Means the form supplied by Corporate Procurement for the purpose of recording the extension of an Agreement
Best Value	Has the same meaning as that defined in the Local Government Act 1999 as amended from time to time
Bidders	Means an economic operator that submits a quote or tender
Call-off	Means an order made/call off Contract entered into under a Framework Agreement or DPS
Concessions	Means the granting of a right (Exclusive or otherwise) to an economic operator to exploit works or services provided for their own gain with or without payment
Contract	Means a legally binding agreement between the Council and the Contractor for the procurement by the Council of all Supplies, Services, the execution of Works and which incorporates the terms and conditions under which the Supplies, Services, execution of Works and Concessions will be provided
Contracts Finder	Means the web-based portal provided for the purposes of the Regulations or on behalf of the Cabinet Office
Corporate Procurement	Means the centralised procurement function of the Council

Dynamic Purchasing System (DPS)	Means an electronic system procured using the restricted procedure for the purchase of commonly used Supplies, Services, or Works which are generally available on the market and objectively defined to which all bidders who meet the requirements of the selection criteria must be admitted during the entire period of the validity of the system
Economic Operator	Means any natural or legal person or public entity or group of such person sand/or entities, including any temporary association of undertaking, which offers the execution of Works and/or work, the supply of Supplies or the provision of Services on the market
Exemption	Means the release of the obligation to comply with these Rules
Exemption Form	Means the form supplied by Corporate Procurement for the purpose of recording the Exemption
Financial Regulations	Means the written code of procedures forming part of the Council's constitution which provide a framework for proper financial management and which set out the rules on accounting, audit, administrative procedures and budgeting systems
FOI	Freedom of Information Act 2000
Framework Agreement	Means an agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing Call-Off Contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged
GDPR	General Data Protection Regulations
Internal Audit	The internal audit function of the Council.
IR35	Means Off-payroll working rules.

Key Decision	Has the same meaning as set out in the Councils constitution.
Modification	Means any variation to a Contract, DPS or Framework Agreement, excluding a pre-agreed extension.
Modification Form	Means the form supplied by Corporate Procurement for the purpose of recording the authorisation of a Modification.
Monitoring Officer	Means the Officer appointed under section 5 of the Local Government and Housing Act 1989, or their substitute as set out under Scheme of Delegation.
Officer	Means any employee of the Council which shall include any person engaged by the Council to act as an agent or consultant on its behalf.
Pseudo-Dynamic Purchasing System (PDPS)	Means an altered version of an electronic system that works similarly to a DPS, usually created for Services that fall under the Light Touch regime set out in Regulations.
Procurement Checklist	Means a document which provides details of the procurement activity, authority to commence, and summary of the outcomes.
Procurement Handbook	Means the document which Corporate Procurement may issue from time to time to provide guidance on procurement.
Procurement Strategy	Means the document which the Council may issue from time to time to set out its procurement objectives.
Procuring Officer	Any Officer who has delegated Authority to undertake procurement actions, e.g. the Cost Centre Manager.
Quote	Means a formal offer submitted by a Bidder to supply Supplies, Services, execute Works or operate a Concession Contract at a defined price.
Regulations	Means the Public Contracts Regulations 2015 or Concession Contracts Regulations 2016 as appropriate, and as may be amended from time to time.

Rules	Means these Standing Orders.
Scheme of Delegation	Means the scheme identified within the Council's constitution which delegates powers and duties of the Council to officers under Section 101 of the Local Government Act 1972 and other powers enabling such delegation necessary for the discharge of the Council's functions.
Section 151 Officer	Means the Officer appointed by the Council pursuant to s151 of the Local Government Act 1972, or their substitute as set out under Scheme of Delegation.
Services	Means the time, effort and expertise required, by the Council, from time to time, and supplied by a Contractor.
Social Value	Means to have regard to economic, social and environmental well-being in connection with public services contracts; and for connected purposes.
Specification	Means the outputs, outcomes, and the scope and nature of the Supplies, Services, and execution of Works or Concession Contract required by the Council from a procurement activity.
Supplies	Means an inherently useful tangible item required by the Council, from time to time.
Threshold	Means the relevant threshold as stipulated by the Regulations.
Tender	Means a formal offer submitted by a Bidder to the Council at a stated price in response to a Specification to supply Supplies, Services, execute Works or operate a Concession Contract.
The Chest	Means the Council's e-procurement system.
TUPE	Means the Transfer of Undertakings (Protection of Employment) Regulations 2016 as amended from time to time.
Value for Money	Means the optimum combination of whole-life costs, price quality and benefits to meet the Council's requirement. Such a term

	equates to the duty of Best Value as defined by the Local Government Act 1999 as amended from time to time.
Works	Means the provision of physical activity which is directed towards the production of accomplishment of something by the Contractor, from time to time.

3. Contracts to which these Rules do not apply

3.1 These Rules do not apply to:

- 3.1.1 Employment contracts;
- 3.1.2 Contracts relating solely to the disposal or acquisition of securities;
- 3.1.3 Contracts for the acquisition of an interest in land or property;
- 3.1.4 Contracts for the appointment of Counsel or experts for the purpose of potential legal proceedings;
- 3.1.5 Qualifying contracts between public sector entities;

4. Authority to Carry Out Procurement Activity

- 4.1 All procurement activity carried out on behalf of the Council must be carried out by a Procuring Officer with appropriate delegated authority as set out in the Council's Scheme of Delegation. The Procuring Officer must ensure that all necessary and correct authorisations to procure has been properly obtained, including Member decisions where relevant, prior to the initiation of any procurement activity.
- 4.2 The Procuring Officer may be required to provide evidence of any decision made and any authorisation granted in respect of any procurement activity.

5. Engagement with Corporate Procurement

- 5.1 The Procuring Officer must engage the services of Corporate Procurement for all procurement activity equal to, or in excess of £50,000 and submit a Procurement Checklist (Part 1) prior to commencing the relevant procurement activity. By submitting the Procurement Checklist, the Procuring Officer is confirming that they have the delegated authority to carry out that procurement activity.
- 5.2 The Procuring Officer may engage the services of Corporate Procurement for any procurement activity below £50,000 in accordance with the procedure described in rule 5.1.
- 5.3 The Procuring Officer must ensure that any agreement entered into by the Council with a value in excess of £5,000 that is caught by these Rules, is entered on to the Council's Contracts Register in accordance with Rule 17.

- 5.4 For all agreements over £5,000, prior to the commencement of the agreement the Procuring Officer must submit to Corporate Procurement the completed Procurement Checklist (Parts 1 & 2) and a copy of the signed contract between the Council and the Supplier. In the absence of a formal signed contract, a copy of the Purchase Order must be provided to Corporate Procurement.

6. Pre-Procurement

Considerations

- 6.1 The Procuring Officer must give consideration to the following:
- 6.1.1 The need for the expenditure, its priority, and whether the purchase is a Key Decision;
 - 6.1.2 The objectives of the requirement, and any risks associated with it and how to manage them;
 - 6.1.3 Which procurement method is most likely to achieve the purchasing objectives including use of existing Contracts, Framework Agreements, DPS', or other arrangements;
 - 6.1.4 The supply market and whether there are any potential local providers;
 - 6.1.5 Social Value;
 - 6.1.6 TUPE and consultation with HR and / or Legal Services;
 - 6.1.7 IR35 and other tax issues;

Specification

- 6.2 The Procuring Officer must ensure that an appropriate Specification commensurate to the scope of the Supplies, Services, execution of Works, or Concession required is written prior to the commencement of any procurement activity. The Procuring Officer may seek guidance from Corporate Procurement in respect of the structure of the Specification and shall ensure that it is drafted in accordance with the standards relevant to the proposed nature of the Supplies, Services, Works, or Concessions required.
- 6.3 The Procuring Officer must ascertain any relevant British or international standards which may apply to the requirement and must include those standards or other equivalents in the Specification where they are necessary to describe the required quality.

Market Research and Consultation

- 6.4 Consultation with the supply market, in general terms about the nature, level and standard of the supply, contract packaging, and other relevant matters, prior to issuing competition documents is acceptable provided this does not prejudice or create a conflict of interest regarding any potential Bidders. The Procuring Officer shall follow advice provided by Corporate Procurement from time to time on how best to undertake this activity and mitigate these risks.

Estimating Value

- 6.5 The total value of the proposed procurement activity shall be estimated in accordance with the formula:
- 6.5.1 Supplies, Services, and Work: Annual estimated value to be awarded under the arrangement multiplied by the proposed agreement period, inclusive of any options to extend and any optional extras / future phases.
 - 6.5.2 Concessions: Annual revenue to concessionaire (including any potential gifts, payments, or income to Concessionaire from Council, customers, fines, grants, other 3rd parties etc. and including Assets they are provided with) multiplied by the proposed agreement period, inclusive of any options to extend.
- 6.6 The procurement activity shall not be split or sub-divided in such a manner as to avoid being caught by these Rules or any part of these Rules, nor shall the total value be calculated in a manner which deliberately avoids exceeding any value threshold identified in these Rules.

Social Value

- 6.7 The Procuring Officer shall have regard to the Public Services (Social Value) Act 2012 in all appropriate procurement activity. In such appropriate procurement activity the Procuring Officer shall determine how the procurement activity under consideration can improve the social, economic and environmental wellbeing of the Borough and the local area in conjunction with the delivery of the subject matter of the procurement activity itself.
- 6.8 The Procuring Officer shall follow advice as provided by Corporate Procurement from time to time on how best to consider, manage, monitor, and measure Social Value.

Award Criteria

- 6.9 The Procuring Officer must define an award criteria that is appropriate to the procurement activity and designed to secure an outcome ensuring Value for Money for the Council. The award of contract shall be based on the Most Economically Advantageous Tender (MEAT) assessed from the Council's view of the requirement in accordance with one of the following:
- 6.9.1 Best price-quality ratio;
 - 6.9.2 Price / cost / income;
- 6.10 Price / cost criteria may consist of: price, cost, and/or lifecycle costing;
- 6.11 Quality criteria may consist of: qualitative, environmental and/or social aspects, technical merit, aesthetic and functional characteristics, accessibility, design, innovative characteristics, and trading conditions, how staff will be utilised to deliver requirements, after sales service, technical assistance, delivery conditions, delivery processes, and delivery period / period of completion.

6.12 The Procuring Officer must include a Social Value weighting of at least 10% in all procurement activity of £50,000 or over. Exceptions to this shall only be made following consultation with and as authorised by Monitoring Officer and Section 151 Officer.

7 Pre-Arranged Routes to Market

7.1 Where, following the considerations conducted in accordance with Rule 6.1 and/or 6.2, it is determined that the route to market shall be by direct award or mini-competition under a suitable established Framework Agreement, DPS, or PDPS, the Procuring Officer must ensure that the rules of the Framework Agreement, DPS, or PDPS are followed. This will supersede the requirements of Rule 8 and 9.

7.2 A Framework Agreement, DPS, or PDPS must be approved by Corporate Procurement prior to being used and will be considered suitable where

7.2.1 It has been established by the Council in accordance with these Rules;
or

7.2.2 It has been established by another contracting authority in accordance with UK legislation and the Council has been identified as an eligible contracting authority.

8 Thresholds

Threshold	Value	Route to Market
Low Value Procurement	Below £5,000	2 quotes
	£5,000- £49,999	3 quotes
Sub-Threshold Procurement	£50,000 – Threshold	Request for Quotation
		Invitation to Tender
Above Threshold	Determined by Regulations (Inclusive of VAT)	In line with Regulations

9 Low Value Procurement (Below £50,000)

9.1 Low value procurement is defined as any procurement activity where the total value estimated in accordance with Rule 6.5 is below £50,000.

9.2 Where the total value is estimated to be below £5,000, the Procuring Officer shall obtain a minimum of two quotations and shall record the process followed and make evidence available to Internal Audit if/when requested. Acceptance of a quotation may be made by the issue of a Purchase Order by the Council.

9.3 Where the total value is estimated to be between £5,000 and £49,999.99, the Procuring Officer shall obtain a minimum of three quotations in accordance with Rule 12. Evidence of the process followed must be made available to Internal Audit if/when requested

10 Sub-Threshold Procurement (£50,000-Threshold)

- 10.1 Sub-threshold procurement is defined as any procurement activity where the total value estimated in accordance with Rule 6.5 is between £50,000 and the relevant Regulations Threshold.
- 10.2 The Procuring Officer shall, in accordance with Rule 5.1 send a Procurement Checklist to Corporate Procurement. The Procuring Officer shall, in conjunction with Corporate Procurement, agree on the risks present with the requirement and market conditions and determine the most appropriate route to market.
- 10.3 The Procuring Officer shall, in conjunction with Corporate Procurement, and on the basis of route to market agreed in 10.2, undertake either a Request for Quotation process in accordance with Rule 12 or a formal tender process in accordance with Rule 13.

11 Above-Threshold Procurement

- 11.1 Above-threshold procurement is defined as any procurement activity where the total value estimated in accordance with Rule 6.5 is above the relevant Regulations Threshold.
- 11.2 The Procuring Officer shall, in accordance with Rule 5.1 send the Procurement Checklist to Corporate Procurement. The Procuring Officer shall, in conjunction with Corporate Procurement, undertake the procurement activity in accordance with the most appropriate procedure permitted by the Regulations.

12 Request for Quotation

- 12.1 For all Low Value Procurements the Procuring Officer shall conduct the Request for Quotation (RfQ), assistance from Corporate Procurement may be requested in accordance with Rule 5.2.
- 12.2 All Sub-Threshold RfQs should be issued through The Chest. . If The Chest cannot be used then approval should be sought from Corporate Procurement.
- 12.3 For all Sub-Threshold Procurements, where an RfQ shall be advertised to the open market it shall be advertised on The Chest.
- 12.4 For all Sub-Threshold Procurements of £25,000 or more, where it to be advertised to the open market is must also be advertised on Contracts Finder as a minimum.
- 12.5 All RfQs that are not being openly advertised, must have a minimum of 3 organisations invited to bid, ideally more.
- 12.6 An RfQ must include as a minimum:
 - 12.6.1 An appropriate description of the Supplies, Services, execution of Works, or Concession, setting out the Council's requirements and length of contract;

- 12.6.2 The terms and conditions that will apply, in accordance with Rule 18;
 - 12.6.3 A description of the award procedure and the applicable evaluation criteria;
 - 12.6.4 Details of the time and date by which the quotation is to be submitted; and
 - 12.6.5 Confirmation that the quotation is prepared at the Bidder's expense and that the Council is not bound to accept any quotation submitted;
- 12.7 All RfQs must be issued simultaneously to Bidders. Any supplementary information should be provided on the same basis.
- 12.8 All quotations obtained must be in writing and shall be stored on The Chest.

Pre- and Post-Quotation Clarifications

- 12.9 All pre- and post-quotation clarifications must be conducted in writing, or in a meeting recorded by the Procuring Officer or their substitute (As set out in the Scheme of delegation). All clarifications and the written record of any meetings must be stored on The Chest. Where a meeting is required, there should be a minimum of two Officers of the Council in attendance, one of whom shall be the Procuring Officer.
- 12.10 Post-quotation clarifications may be undertaken with a Bidder only where it is essential to clarify any fundamental aspect of the quotation submission before the completion of the evaluation process.

13 Invitation to Tender

- 13.1 For all Sub-Threshold Procurements the Procuring Officer shall conduct the Invitation to Tender (ITT).
- 13.2 All ITTs shall be advertised on The Chest and on Contracts Finder as a minimum.
- 13.3 An ITT must include as a minimum:
- 13.3.1 An appropriate description of the Supplies, Services, execution of Works, or Concession, setting out the Council's requirements and length of contract;
 - 13.3.2 The terms and conditions that will apply, in accordance with Rule 16;
 - 13.3.3 A description of the award procedure and the applicable evaluation criteria;
 - 13.3.4 A form upon which the Bidder can provide details of its tender ("Form of Tender");
 - 13.3.5 A form upon which the Bidder can confirm that any particulars of its tender have not been disclosed to a third party other than for the necessary purpose of preparation of its tender, including a declaration of canvassing and non-collusion;

- 13.3.6 A description of the method by which any errors discovered in a submitted tender will be dealt with by the Council; and
 - 13.3.7 Confirmation that the tender is prepared at the Bidder's expense, that the Council is not bound to accept any tender submitted and that the Council is able to award in whole, in part, or not at all;
- 13.4 All ITTs must be issued simultaneously to Bidders. Any supplementary information should be provided on the same basis.
- 13.5 All communications with Bidders in respect of an ITT, its subsequent evaluation, and award must be issued through, and recorded on, The Chest.

Pre- and Post-Tender Clarifications

- 13.6 All pre- and post-tender clarifications must be conducted in writing, or in a meeting recorded by the Procuring Officer. All clarifications and the written record of any meetings must be stored on The Chest. Where a meeting is required, there should be a minimum of two Officers of the Council in attendance, one of whom shall be the Procuring Officer.
- 13.7 Post-tender clarifications may be undertaken with a Bidder only where it is essential to clarify any fundamental aspect of the tender submission before the completion of the tender evaluation process.

Verifying and Opening Tenders

- 13.8 All sub-Threshold and above-Threshold ITTs shall be opened and/or verified by Corporate Procurement or Democratic Services via The Chest.
- 13.9 No paper tenders will be accepted. Only in exceptional circumstances and where there is agreement from the Monitoring Officer and the Section 151 Officer prior to the tender being issued will paper tenders be allowed.

14 Submission and Receipt of Quotations and Tenders

- 14.1 Bidders must be given a reasonable period, consistent with the complexity of the requirement, in which to prepare and submit a proper quotation or tender.
- 14.2 If a quotation or tender is considered to be abnormally low, the Procuring Officer must take advice from Corporate Procurement on how to proceed. Any decision taken must be recorded and stored on The Chest.
- 14.3 Any quotation or tender submitted after the date and time specified for submission in the RfQ or ITT shall only be accepted for consideration by the Council following agreement by the Monitoring Officer and the Section 151 Officer.
- 14.4 If fewer than the required minimum number of quotations or tenders is received, the Procuring Officer must take advice from the Corporate Procurement. Any decision taken must be recorded and stored on The Chest.

15 Amendment of Quotations and Tenders

- 15.1 The Council may accept amendments to quotations and tenders, providing such amendments are made before the date and time specified for submission in the RfQ or ITT. Bidders submitting amendments in accordance with this Rule should resubmit a new quotation or tender and clearly identify which quotation or tender is correct and shall be considered by the Council.
- 15.2 An amendment to a quotation or tender after the date and time specified for submission in the RfQ or ITT shall be limited to correction of arithmetical error. Approval for any such amendment shall be obtained from the Monitoring Officer and Section 151 Officer, recorded and stored on The Chest.

16 Evaluation of Quotations and Tenders

- 16.1 All compliant quotations and tenders, including quotations obtained by mini-competition under Framework Agreements, DPS', or PDPS', must be checked by the Procuring Officer to ensure that they are arithmetically correct. Arithmetical errors shall be notified to the relevant Bidders. Arithmetical errors shall be dealt with as follows:
- 16.1.1 Lump sum price. The Bidder shall confirm or withdraw the quotation or tender; or
- 16.1.2 Quantities and rates. The Bidder shall resubmit the quotation or tender, correcting the arithmetical errors; the revised total will be used for the purpose of evaluation and, where applicable, acceptance.
- 16.2 All evaluations including an explanation of the scoring shall be recorded and stored on The Chest.
- 16.3 For Low Value and Sub-Threshold Procurements, following evaluation, the Procuring Officer may obtain a best and final offer from all Bidders, a range of Bidders, or only the Bidder whose submitted quotation or tender is the most economically advantageous, whichever is deemed most appropriate. This process must be run by Corporate Procurement and following the agreed process.

17 Contracting Formalities

Award

- 17.1 Subject to the Council's ability to proceed to award, that award shall be made on the basis of the winning quotation or tender in accordance with the evaluation criteria used.
- 17.2 Where the quotation or tender is not within the approved budget, but where additional budgetary provision is available, the Procuring Officer may proceed to award subject to receipt of approval from the Section 151 Officer and in accordance with the Council's Financial Regulations.

- 17.3 Approval to award must be given in accordance with the Council's Scheme of Delegation. Approval to award may require a Key Decision, if such approval was not sought prior to the procurement activity commencing.
- 17.4 The Procurement Checklist must be updated with the award decision.
- 17.5 Award of an Above-Threshold agreement shall comply with the process defined for the selected procedure in the Regulations, including adherence to any standstill procedure and the publication of award procedure.
- 17.6 The award of any openly advertised RfQ or ITT in excess of £25,000 shall be published on Contracts Finder by the Procuring Officer in a reasonable timescale, via The Chest.
- 17.7 Once the decision to award a quotation or tender is made, each Bidder must be notified in writing of the outcome. All Bidders must be notified simultaneously and as soon as possible of the intention to award the Contract to the successful Bidder(s).
- 17.8 All Bidders should be informed of the relative advantages of the winning quotation(s) or tender(s) in comparison to their own whilst retaining confidentiality.
- 17.9 The Procuring Officer is responsible for providing the required notifications to Bidders

Enquiries Concerning the Award Process

- 17.10 The identity of Bidders and confidentiality of process shall be preserved at all times insofar as this is compatible with the Councils' obligations under the FOIA and GDPR.
- 17.11 If the Council receives a request for information to the relevant Officer of the Council who deals with such requests. The Procuring Officer will be responsible for responding to the request.
- 17.12 Any challenges, complaints or requests for feedback, clarification, or further information must be referred to Corporate Procurement who will advise on how to respond and who will notify the Monitoring Officer.

Agreement Provisions

- 17.13 All Contracts below £10,000 may be awarded by a Council issued Purchase Order. All Agreements equal to and exceeding £10,000 must be in writing and set out the parties' rights, obligations and risk allocations. All Agreements shall be on the Council's standard terms and conditions appropriate to the procurement activity undertaken, unless otherwise agreed with the Monitoring Officer.

Agreement Formalities

- 17.14 Once a decision to award has been made in accordance with Rule 16.3, the Agreement must be either:
- 17.14.1 A Purchase Order (where appropriate and the value is below £10,000)
 - 17.14.2 Signed by Officer(s) of the Council authorised to award the Agreement in accordance with the Council's Scheme of Delegation, or
 - 17.14.3 Sealed in accordance with Rules 16.21
- 17.15 Every contract having an estimated total value of £10,000 and above, and any other case where the Monitoring Officer so decides shall be in writing.
- 17.16 Every such contract entered into by the Council shall be in a form approved by the Monitoring Officer and shall be signed by a duly authorised officer(s) of the Council or made under the common seal of the Council in accordance with the Council's Constitution. The Monitoring Officer will specify when electronic signatures are appropriate
- 17.17 Two copies of the Agreement, including all schedules and appendices must each be signed by all parties. The Procuring Officer should transmit either two printed and bound copies or an electronic copy of the entire Agreement to the successful Bidder for signature. If the transmission is electronic, the Bidder shall be asked to print and bind two copies prior to signature.
- 17.18 The Procuring Officer must ensure that the person signing on behalf of the Bidder has requisite legal authority to bind the Bidder.
- 17.19 Before arranging for the returned copies of the Agreement to be signed or sealed on behalf of the Council, the Procuring Officer must check that the returned signed Agreement copies have not been amended or altered by the Bidder without prior written agreement by the Council.
- 17.20 All Agreements must be signed prior to commencement. In exceptional circumstances, the Monitoring Officer may approve commencement of an Agreement prior to finalisation of these agreement formalities.
- 17.21 Once executed, the Council shall retain one original of the complete Agreement documents and the Procuring Officer shall ensure that one copy of the complete Agreement documents is provided to the Bidder. An electronic copy of the Agreement must be stored in the agreed central location.
- 17.22 A Purchase Order must be raised by the Procuring Officer for all Agreements incurring expenditure. That Purchase Order must reference the terms and conditions of agreement signed.

Agreement under Seal

- 17.23 A contract must be sealed (or have at least two authorised signatories in accordance with the constitution) in one of the following circumstances:-

- 17.23.1 The total value is in excess of £150,000; or
 - 17.23.2 The Council wishes to extend the liability period under the Agreement and enforce its terms for up to 12 years; or
 - 17.23.3 The price to be paid or received under the Agreement is a nominal price and does not reflect the value of the Supplies or Services; or
 - 17.23.4 There is any doubt about the authority of the person signing for the other party.
- 17.24 The seal must be affixed in accordance with the provisions of the Council's Constitution.

Transfer / Novation of Agreement

- 17.25 An Agreement shall only be transferred / novated if such transfer is approved by the Monitoring Officer and Section 151 Officer, or their nominees in accordance with the Council's Scheme of Delegation.

18 Contracts Register

- 18.1 All Contracts in excess of £5,000 awarded by the Council must be published on the Council's Contracts Register in accordance with the Local Government Transparency Code 2015.
- 18.2 The Council's Contracts Register shall be maintained by Corporate Procurement.
- 18.3 It is the responsibility of the Procuring Officer to ensure that they have informed Corporate Procurement of the Agreements they are responsible for and provided them with the information necessary to maintain the Council's Contracts Register accordingly.

19 Extending Agreements

- 19.1 Where an Agreement entered into by the Council in accordance with these Rules includes a provision for extension beyond its initial term, such extension shall only be made following consultation with and as authorised by the Monitoring Officer and Section 151 Officer.
- 19.2 Any extension shall only be in accordance with the provisions set out for such extension in the original Agreement.
- 19.3 No procurement activity connected with the proposed extension should be commenced, nor should any commitment be made to the supplier, prior to authorisation.
- 19.4 Where an Agreement entered into by the Council does not include a provision for extension, or all extension provisions have been used, then this will be considered a Modification.

Extension Procedure

- 19.5 The Procuring Officer must complete and submit an Agreement Extension Form providing full details of the extension request and any supporting/supplementary documentation.
- 19.6 An extension request will not be approved until the extension form has been signed by the Monitoring Officer and Section 151 Officer, or their nominees in accordance with the Council's Scheme of Delegation.
- 19.7 The completed and signed Extension Form, approving the extension and stating the reasons for that approval, shall be stored on The Chest or stored in central location.

20 Modification of Agreements

- 20.1 An existing Agreement shall only be modified during its term following consultation and approval by the Monitoring Officer and Section 151 Officer.
- 20.2 Any modifications should be necessary and reasonable in the circumstances, and the Procuring Officer should be satisfied that it offers value for money and they have explored the delivery of additional Social Value from the supplier where appropriate.
- 20.3 Any above-Threshold modifications must comply with Regulation 72 of the Regulations.
- 20.4 No procurement activity connected with the proposed modification should be commenced, nor should any commitment be made to the supplier, prior to authorisation.
- 20.5 The Modification Process is set out from Rule 21.6

21 Exemptions from the Standing Orders Rules

- 21.1 An Exemption from these Rules will only be permitted in the following circumstances:
 - 21.1.1 The arrangement is a permitted exemption from the requirement for competition contained in legislation; or
 - 21.1.2 To comply with legal requirements; or
 - 21.1.3 The arrangement is required to fulfil Returning Officer duties
 - 21.1.4 The Agreement is for Supplies, Services or the execution of Works which are required in circumstances of extreme urgency or unforeseeable emergency involving risks to persons, property or serious disruption to Council services; or

- 21.1.5 Repairs or parts; if the only option is to repair or buy new parts for existing equipment or buildings, and there is only one supplier; or
- 21.1.6 Where a service review includes the intention to co-terminate relevant Agreements, and where required to facilitate the Local Government Reform requirements; or
- 21.1.7 Proprietary or patented Supplies or Services are proposed to be purchased which are only obtainable from one person, and it can be demonstrated that no reasonably satisfactory alternative to those proprietary or patented Supplies is available; or
- 21.1.8 The Procuring Officer can demonstrate that no genuine competition can be obtained in respect of the purchase of particular Supplies, Services or execution of Works; or
- 21.1.9 The Procuring Officer can demonstrate that the Services or execution of Works are of such a specialist nature that they can only be carried out by one person (e.g. statutory undertakers); or
- 21.1.10 Supplies are proposed to be purchased by or on behalf of the Council at a public auction; or
- 21.1.11 Supplies or Services are proposed to be purchased which are of a specialist or unique nature (such as antiquities for museums or a particular performance artist); or
- 21.2 Where the Agreement is of a value where the Regulations apply, in addition to the above circumstances at 20.1, the requirements of Regulation 32 (Public Contracts Regulations 2015) must also be met. There is no legal route to seek an Exemption for a Concession.
- 21.3 Guidance shall be sought from Corporate Procurement prior to the commencement of any procurement activity connected with the proposed Exemption.
- 21.4 An Exemption from these Rules cannot be authorised where it would contravene the Regulations.
- 21.5 No commitment shall be made by the Council to the proposed Supplier prior to authorisation of a requested Exemption.

Exemption and Modification Procedure

- 21.6 The Procuring Officer must complete and submit to Corporate Procurement for consideration and review, an Exemption Form / Modification Form providing full details of the request and any supporting/supplementary documentation.
- 21.7 A request will not be approved until the form has been signed by the Monitoring Officer and Section 151 Officer, or their nominees in accordance with the Council's Scheme of Delegation.

- 21.8 In circumstances of extreme urgency, the Monitoring Officer and Section 151 Officer may authorise an Exemption / Modification in writing without the need to complete a form before the award is made. The Exemption/Modification form must be submitted be completed as per 20.6 as soon as is reasonably practicable, and including reasoning for the extreme urgency.
- 21.9 The completed and signed form, approving the request and stating the reasons for that approval, shall be stored on The Chest.
- 21.10 The Procuring Officer shall ensure that the agreement awarded / modified following agreement to a request complies with Rules 17.13 to 17.23.

22 Declarations of Interest, Anti-Bribery & Corruption

- 22.1 Members and Officers of the Council must declare any interest which could influence their judgement in relation to procurement activity in accordance with the Council's Codes of Conduct.
- 22.2 No gifts or hospitality should be accepted from any Bidders involved in procurement activity except in accordance with the Council's Codes of Conduct.

23 Contract Management

- 23.1 All Agreements must have a Council Contract Manager ("Contract Manager") for the entirety of the Contract. If a named Contract Manager is not identified, the Procuring Officer will fulfil the role of Contract Manager.
- 23.2 The Contract Manager will be responsible for reviewing, monitoring and evaluating the Agreement to ensure that its provisions are being followed and performed in accordance with the Council's requirements with respect to:
- 23.2.1 Performance (against agreed KPIs, where relevant, including Social Value commitments);
 - 23.2.2 Compliance with specification and contract;
 - 23.2.3 Cost;
 - 23.2.4 Any Best Value duties;
 - 23.2.5 Continuous Improvement;
 - 23.2.6 User satisfaction; and
 - 23.2.7 Risk management

24 Document Retention

- 24.1 All records in relation to the award of Agreements with a value of £5,000 or over, their associated procurement process, and their supporting documentation shall be stored centrally in an electronic filing system to be available for inspection by the Council's internal and external auditors, or an Officer of the Council, immediately upon request.
- 24.2 Such records will be retained in accordance with relevant regulations applicable to electronic record retention and in accordance with a procurement document retention schedule.

OFFICER EMPLOYMENT PROCEDURE RULES

1. RECRUITMENT AND APPOINTMENT

(a) Declarations

- (i) The Council requires any candidates for appointments as an Officer to declare on the Council's application form whether they are the spouse, partner, parent, child, step-child, adopted child, brother, sister, grandparent, grandchild, uncle, aunt, nephew or niece of an existing councillor or officer of the Council, or the spouse or partner of such persons.
- (ii) No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Director or an officer nominated by them.

(b) Seeking Support for Appointment

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) No councillor will seek support for any person for any appointment with the Council.

2. RECRUITMENT OF HEAD OF PAID SERVICE AND DIRECTORS/CHIEF OFFICERS

Where the Council proposes to appoint a chief officer the Council will:

- (a) draw up a statement specifying:
 - (i) the duties of the officer concerned (job description); and
 - (ii) any qualifications or qualities to be sought in the person to be appointed (person specification);
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

3. Where a post has been advertised as provided in paragraph 2(b), the authority shall

- (i) interview all qualified applicants for the post where they meet the essential criteria, or
- (ii) select a short list of such qualified applicants and interview those included on the short list.

Where no qualified person has applied, the authority shall make further arrangements for advertisement in accordance with standing order 2(b).

4. APPOINTMENT OF CHIEF EXECUTIVE (HEAD OF PAID SERVICE)

The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Executive Committee or its Sub-Committee.

5. APPOINTMENT OF DIRECTORS AND CHIEF OFFICERS

The Executive Committee or its Sub-Committee will appoint Chief Officers on the Council's behalf. The Executive Committee may allocate a place on the Recruitment Panel to the Leader of the Council

6. OTHER APPOINTMENTS

Officers below Chief Officer

(a) The function of the appointment of officers below Chief Officer is the responsibility of the Chief Executive (as Head of Paid Service), or by their nominee.

7. DISCIPLINARY ACTION – STATUTORY OFFICERS

In the following paragraphs –

7.1 the 1989 Act "means the Local Government and Housing Act 1989;

"the 2011 Act" means the Localism Act 2011;

"chief finance officer", "disciplinary action", "head of the authority's paid service" and "monitoring officer" have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;

"independent person" means a person appointed under section 28(7) of the 2011 Act;

"local government elector" means a person registered as a local government elector in the register of electors in the authority's area in accordance with the Representation of the People's Acts;

"member of staff" means a person appointed to or holding a paid office or employment under the authority;

"the Panel" means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;

"relevant meeting" means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officers;

"relevant officer" means the chief finance officer, head of the authority's paid service or monitoring officer, as the case may be; and

7.2 Subject to paragraph 7. 3 and 7.5 the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority's paid service or by an officer nominated by them.

7.3 Paragraph 7.2 shall not apply to the appointment or dismissal of, or disciplinary action against –

- (a) the officer designated as the head of the authority's paid service;
- (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
- (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
- (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
- (e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

7.4

- (1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment of an officer designated as the head of the authority's paid service, the authority must approve that appointment before an offer of appointment is made to that person
- (2) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the head of the authority's paid service, as the authority's chief finance officer, or as the authority's monitoring officer, the authority must approve that dismissal before notice of dismissal is given to that person.
- (3) Nothing in paragraph 7.2 shall prevent a person from serving as a member of any committee or sub-committee established to consider an appeal by-
 - (a) another person against any decision relating to the appointment of that other person as a member of the authority; or
 - (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

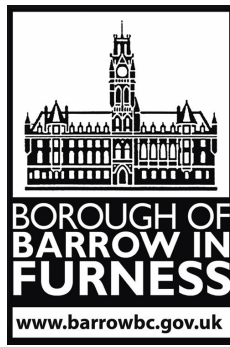
8.

- (1) A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.
- (2) The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
- (3) In paragraph (2) "relevant independent person" means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.
- (4) Subject to paragraph (5) the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance in paragraph (2) with the following priority order –

- (a) A relevant independent person who has been appointed by the authority and who is a local government elector'
 - (b) Any other relevant independent person who has been appointed by the authority;
 - (c) A relevant independent person who has been appointed by another authority or authorities.
- (5) The authority is not required to appoint more than two relevant independent persons in accordance with Paragraph (4) but may do so;
 - (6) The authority must appoint any Panel at least 20 working days before the relevant meeting.
 - (7) Before taking a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular –
 - (a) Any advice, views or recommendations of the Panel;
 - (b) The conclusions of any investigation into the proposed dismissal; and
 - (c) Any representations from the relevant officer.
 - (8) Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the Localism Act 2011.

9. Disciplinary Acton – Other Officers

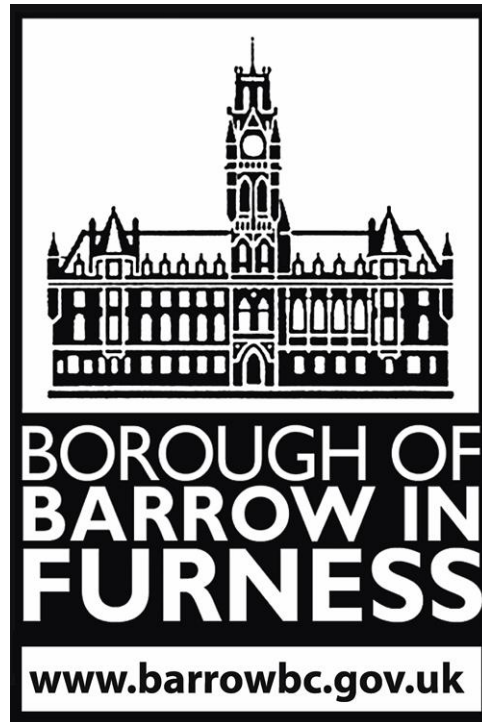
- 9.1 The function of the dismissal and taking of disciplinary action in respect of officers below Chief Officer shall be dealt with by the Chief Executive (as Head of Paid Service) or by an officer nominated by them.
- 9.2 Councillors will not be involved in the dismissal of any Officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct. The Council's disciplinary procedures allows for a right of appeal to Councillors in respect of dismissal.



Part 5

Codes and Protocols

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**Members' Code of Conduct
for Members and Co-opted
Members of the Authority**

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

GENERAL CONDUCT

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor - officer protocol.

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in virtual meetings, emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can 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. However, 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.

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it;**
 - ii. I am required by law to do so;**
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. the disclosure is:**
 - 1. reasonable and in the public interest; and**
 - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3. I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a councillor, you are trusted to make decisions on behalf of your community and 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 you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/it's functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local authority or authorising their use by others:

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

- 8.1 I undertake Code of Conduct training provided by my local authority.**
- 8.2 I cooperate with any Code of Conduct investigation and/or determination.**
- 8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- 8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose 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 disclosed by you or other councillors when making or taking part in decisions, 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 governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

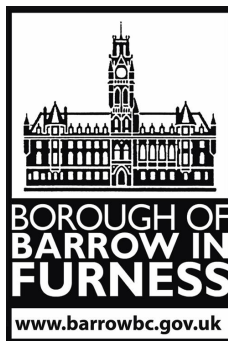
Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.



Appendix A – The Seven Principles of Public Life

The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

The principles are:

Selflessness

1. Holders of public office should act solely in terms of the public interest.

Integrity

2. Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

3. Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

4. 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

5. Holders of public office should act and taken 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

6. Holders of public office should be truthful.

Leadership

7. 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 whenever it occurs.

Appendix B - Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"Disclosable pecuniary interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or 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.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room/meeting unless you have been granted a dispensation. In addition, you may speak on the matter only if members of the public are also allowed to speak and having spoken you must leave the room/meeting. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as an Executive member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

Disclosure of Other Registrable Interests

6. Where a matter arises at a meeting which **directly relates** to one of your Other Registrable Interests (as set out in Table 2), you must disclose the interest. If you have such an interest you must consider whether a reasonable member of the public, knowing all the facts, would think the interest such that it may influence the way you vote. If the ordinary person would think that the interest may influence your vote then you should not participate in the matter. In these circumstances you may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter. If it is a 'sensitive interest', you do not have to disclose the nature of the interest

Disclosure of Non- Registrable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects**—
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a friend, relative, close associate; or
 - c. a financial interest or wellbeing of a body included under Other Registrable Interests set out in Table 2

you must disclose the interest. In order to determine whether you may participate in the meeting after disclosing your interest the following test should be applied:

9. Where a matter (referred to in paragraph 8 above) **affects** your financial interest or well-being so that a reasonable member of the public knowing all the facts would believe that it may affect your view of the wider public interest.
 - a. you may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the
	councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and
Land and Property	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer

Corporate tenancies	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

* 'director' includes a member of the committee of management of an industrial and provident society.

* '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.

Table 2: Other Registrable Interests

You have a personal interest in any business of your authority where it relates to or is likely to affect:

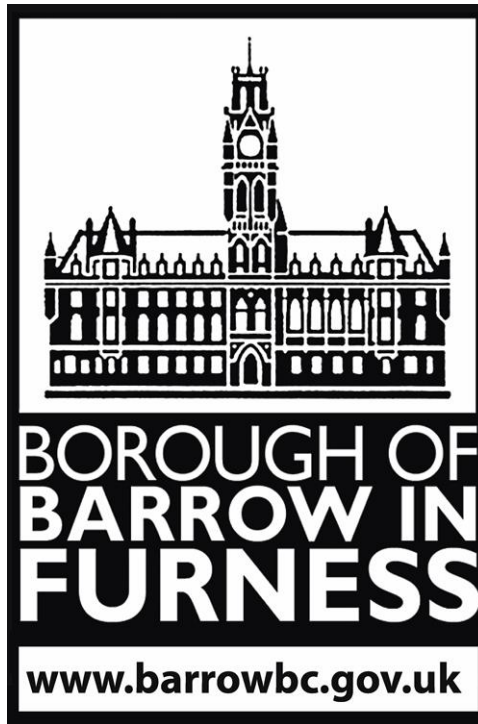
- a) Any unpaid directorships
- b) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- c) any body
 - (i) exercising functions of a public nature
 - (ii) any body directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management

Associated Protocols

The Council has adopted the following Protocols which are intended to regulate the conduct of its elected members or co-opted members and which the Council has specifically declared should fall within the provisions of this code of conduct pursuant to paragraph 10 of the code:

Licensing Code of Conduct for Elected Members

Social Media Policy



Officers' Code of Conduct

Introduction

The public is entitled to expect the highest standards of conduct from all employees who work for local government. This code provides guidance and highlights minimum standards to assist employees in their day-to-day work. The Code is produced in the light of the challenges that employees face in the new and more commercially orientated environment. This includes market testing.

1. Standards

1.1 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 Councillors 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 managers any impropriety or breach of procedure.

2. Disclosure of Information

2.1 The law requires that certain types of information must be available to Members, auditors, government departments, service users and the public. Employees must be aware of which information within their authority is open and which is not and act accordingly.

2.2 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 Councillor which is personal to that Councillor and does not belong to the authority should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

2.3 Use of Personal Information

This Authority is under a duty to protect the public funds it administers, and to this end may use the information held on your payroll records within this Authority, for the prevention and detection of fraud. It may also share this information with other bodies administering public funds solely for these purposes.

3. Political Neutrality

3.1 Employees serve the authority as a whole. It follows they must serve all Councillors and not just those of the controlling group, and must ensure that the individual rights of all Councillors are respected.

3.2 Employees required to advise political groups must do so in ways which do not compromise their political neutrality.

- 3.3 Employees, whether or not politically restricted, must follow every lawful expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work.

4. Relationships

4.1 Councillors

Employees are responsible to the authority through its senior managers. For some, their role is to give advice to Councillors and senior managers and all are there to carry out the authority's work. Mutual respect between employees and Councillors is essential to good local government.

4.2 The Local Community and Service Users

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the authority.

4.3 Contractors

All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate manager. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

- 4.4 Employees who engage or supervise contractors or have any other official relationships with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to their departmental manager.

5. Appointment and other Employment Matters

- 5.1 Employees involved in appointments should ensure that these are made on the basis of merit and 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, or have a close personal relationship outside work with him or her.
- 5.2 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner etc.

6. Outside Commitments

- 6.1 All employees have conditions of service which require them to obtain written consent to take any outside employment. All employees should be clear about their contractual obligations and should not take outside employment which conflicts with the authority's interests.

- 6.2 Employees should follow their authority's rules on the ownership of intellectual property or copyright created during their employment.

7. Personal Interests

- 7.1 Employees must declare to the Human Resources Manager, any non-financial interests that they consider could bring about conflict with the authority's interests or membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct.

8. Equality Issues

- 8.1 All local government employees should ensure that policies relating to equality issues as agreed by the authority are complied with in addition to the requirements of law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

9. Separation of Roles During Tendering

- 9.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the authority. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- 9.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 9.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.
- 9.4 Employees contemplating a management buyout should, as soon as they have formed a definite intent, inform the appropriate Director and withdraw from the contract awarding process.
- 9.5 Employees should ensure that no special 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.

10. Corruption

- 10.1 Employees must be aware that it is a serious criminal offence for them 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 their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

11. Use of Financial Resources

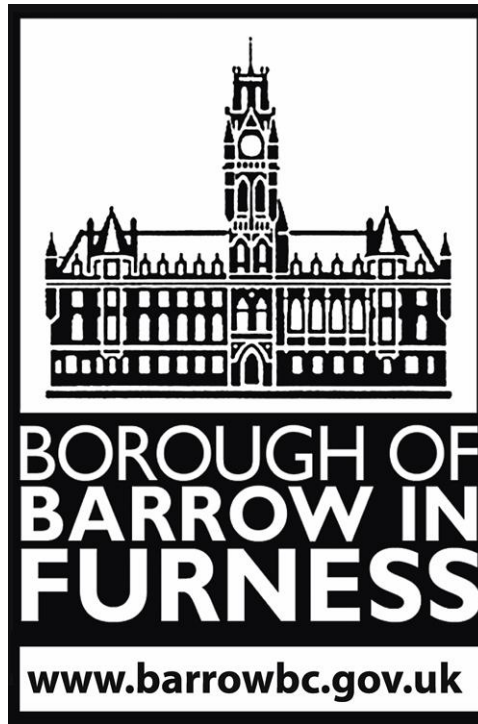
- 11.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.

12. Hospitality

- 12.1 Employees 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. It should be properly authorised and recorded.
- 12.2 When hospitality has to be declined the offer should be courteously but firmly informed of the procedures and standards operating within the authority.
- 12.3 Employees should not accept significant personal gifts from contractors and outside suppliers, although the authority may wish to allow employees to keep insignificant items of token value such as pens, diaries etc.
- 12.4 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.
- 12.5 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, etc. are required, employees should ensure that authorities meet the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions

13. Sponsorship

- 13.1 Where an outside Organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 13.2 Where the authority 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 authority through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.



Protocol on Member/Officer Relations

1. Principles Underlying Member-Officer Relations

Mutual respect between Officers and Councillors is essential to good local government and the public is entitled to expect the highest standards of conduct from both. The Council's code of conduct for Local Government employees forms part of the terms and conditions of employment for all staff and highlights minimum standards to assist open and transparent relationships between Elected Members and Officers.

2. Roles of Members

Elected Members are collectively the ultimate policy-makers and carry out a number of strategic and corporate management functions;

- they contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- they effectively represent the interests of their ward and of individual constituents and respond to their enquiries and representations fairly and impartially;
- they participate in the governance and management of the Council and are available to represent the Council or other bodies;
- they maintain the highest standards of conduct and ethics.

3. Roles of Officers

Officers are paid employees of the authority whose role is to implement the policies of the Council in accordance with agreed procedures, providing advice and guidance to Elected Members as and when requested.

4. Relationship between the Mayor and Officers

The Mayor is elected by the Council annually;

- to uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary;
- to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- 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 do not sit on the Executive Committee or hold Committee Chairs are able to hold the Members of the Executive Committee and Committee Chairmen to account;
- to promote public involvement in the Council's activities; and

- to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

Officers will ensure that the Mayor receives support, guidance and advice sufficient for the proper discharge of these functions and will at all times treat the office of Mayor with dignity and respect.

5. Relationship Between Members and Officers

Officers and the Chairs and Members of Committees will treat each other with mutual respect and Officers will provide sufficient support, guidance and advice to enable Chairs and Members to properly discharge their responsibilities.

6. Relationships between Scrutiny Committee and Officers

Scrutiny of Executive Committee decisions can only be undertaken on instructions of the Scrutiny Committee. Scrutiny covers, amongst other things, analysing and challenging policy proposals and questioning and reviewing service delivery.

In fulfilling the scrutiny role, it may require any Member of the Executive Committee, the Head of Paid Service and/or any relevant officer to attend before it. It is the duty of those persons to attend if so required.

All requests for Officer attendance shall be in accordance with procedural rules.

It is the responsibility of the Scrutiny Committee to conduct all investigations fairly, giving all Members of the Committee the opportunity to ask questions of attendees and to contribute and speak. They must treat all those assisting the Committee with respect and courtesy.

7. Officer Relationships with Party Groups

Officers serve the Authority as a whole. They must, therefore, serve all Elected Members and not just those of a controlling group, and must ensure that the individual rights of all Elected Members are respected.

Officers required to advise party groups must do so in ways which do not compromise their political neutrality.

8. Members in their Ward Role and Officers

Members have a responsibility to effectively represent the interests of their ward and of individual constituents, responding to their enquiries and representations fairly and impartially. Officers will assist Members in this role as and when appropriate and will also be expected to act fairly and impartially at all times.

9. Councillor Access to Documents and Information

Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

10. Other Individuals who are Members of Council Bodies

Members and Officers of the Council will treat all other individuals who are Members of Council bodies with courtesy and respect and will expect those Members to conduct themselves in an appropriate and acceptable manner.

11. Press Releases

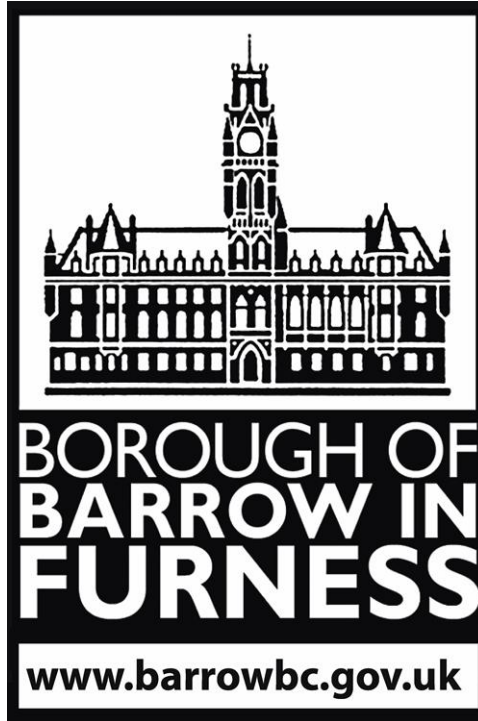
Press Releases may be issued by Senior Officers and Councillors direct to the media.

If Members or Officers are in any doubt about the content of Press Releases or require guidance in their preparation they are encouraged to seek advice from the Head of Paid Service or his Directors.

12. Correspondence

All correspondence between Officers and Members shall be courteous, polite and relevant to the functions of the Council and its Committees.

Correspondence dealing with the private interests of Members with respect to the functions of the Council must remain separate from any correspondence pertaining to their role as an elected official.



Virtual Meetings Rules and Protocol

Virtual Meetings – Rules and Protocol

Attendance

1. To attend any virtual, electronic or digital meeting, a Member must be able at that time:
 - a. to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other members in attendance,
 - b. to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting, and
 - c. to be so heard and, where practicable, be seen by any other members of the public attending the meeting

Protocol for the Meeting

2. Members should connect to the Meeting 30 minutes before the allotted commencement time to allow themselves and the meeting facilitator or Democratic Services Officer the opportunity to test the equipment and check that their connection is operational.
3. Ensure you are fully visible to other participants and the public remove other devices away from you as much as possible – this reduces the amount of feedback/interference.
4. Dress smartly - as you would if attending a physical meeting in the Town Hall. Try not to touch your face whilst streaming – government advice is not to do so and it would set a good precedent if we avoided doing this over live stream as well.
5. Any camera (video feed) should show a non-descript background or, where possible a virtual background and members should be careful to not allow exempt or confidential information or copyright information to be seen in the video-feed which for public meetings will be live-streamed for public viewing. Do not sit in front of the window since the glare from this will prevent people seeing you.
6. Members should ensure that their microphone is muted when they are not talking.
7. All Members will be remotely muted. If you wish to speak please use the participant's 'raise hand' facility within zoom (this ensures that your hand is picked up and noted by the Chair). The Chair will bring Members in to speak individually. Your Audio will only be unmuted when the Chair introduces you to speak.

8. The chat facility must not be used for private conversations between councillors.
9. Only one person may speak at any one time. If any attendees are on audio only please state your name before speaking.
10. The Council's Procedure Rules will apply as practicable¹ subject to the following amendments:
11. Members are only entitled to speak at the invitation of the Chair other than to:
 - a. move a Motion or Amendment without Notice (CPR 12);
 - b. second a Motion (CPR 13.1);
 - c. move a Motion which may be moved during a debate (CPR 13.1);
 - d. move a closure Motion (CPR 13.11)
 - e. point of order (CPR 13.12)
 - f. personal explanation (CPR 13.13)
12. In any debate, the Chair of the Meeting will ask Members in attendance, whether they wish to say anything as part of the debate. If a Member wishes to speak then they should use the participant's 'raise hand' function and the Chair will call upon the individual members to speak.
13. Ensure the microphone is on and also the video-feed (if available or unless speaking to a diagram, presentation, slide or drawing), then state your name before you make a comment.
14. When referring to a specific report, page, or slide, mention the report, page, or slide so that all members have a clear understanding of what is being discussed at all times.
15. Once each Member has either spoken or indicated that they do not wish to speak then the relevant matter will be put to the vote.
16. Unless a Recorded Vote is demanded (CPR15.4), which may be confirmed by the requisite number of Members confirming the demand verbally when requested by the Chair, the Chair will take the vote by one of the following methods:
 - A vote by electronic means; or
 - By the affirmation of the meeting if there is no dissent (by assent); or
 - The Chair will take the vote by roll-call and the number of votes for or against the motion or amendment or abstaining from voting will be recorded.

¹ For example, the requirements for Members to stand (CPR 19.1 and 19.2) will not apply.

Members with a Disclosable Pecuniary Interest in a Matter

17. Any Member with a Disclosable Pecuniary Interest in any particular matter will be moved to the Meeting waiting room for that particular item. The Meeting host will then bring the Member back in to the meeting once the matter has been dealt with.

Confidential or Exempt Items or Issues

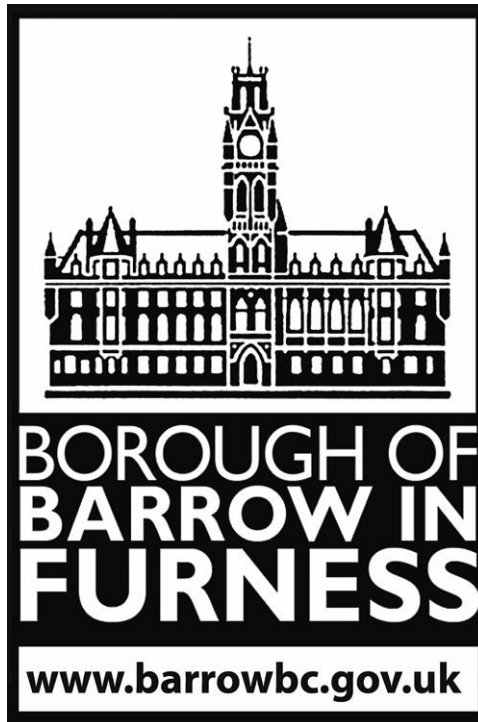
18. When confidential, or “exempt” issues – as defined in Schedule 12A of the Local Government Act 1972 – are under consideration. The Chair and Members should ensure that there are no members of the public at remote locations able to hear or see the proceedings during such meetings. Any Remote Member should confirm verbally prior to participating in any confidential and/or exempt item of business, that they are in a secure private location and that no one else is able to hear the proceedings from the device being used by that Remote Member and that no recording is being made. Any member in remote attendance who failed to disclose that there were in fact persons present who were not so entitled will be in breach of their Code of Conduct responsibilities.

Connection Problems

19. If, during the course of a Meeting, it becomes apparent that a Member is no longer in attendance, the Meeting will be paused for a period of up to ten minutes to re-establish their attendance.
20. After the ten minute period, if it has not been possible to re-establish the attendance of the particular Member:
 - a. If the Meeting remains quorate, the Meeting continues.
 - b. If the Meeting is inquorate, it will be adjourned until a suitable alternative time.
21. In circumstances when a Member re-joins part way through a re-commenced matter in a quorate Meeting and have missed part of the debate:
 - a. For licensing, regulatory, development control or other quasi judicial matters, they should not participate in the vote.
 - b. For other matters, Members must take a view as to whether they are sufficiently informed to properly cast their vote.

Public/Other Participants

22. For those meeting which require some public or other participation, at the relevant item, the Meeting will be paused until such time as those other involved persons are able to so participate.
23. If a technical matter prevents the relevant participant from attending then the Chair will make a decision as to whether they are able to put forward the person's contribution (e.g. a question, or a submission to the Development Control Committee) or if the matter should be deferred until another suitable time.



**CODE OF CONDUCT FOR ELECTED MEMBERS
AND OFFICERS DEALING WITH
PLANNING MATTERS**

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CODE OF CONDUCT FOR ELECTED MEMBERS AND OFFICERS DEALING WITH PLANNING MATTERS - BARROW-IN-FURNESS BOROUGH COUNCIL

1. THE STANDARD OF SERVICE THAT WE WILL ACHIEVE

- 1.1 The Borough Council is committed to providing a development control and planning service of the highest standard. The service will adhere to the principles of fairness, impartiality, openness and accountability.
- 1.2 The Borough Council will make its planning decisions in an open and transparent manner, based on sound judgement and for justifiable reasons.
- 1.3 All planning decisions will be based firmly on policies contained within the Development Plan, unless other material considerations indicate otherwise.
- 1.4 Members and Officers of the Borough Council will follow this Local Code of Conduct when involved in planning matters. Planning matters include the consideration of planning applications, the preparation of development plans and other planning policy and the enforcement of planning control.

2. THE ROLE AND CONDUCT OF MEMBERS AND OFFICERS

- 2.1 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.
- 2.2 Officers advise Councillors and Council and carry out the Council's work. They are employed by the Council and instructions may only be given to them by a decision of Council or its Executive Committee. The relationship between Councillors and Officers must be based on mutual trust and understanding of each other's positions. This relationship and the trust, which underpins it, must never be abused or compromised.
- 2.3 Members whilst taking their declaration of office as a Councillor undertake to be guided by the Barrow-in-Furness Borough Council Code of Conduct, as set out in the Council's Constitution and this sets out, amongst other issues, procedures with regard to disclosure of personal and/or prejudicial interests and gifts and hospitality. Members of the Planning Committee should refer to the Code for guidance on these matters.
- 2.4 Translated to a Councillors involvement in planning issues the two stage test of personal and prejudicial interests set out in the Code of Conduct referred to in 2.3 above will require a Councillor to abstain from involvement in any issue, the outcome of which might advantage or disadvantage the personal interests of the Councillor, his family, friends or employer.
- 2.5 Where the planning matter under discussion relates to:-
 - Another authority of which the Councillor is an Elected Member.
 - Another public authority in which the Councillor has a position of general management or control; or

- A body to which the Councillor has been appointed or nominated as a representative of the Borough Council.

The mere existence of such interests does not mean they are necessarily prejudicial. They would only become so if, in advance of the decision making meeting, the Councillor had taken a firm view on the planning matter either in meetings of the other body or otherwise.

Therefore, the Councillor should only take part in the decision on the planning matter if they have scrupulously avoided forming a fixed view on the merits of the planning issue in advance of the Planning Committee meeting which determines the matter. If this were not the case the Member would have compromised their ability to demonstrate that all relevant facts and arguments had been taken into account in reaching the planning decision.

- 2.6 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, inform the Monitoring Officer and have no further involvement in the processing or consideration of that matter.
- 2.7 Serving Members and Officers shall never act as agents for persons pursuing a planning matter within the Borough.

3. DEVELOPMENT PROPOSALS SUBMITTED BY COUNCILLORS AND OFFICERS AND COUNCIL DEVELOPMENT

- 3.1 Planning legislation allows the Borough Council to submit and determine proposals for development that it proposes to carry out itself, on its behalf, or on land and property within its control.
- 3.2 Where Members of the Planning Committee have earlier sat on the Committee which has formulated development proposals or submitted a planning application, each Member wishing to address the Planning Committee should declare his/her membership of the other Committee.
- 3.3 Such a Member should take no part in discussion or determination of the application where he/she has spoken in favour of the proposal at the earlier Committee in circumstances where his/her total impartiality may be called into question.
- 3.4 Merely voting in favour of the proposal or taking part in the ordinary process of debate, where no clear partiality in favour is demonstrated would not disbar a Member from playing a full part in the subsequent Planning Committee proceeding.
- 3.5 Proposals submitted by Councillors or applications in which they have an interest will be reported to the Planning Committee for decision and will not be determined by Officers under the delegation agreement. The Council's Monitoring Officer will also be informed of such proposals.

Any proposal for the Borough Council's own development will be treated in the same way as any by private developers in accordance with DOE Circular 19/92.

LOBBYING OF AND BY MEMBERS

- 4.1 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 Members of a Planning Committee. However, reacting to lobbying can lead to the impartiality of a Member being called into question and require that Member to declare an interest.
- 4.2 The information provided by lobbyists, whether supporting or opposing a development, is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. Existing planning policies as well as 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 the case.
- 4.3 The time for the 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. Members should take care not to be seen or presumed to commit themselves before this time.
- 4.4 However, it is recognised that it is a severe restriction on Members not to represent the views of the electorate if they agree with a view. It should be possible for a Member to give support to a particular body of opinion whilst waiting until the Planning Committee and hearing all the evidence presented before making a final decision.
- 4.5 A Planning Committee Member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to Officers). Even though they may agree with a particular view, Planning Committee Members shall take care not to commit themselves to vote for or against a proposal before a decision is taken. To do so, without all the relevant information and views, would be unfair and prejudicial. Members should make clear that they reserve their final decision on a proposal until the Committee meeting.
- 4.6 All lobbying of Councillors in relation to a planning matter should be recorded on forms provided for that purpose.
- 4.7 Members of 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.
- 4.8 There may be occasions when Planning Committee Members feel they must respond to lobbying by their constituents, and publicly express a final view on a proposal prior to the Committee meeting. Where a Member decides to adopt this approach, he or she shall declare an interest and not vote on the matter. The Member may still address the Committee on the same basis as a local Member.
- 4.9 Members of a 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. Where such meetings are held a note of the discussion should be made and be passed to the Democratic Services Manager.

5. PRE AND POST APPLICATION DISCUSSIONS AND NEGOTIATIONS

- 5.1 Discussions between an applicant and a Planning Authority, prior to submission of an application, can be of considerable benefit to both parties and is encouraged. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the planning process.
- 5.2 Members 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. Should there be occasions when Members are involved, it should be as part of a structured arrangement with Officers, including a senior planning officer.
- 5.3 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.
- 5.4 Pre or post application discussions or negotiations shall be conducted in accordance with the following guidelines:-
- (i) It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the Officer only.
 - (ii) Advice should be consistent and based upon the Development Plan and other material considerations. There should be no significant difference of interpretation of planning policies between Planning Officers.
 - (iii) A written note should be made of the meeting. Two or more Officers should attend potentially contentious meetings.
 - (iv) Care must be taken to ensure advice is not partial and not seen to be.

6. OFFICER REPORTS TO COMMITTEE

- 6.1 Officers' written reports must accurately reflect the consultation responses and representations received. They should have a reasoned assessment of the proposal in relation to the Development Plan, to relevant national policies, to the site or related history, to any other material considerations, and have a justified written recommendation.
- 6.2 Oral reports (except to present and update a report) should be extremely rare and carefully minuted when they do occur.
- 6.3 If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.

7. PUBLIC SPEAKING AT PLANNING COMMITTEE

- 7.1 The Borough Planning Committee consider that their long established policy of allowing applicants and objectors to speak at Committee constitutes good practice.
- 7.2 The arrangements for such presentations shall be equitable to both parties and be in accordance with the following procedure:-
1. If an objector asks to speak, that objector together with the applicant will be invited to speak at the meeting when the application or matter is first considered.
 2. If an applicant asks to speak, the applicant, together with all objectors to the proposals, will be invited to speak at the meeting. If there are many objectors they will be asked to appoint no more than three representatives to speak.
 3. If requests to speak are made less than 1 week before the meeting of Planning Committee, the Democratic Services Manager will decide whether the necessary arrangements can be put in place. If not, the Committee will be asked if they wish to defer the application.
 4. All people invited to speak at the Planning Committee will be allowed a maximum of five minutes to make their points. Councillors will be able to ask them questions to seek clarification but no further submissions will be allowed.
 5. Speakers shall provide written details of their presentation, and any supporting material such as photographs, no later than 12.00 p.m. on the day before the meeting. In the absence of any written details, the Committee Chairman shall decide if the speaker can address the meeting. The submission of supporting material on the day will not be accepted.
 6. Following representations, if the decision is deferred for some reason, such as a site visit, the parties will not be given the opportunity to speak again at subsequent meetings with regard to the planning matter under consideration.
 7. The only exception to 5 above would be where an application had been significantly amended to the extent that it raised new issues on which the application or objectors may wish to express their views.

The above procedure will be followed for all planning applications and enforcement issues considered by the Planning Committee.

8. DECISIONS CONTRARY TO OFFICER RECOMMENDATION

- 8.1 Members shall recognise that legislation requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.
- 8.2 Where the Committee is minded to approve or refuse a planning application contrary to the planning officer's recommendation, a final decision on the application shall be deferred until the next meeting. At the time of deferral, Members shall clearly set out the reasons as to why they wish to contradict the Officer recommendation, and this shall be minuted accordingly.
- 8.3 This deferral of the decision will allow time for further advice to be prepared, which might include drafting of suitable conditions or confirmation that clear and convincing reasons for refusal of the application can be made, based on material planning considerations. This will help guard against costs awards in favour of the applicant. Legal representation to advise Members might also be provided when the application is reconsidered.
- 8.4 In cases where the Committee wishes to approve an application contrary to development plan policy based on personal circumstances, the application shall be deferred to the next meeting so as to obtain any legal advice which may be required.
- 8.5 In the case of Enforcement Notice issues against the recommendation of the Head of Development Management the reasons for service of the notice and the actions required to secure compliance with the notice must be set out.

9. PLANNING APPEALS

- 9.1 In cases where a decision to refuse permission for a planning application is made contrary to the recommendation of the Head of Development Management and a subsequent appeal arises, the following procedure will be followed.
- 9.2 In cases dealt with by written representations the appeal will be processed on the basis of an objective factual report which will refer to the processing of the application, the views of consultees, the application of policy, the recommendation of the Head of Development Management but in addition, explain in detail the views which Members felt to be particularly relevant and of such importance to justify a contrary view to the Planning Officer and the refusal of permission.
- 9.3 In the case of appeals dealt with by informal hearings the same approach will be followed.
- 9.4 In the case of major applications involving public inquiries the same principles will apply, but the Committee will be invited to consider such cases separately and decide on the best course of action to take in the particular case (including the giving of evidence by a Member or Members).
- 9.5 Appeal decisions will be reported either for information or as guidance for future policy review as appropriate.

10. COMMITTEE SITE VISITS

- 10.1 A site visit may be held where a proposal is contentious or particularly complex and the impact is difficult to visualise or assess from the plans and supporting information. These are often useful when a proposal is contentious and has raised significant and/or conflicting representations from applicant and objectors. However, site visits can cause delay and additional costs and should only be used where the expected benefit is substantial.
- 10.2 Site visits will consist simply of an inspection by the Committee with Officer assistance. Neither applicant nor objectors will be allowed to accompany or speak to Members whilst on the site visit.
- 10.3 If requested by a Ward Councillor, County Councillor or Parish Councillor, an Elected Member who is not a Member of the Planning Committee will be allowed to attend the site visit. The planning officer will describe the application and outline the relevant policies and planning considerations. The Chairman will then ask the invited County, Ward or Parish Councillor to point out any issues to which particular attention should be drawn. Any further discussion should be reserved for the full Planning Committee to which all parties can be present.
- 10.4 Officers or Members may request site visits. A record of the reasons for calling a site visit will be recorded on the Application file.

11. REGULAR REVIEW OF DECISIONS

- 11.1 The Audit Commission's Report, "Building in Quality", recommended that Elected Members should visit a sample of implemented planning permission sites to assess the quality of decisions. This can improve the quality and consistency of decision making and help with reviews of planning policy.
- 11.2 The Head of Development Management shall organise an annual inspection to be carried out by the Planning Committee. It shall include examples from a broad range of categories comprising major and minor developments, permitted departures, upheld appeals, neighbour disputed proposals, listed building works and enforcement cases.
- 11.3 Following the annual review, the Members will decide whether they wish to refer any policies for review to the Local Plan Working Group and Executive Committee.

12. REPORTING DELEGATED DECISIONS

- 12.1 The Borough Council has delegated a number of planning decisions to the Head of Development Management as set out in the Director of People and Place.
- 12.2 These decisions are made on the basis of a written report covering the same topics as a normal Committee report as set out in 8.1. These reports, including the signatures of the confirming Officers shall be kept on the application file.
- 12.3 The application file, including its associated report and decision notice, will be available for public inspection for a period of 6 months following the decision.

13. COMPLAINTS

- 13.1 The Council has adopted a complaints procedure.
- 13.2 If the complaint cannot be satisfied locally, it can be referred to the Local Government Ombudsman. Any decisions made by the Ombudsman relating to complaints regarding planning will be reported to the Council as an information item.

14. PLANNING PANEL

- 14.1 The Planning Panel was established in 1998. It is a consultative forum for decisions which are delegated to the Head of Development Management. It shall comprise such numbers as determined by Council in accordance with the proportionality rules.
- 14.2 The Delegation Agreement to the Head of Development Management is set out at Page 14 of Part 3(2) of the Constitution.
- 14.3 The Panel will be consulted on the following issues.
 - (i) Whether relevant applications should be delegated to the Head of Development Management or be determined by the Planning Committee.
 - (ii) Other items relating to the Planning Service.



BARROW-IN-FURNESS BOROUGH COUNCIL

Licensing Code of Conduct for Elected Members - Licensing Committee, Licensing Sub-Committee and Licensing Regulatory Committee.

Notes:-

This constitutes a local Code of Conduct, breach of which will constitute a breach of the Code of Conduct for Members and Co-opted Members of the Authority (Part 5(1) of the Constitution)

It also has to be read in conjunction with:

Protocol on Member/Officer Relations (Part 5(3) of the Constitution)

This Code of Conduct was approved by Barrow Borough Council on 21/01/2020

Licensing Code of Conduct for Elected Members – Licensing Committee, Licensing Sub-Committee and the Licensing Regulatory Committees

This Licensing Code of Conduct sets out principles to guide Members and Officers in determining licensing applications and making other decisions within the terms of reference of the Licensing Committee, Licensing Sub-Committee and the Licensing Regulatory Committees (“the Licensing Committees”).

Although it is of particular relevance to Members of the Licensing Committees, **it applies to all Members of the Council who may become involved in licensing matters**. It will be distributed annually to all Members of the Council.

Officers participating in the Licensing Committees’ process must comply with the Officers Code of Conduct (Part 5(2) of the Constitution).

This Code of Conduct relates mainly to the Council’s licensing functions.

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1. INTRODUCTION

- 1.1. The Licensing Committees have a very important role to play in the life of the Borough; they determine licensing applications under many different statutory regimes – from alcohol & gambling licences to taxi licences & street trading consents and many others. Your decisions are very important to the applicants since they can affect their ability to earn their living and can have serious financial consequences. However, the role of licensing is the protection of the public and is also important for the safeguarding vulnerable adults and children, its impact on health & safety and public safety, the local and wider community and competing economic interests.
- 1.2. More specifically, applications and matters undertaken when discharging the Council's functions under the Licensing Act 2003 and the Gambling Act 2005 have their own objectives to be upheld. The Licensing Act 2003 regulates 'licensable activities' which are defined in the Act as the sale of alcohol, supply of alcohol by a club, regulated entertainment and late night refreshment. The Gambling Act 2005 regulates the licensing of gambling premises and certain permissions.
- 1.3. This Licensing Code of Conduct contains guidance for Members of the Licensing Committees. If Members are uncertain about the application of the Code, they should seek guidance from officers, preferably in advance of any meeting.

2. INTERESTS OF THE WHOLE COMMUNITY

- 2.1. Members of the Licensing Committees should determine licensing matters in the interests of the whole community of the Borough.
- 2.2. All applications should be determined with regard to the relevant legislation, policy and guidance.
- 2.3. Members of the Licensing Committees should not prejudge licensing applications nor do anything that may reasonably be taken as giving an indication of having prejudged licensing applications.
- 2.4. All other Members should have regard to these principles when dealing with licensing matters and must avoid giving an impression that the Council may have prejudged the matter.

3. PARTICIPATION OF MEMBERS

- 3.1. Members must consider carefully whether it is right for them to participate in a matter before the Committee. There are two elements to this:
 - (a) where they have private interests, both Disclosable Pecuniary Interests and any other Registrable Interests; and
 - (b) where Members of the public may feel that the Member will not be able to approach matters with an open mind and consider the application on its own merits.
- 3.2. While this Code of Conduct seeks to guide Members each situation will be different and Members should seek guidance from Officers.

3.3. Members must comply with the Barrow-in-Furness Borough Council Code of Conduct, as set out in the Council's Constitution and the provisions set out in the Code of Conduct for Members and Co-opted Members of the Authority (Part 5(1) of the Constitution).

3.4. Pre-judgment

Section 25 of the Localism Act 2011 provides that:

"A decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision because:

- a) the decision-maker had previously done anything that directly or individually indicated what view the decision maker took, or would or might take, in relation to a matter, and;
- b) the matter was relevant to the decision".

3.5. The key point is that by the time the Member considers the application they must have an open mind and appear to have an open mind when determining the application.

3.6. While this Code of Conduct for Members provides guidance as to private interests, both Disclosable Pecuniary Interests and any other Registrable Interests which may affect a Member's ability to take part in the decision-making process, Members may have other interests which may influence their decision which will not amount to private interests, both Disclosable Pecuniary Interests and any other Registrable Interests for the purposes of the Code. In order to maintain the integrity of the licensing system, Members should be careful to ensure that such interests do not unduly influence their decisions. Examples of such interests are:-

- from ward concerns
- from Membership of other Committees of the Council
- from Membership of other public or community bodies
- from Membership of voluntary associations and trusts (including where appointed by the Council)
- from a connection with a particular policy initiative of the Council.
- from Membership of clubs, societies and groups
- from hobbies and other leisure interests
- from employment or professional concerns

3.7. Such interests may mean that a Member is involved with a licensing application before the matter comes before the Licensing Committees. Such involvement need not on its own debar a Member from participating in making the licensing decision when the matter is considered by the Licensing Committees providing that the Member has not already decided how they will vote on the matter before the Committee. Members should, however, always consider carefully whether in any particular case they can reasonably be seen to approach the application on its own merits and with an open mind. If the Member considers that this is not possible, the Member should withdraw from consideration of that item.

- 3.8. As a minimum, the integrity of the licensing system requires openness on the part of Members; it must operate fairly and be seen to operate fairly.

4. POLITICAL GROUP MEETINGS

- 4.1. Members of the Licensing Committees must not base their decision on any discussion that may have taken place in a political group meeting. To do so would mean that Members have not come to the Committee meeting with an open mind, and that they may have been influenced by group discipline rather than the merits of the case. Where such meetings are held a note of the discussion should be made and be passed to the Democratic Services Manager. The Ombudsman has found maladministration in cases where Members have been influenced by political group decisions in deciding planning applications, and the same principles apply to licence applications.

5. DEBATE

- 5.1. Only Members of the Licensing Committees can take part in the decision making. Members of the Licensing Committees must:-
- (a) listen to all arguments for and against an application and weigh them up carefully before deciding whether to support or oppose a particular application.
 - (b) make sure that they are not swayed by arguments which are not directly related to the merits of the application.

6. ATTENDANCE OF THE PUBLIC

- 6.1. In most cases the Monitoring Officer will determine whether a particular matter should be heard in Part II (private). However, the Committees can decide whether to deal with matters in public or private, having regard to the Access to Information Procedure Rules (Part 4 of the Constitution) and the Human Rights Act 1998.

7. GENERAL PROCEDURES FOR HEARINGS

- 7.1. The following procedural requirements shall be followed at all times;
- Any requests for additional hearings, to those set at Council, shall be made to the Monitoring Officer.
 - A solicitor, counsel, professional adviser, friend or relative may represent a person who is allowed to attend and make representations.
- 7.2. There are specific guides to the process and order of procedure for the Licensing Regulatory Committee and the Licensing Sub-Committee; attached at Appendix 1 and 2, for which there are also statutory procedural regulations; The Licensing Act 2003 (Hearings) Regulations 2005 (SI 2005 No 44) and The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 (SI 2007 No 173).

8. NATURAL JUSTICE

8.1. There are two elements to natural justice:

(a) Fairness

- (i) When the Licensing Sub-Committee or Licensing Regulatory Committee are considering an application, the applicant will be given an opportunity to put his / her case before the committee. If the applicant or his / her representative does not attend, the Sub-Committee or Regulatory Committee, may in its discretion proceed in the applicant's absence taking into account all the circumstances.
- (ii) Any person who has duly objected or made a representation, may be allowed a hearing at the Chair's discretion.
- (iii) When the Licensing Committee or Licensing Regulatory Committee is considering a matter of policy or other general licensing matters, any persons who wish to make representations may be allowed to do so at the Chair's discretion. If the Chair consents, any such representations would be time limited to three minutes for individuals and five minutes for an organisation / association within a maximum 30 minute time slot.
- (iv) People wishing to make a representation under paragraph 8.1(a)(iii) above, should make a request to do so, in writing to the Public Protection Manager, at least 2 working days before the Committee meeting.
- (v) After making their representation to the Committee they will not be questioned by nor may they ask questions of Members or Officers.
- (vi) If a number of people wish to make similar representations, a spokesperson should be appointed and that individual be given five minutes time to present their representation.
- (vii) Where possible, all documentation to be considered by the Licensing Committees will be made available in advance in accordance with the Access to Information Procedure Rules (Part 4 of the Constitution).
- (viii) All Members of the Licensing Committees shall be present throughout the consideration of a particular application or matter. Where a Member arrives late or leaves the room once consideration of the matter has started, that Member shall play no part in the decision-making process for the particular application. Where an application is adjourned it shall be heard by the same Members only, and no others.

(b) Prevention of Bias

- (i) The rules about personal and non-participatory interests set out in the Members' Code of Conduct for Members and Co-opted Members of the Authority (Part 5(1) of the Constitution) shall be firmly applied. Members are also referred to the guidance about prejudgement in section 3 of this Code.

- (ii) If the Licensing Committees move into private session to consider its decision, it should be accompanied only by Democratic Services Officers, Principal Legal Officer and Solicitor, all of whom shall have taken no substantive part in the debate, and shall play no substantive part in the decision-making process.

8.2. There may be specific statutory rules and procedures that the Committee must follow in the case of particular applications.

9. LOBBYING OF AND BY MEMBERS

9.1. While recognising that lobbying of Members has an important role in the local democratic process, this should not prejudice the licensing process. Those who may be affected by the Committees decision will often seek to influence the decision by an approach to their local Member or Members of the Licensing Committees. However, reacting to lobbying can lead to the impartiality of a Member being called into question and require that Member to declare an interest.

9.2. Lobbying of the Licensing Committees' Members:

- (i) A Member of The Licensing Committees who is lobbied before the meeting:-
- May listen to what is being said
 - May give procedural advice e.g. the right to make representations
 - May refer the lobbyist to a colleague who does not sit on the Committee.
 - Should refer the lobbyist to the relevant Licensing Enforcement Officer so that their views can be recorded and included in the report to the meeting.
 - Should not give details of voting intentions or otherwise enter into a commitment to oppose or support the application.
 - Should report all instances of significant, substantial or persistent lobbying to the Democratic Service Manager.

There is no problem about listening to a point of view. If Members of the Licensing Committees express an opinion, without hearing the alternative view, it may create the impression that Members have pre-judged the matter and will not approach the matter with an open mind on its merits at the Committee.

- (ii) If the question arises of writing letters of objection (or support) to the Public Protection Manager, it would be more appropriate for these to come from Ward colleagues who are not Members of the Licensing Committees.
- (iii) Members of the Licensing Committees should avoid entering any premises or site in connection with an application unless part of an organised site visit. However, Members may sometimes be asked by constituents to visit them in their homes, and on those visits the question of a licence application (or objection or support) may be raised. In such circumstances, Members should not give any commitment.

9.3. Lobbying of other Members

While recognising that lobbying of Members has an important role in the local democratic process, all other Members should ensure that their response is not such as to give reasonable grounds for suggesting that the decision has already been made by the Council.

9.4. Lobbying by the Licensing Committees Members:

- (i) Members of the Licensing Committees should not directly or indirectly organise support or opposition, lobby other Members, act as an advocate, or put pressure on Officers for a particular recommendation or give instructions to Officers about any application. Members are also reminded of their obligation under Paragraph 5 of the Members' Code of Conduct for Members and Co-opted Members of the Authority (Part 5(1) of the Constitution).
- (ii) If Members of The Licensing Committees engage in such conduct, it will be apparent that they have prejudged the application and are incapable of dealing with the matter with an open mind. If Members find themselves in such a situation, they should withdraw from the Committee for that item.

9.5. Lobbying by other Members:

- (i) All other Members should generally follow the principle set out in section 9.4 and do nothing to affect the integrity of the licensing system; in particular, they should not put pressure on Officers for a particular recommendation or give instructions to Officers about any application. Members are also reminded of their obligation under Paragraph 5 of the Members' Code of Conduct for Members and Co-opted Members of the Authority (Part 5(1) of the Constitution).
- (ii) Members should consider carefully what effect on the integrity of the licensing process any action they take may have (such as the circulation of correspondence to Members). If Members receive correspondence about an application, from an applicant or any other person(s), they should contact the Public Protection Manager and the Monitoring Officer as soon as possible providing copies of any such correspondence, rather than directly to Members of the Licensing Committees. This ensures that any action deemed appropriate can be taken and the information appears on the appropriate file.
- (iii) Ward Members have a number of important roles in licensing matters :-
 - informative - making sure that their constituents are aware of licensing matters in the Ward
 - representative - making sure that the views of their constituents are brought to the attention of the Council
 - advocacy - speaking for those who feel unable to speak on their own behalf.

Care must be taken to ensure that a Member's actions are not misunderstood. A number of steps can prevent this:-

- information that is distributed should be factually correct
- where there are competing interests, all views should be represented
- an impression should not be created that the Member is conducting a campaign in support or opposition to an application
- other Members should not be lobbied.

10. HOSPITALITY

10.1. Members should not accept gifts or hospitality from applicants or objectors in connection with their Membership of the Licensing Committees as this might reasonably be interpreted as likely to influence a Member's judgement. In addition, all Members must comply with of the Code of Conduct for Members and Co-opted Members of the Authority (Part 5(1) of the Constitution).

11. MEETINGS WITH INTERESTED PARTIES

11.1. The main role of the Licensing Committees is to decide individual applications which is a quasi-judicial function. The Licensing & Regulatory Committees also have a role in deciding a policy framework.

11.2. The Committee will often find it useful to meet interested parties including members of the trade, resident groups, and the like and to visit premises in the Borough. While it is proper for the Committee to do this, care must be taken not to prejudice the integrity of the licensing process. The following ground rules will help to prevent this:-

11.3. Arrangements for meetings and visits should be approved by the Monitoring Officer and arranged by Officers. Members should not make their own arrangements. If Members are approached direct, they should pass the person concerned on to Officers.

11.4. Members should not accept any gift or any hospitality other than light refreshments during such meetings or visits. Any such offer must be registered whether or not it is accepted (see Section 10 above). If it is necessary to provide more substantial hospitality, it should be provided for Members by the Council.

11.5. There should be no discussion of individual applications - including those that have been determined, those that are pending and those that potentially could arise in the future. At such meetings, there should be no one-to-one discussions between Members and others.

11.6. Officers should always be present at such meetings or visits. A note should be kept of who attended the meetings or visits, what occurred and an outline of any discussions. A copy should be placed on the relevant file and open to public inspection.

11.7. When dealing with applications, in the interest of openness and fairness, careful consideration should always be given to whether details of such meetings or visits should be given to the parties to the application and/or declared at the meeting. This should be done if a reasonable person might think that the Committee's decision could be affected by the meeting or visit.

12. STATUTORY DUTIES

- 12.1. The Council is subject to a number of statutory duties which it must comply with when carrying out its statutory functions. These will apply to the licensing function except when such matters are clearly immaterial in the light of the particular statutory regime. Examples of these duties include:

EQUALITY ACT 2010 – Section 149 provides that:

A Council must, in the exercise of its functions, have due regard to the need to:

- (1) eliminate discrimination, harassment, victimisation and any other conduct which is prohibited by or under the Equality Act 2010;
- (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (3) foster good relations between persons who share a protected characteristic and persons who do not share it.

The above powers relate to the following protected characteristics:

- (a) age
- (b) disability
- (c) gender reassignment
- (d) marriage and civil partnership
- (e) pregnancy and maternity
- (f) race (including colour, nationality and ethnic or national origins)
- (g) religion or belief
- (h) sex
- (i) sexual orientation

HUMAN RIGHTS - Section 6(1) of the Human Rights Act 1998 provides that:

"It is unlawful for a public authority to act [or fail to act] in a way which is incompatible with a Convention right".

BEST VALUE - Section 3(1) of the Local Government Act 1999 provides that:

"A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness"

CRIME AND DISORDER - Section 17(1) of the Crime and Disorder Act 1998 provides that:

"Without prejudice to any other obligation imposed on it, it shall be the duty of a local authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area"

13. PRESS COMMENTS

- 13.1. All Members should ensure that any contact which they may have with the press should accord with the principles of this Code and should not affect the integrity of the licensing system.
- 13.2. Members should also comply with paragraph 11 in the Protocol on Member/Officer Relations (Part 5(3) of the Constitution) and are encouraged to seek advice from the Head of Paid Service or her Directors.
- 13.3. The principles of the code apply to press contact; in particular:-
 - i) Members of the Licensing Committees should ensure that they do not create the impression that they have prejudged the licensing application.
 - ii) All other Members should ensure that they do not create the impression that the Council has already pre-judged the licensing application.

14. SCRUTINY

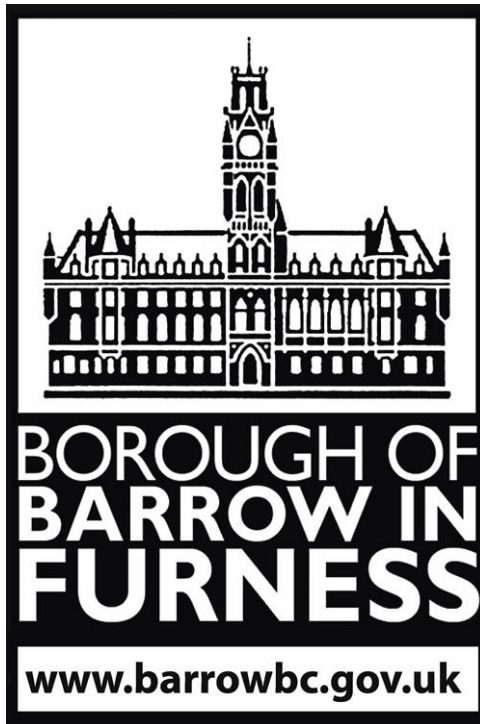
- 14.1. The role of the Overview and Scrutiny Committee is explained in the Committee Procedure Rules (Part 4 of the Constitution).
- 14.2. The "call-in" procedure allows the Overview and Scrutiny Committee to ask executive decision- makers to reconsider decisions before they are implemented. Under the Local Government Act 2000, this does not apply to non-executive decisions such as those made by the Licensing Committees.
- 14.3. The Overview and Scrutiny Committee may review and scrutinise the overall work of the Licensing Committees, if it forms part of their agreed work programme. However, statutory guidance from the Secretary of State provides that the Overview and Scrutiny Committee should not normally scrutinise individual decisions made by the Licensing Committees. In particular, they should not become an alternative to normal appeals procedures. The power to review and scrutinise should normally be used as part of wider policy reviews.

15. CODE OF CONDUCTS

- 15.1. The Licensing Committees will from time to time be free to devise its own Code of Conducts for dealing with different types of appeals, a copy of which will be held by, and available for inspection from, the Democratic Services Manager.

16. BREACHES

- 16.1. A breach of this Licensing Code of Conduct will constitute a breach of the Members' Code of Conduct for Members and Co-opted Members of the Authority. Complaints about any breach of this Code of Conduct by a Member may be referred to the Monitoring Officer.



Member Role Profiles

MEMBER ROLE PROFILES

Members are elected by the public to represent them both inside the Council and outside the Council in the community. They are accountable to their communities. Communities should be able to judge their performance.

The following describes the role of a Member. It is reasonable to expect that, while a Member may specialise in certain aspects of the role and, indeed, this is something that should be encouraged, all Members will perform a broad spectrum of duties. A high performing Member would undertake the majority of, if not all, the duties listed below.

Political Groups play a crucial role in the selection of candidates and in the organisation of Members. Political Groups should monitor the performance of all their Members.

Purpose of the Role

1. To participate constructively in the good governance of the Borough;
2. To develop and maintain a working knowledge of the Council's services, management arrangements, powers/duties, and constraints;
3. To contribute actively to the formation and scrutiny of the Council's policies, budget, strategies and service delivery;
4. To represent effectively as a community leader the interests of the Member's Ward and deal with constituents' enquiries and representations acting as a community advocate and champion causes for constituents, both within and outside the Council, with particular emphasis on those that will improve the quality of life of the community;
5. To champion causes which best relate to the interests and sustainability of the community and campaign for improvement of the quality of life in the community in terms of equity, economy and the environment; deal with individual casework and act as an advocate for constituents;
6. To represent the Council on any Outside Bodies to which the Member may be appointed, promoting and maintaining the highest standards of conduct and ethics;
7. Balance different interests identified within the Ward and represent the Ward as a whole; and
8. To engage in Member development to enhance corporate and personal effectiveness, including attend and participate in any training courses, workshops and other sessions either internally or externally provided, to enable you to fulfil your role as a Member, including sessions in support of digital and other developments within the Council, and any required training.

Key Tasks

1. To fulfil statutory and any additional locally determined requirements of an elected Member of the Council and the Council itself, developing and maintaining effective professional working relations with relevant Officers of the Council, in accordance with the Code of Conduct and Council Protocols, and participation in those decisions and activities reserved for the full Council – e.g., setting budgets;
2. To attend and participate effectively as a Member of any Committee or other body to which the Member is appointed including attendance at any related Member development sessions for the work of the committee:
 - a) Appeals Sub-Committee for which selected;
 - b) Chair any ad-hoc Committees, Panels or Boards, where appointed;
 - c) Attend and participate in any Planning site visits, tender opening or other statutory or non-statutory visits or tasks, as required.
3. To participate in the activities of any Outside Body to which the Member is appointed, providing two-way communication between the organisations and presenting annually a report on the work of the body and its contribution to the Borough and the wider area. To develop and maintain a working knowledge of the Council's policies and practices in relation to that body and the community's needs, aspirations and functions;
4. To participate, as appointed, in the area and service based consultative processes with the community and other organisations; contribute constructively to open government and democratic renewal through actively encouraging the community to participate in the government of the area; and, to this end, seek to involve the community in decisions that affect them by ensuring they have full information and then by helping them make their views known;
5. To work collaboratively with other Members within the Ward to represent the community to the Council and vice-versa through all appropriate means representing the interests of your Ward, dealing with constituents' inquiries and representations and hold Ward surgeries on a regular basis, where appropriate. You should be visible in and recognisable to your community; seek out membership or involvement in community based initiatives/groups in own Ward, and where necessary, provide guidance and leadership;
6. To promote community cohesion and equality and diversity in decision making; and
7. To ensure corporate responsibility for issues relating to the safeguarding of children and vulnerable adults, as well as personal responsibility to comply with all relevant safeguarding legislation, policies and action plans.

COUNCILLORS – SPECIAL ROLES AND RESPONSIBILITIES

LEADER OF THE COUNCIL - ROLE PROFILE

Purpose of the Role

1. To provide visible leadership in relation to citizens, stakeholders and partners in the overall coordination of Council policies, strategies and service delivery;
2. To contribute actively to the formulation and scrutiny of the Council's policies, budget, strategies and service delivery, including the digital and customer service developments; and
3. To lead or contribute towards the development of local, regional, national and international policy and strategic partnerships.

Key Tasks

1. In accordance with the Code of Conduct and Council Protocols, to provide visible leadership within the Council and to the Barrow Community, stakeholders and partners in the overall co-ordination and promotion of Council policies, strategies and service delivery and any related strategic plans to support the future development of the Council and its services;
2. To represent the Council in the community and on strategic and regional partnerships and in discussions and negotiations with regional, national and international organisations and others, in relation to the pursuit of matters relevant to the district and Council functions and its community;
3. To appoint a Deputy Leader;
4. To ensure the Council's image is promoted to best advantage by maintaining and developing effective professional working relationships and establish mutual respect with all Members and Officers;
5. To communicate vision and policy direction to the Chief Executive, and to meet regularly (with or without the leadership team) with the Chief Executive, Directors, and other relevant senior Officers to consider and recommend action within approved policies and strategies;
6. To ensure arrangements are in place to appraise the performance of the Chief Executive;
7. To assist in the preparation of responses to Government etc., consultation documents;
8. To promote community cohesion and equality and diversity in matters relating to the role;
9. To ensure corporate responsibility for issues relating to the safeguarding of children and vulnerable adults, as well as personal responsibility to comply with all relevant safeguarding legislation, policies and action plans; and
10. Actively engage in all relevant and required training as agreed appropriate for the post.

DEPUTY LEADER OF THE COUNCIL - ROLE PROFILE

Purpose of the Role

1. To support the Leader of the Council and deputise in their absence.

Key Tasks

1. In accordance with the Code of Conduct and Council Protocols, to assist the Leader in the formal processes and matters of leadership of the Council. These will include developing overall strategy, budgets, policy arrangements and service reviews, and representing the Council in the community and in discussions with regional, national and international organisations;
2. To promote the vision, values and strategic objectives of the Council as set out in the Council Plan and any related strategic plans to support the future development of the Council and its services and to champion them both within and outside the Council; and
3. To ensure corporate responsibility for issues relating to the safeguarding of children and vulnerable adults, as well as personal responsibility to comply with all relevant safeguarding legislation, policies and action plans.

CHAIR/MAYOR OF THE COUNCIL ROLE PROFILE

Introduction

The Chair of Council and in their absence, the Vice Chair, is the civic leader and first citizen of the community.

The Chair of the Council is elected each year at the annual Council meeting. They chair full Council meetings and represent the Council at civic functions in the Barrow area and in neighbouring areas. They also attend local informal events at which the Council is asked to be present. The Chair should not be confused with the Leader or Deputy Leader of the Council who provide political leadership for the Council.

The Chair must be a serving Borough Councillor. They must remain politically impartial.

Ceremonial duties

The Chair's ceremonial duties require that they must:

1. Be politically impartial and uphold the democratic values of the Council;
2. Support the objectives and services of the Borough Council;
3. Represent the Council at civic and ceremonial events, acting on behalf of and supported by the whole Council in a non-partisan manner;
4. Act as an ambassador for the Council;
5. Act as the principal spokesperson of the Council on civic and ceremonial occasions;
6. Provide community leadership and promote active citizenship, fostering community identity and pride and promoting public involvement in the Council's activities; and
7. Invite individuals and representatives of key organisations to suitable events.

Key responsibilities

The Chair's key responsibilities require that they must:

1. Preside over Full Council meetings, acting impartially and ensuring that business is carried out efficiently and effectively whilst protecting the rights of individual Members and the interests of the community;
2. Uphold and promote the purposes of the Constitution and interpret the Constitution when necessary, working with Officers to keep the Constitution under review to ensure it is relevant to the Council's needs;
3. Promote public involvement in the Council's activities and ensure that at Council meetings, matters of concern to local communities can be debated by their Borough Council Members; and
4. Promote and support good governance of the Council and its affairs.

The Vice Chair acts on the Chair's behalf when the Chair is unavailable.

CHAIR OF COMMITTEE – GENERAL ROLE PROFILE

Purpose of the Role

1. To effectively chair meetings as appointed by the Council at the Annual General Meeting of Barrow-in-Furness Borough Council, including any working groups or external meetings for which the Council are proactive partners; and
2. To chair and manage the business of the Committee, Sub-Committee or Housing forum (the Committee”) in line with its terms of reference.

Key Tasks

1. Leading the Committee to enable it to fulfil its purpose, ensuring the Constitution and the rules of debate are followed effectively;
2. To ensure an effective relationship between the Committee, Officers and members of the public / press who may attend for Part 1 items;
3. Chair Committee meetings ensuring:
 - A balance is struck between time-keeping and space for discussions to ensure matters are dealt with in an orderly, efficient manner;
 - Business is dealt with impartiality and objectivity within the meeting and decision-making;
 - Decisions, actions and deliberations are accurately minuted; and
 - The implementation of decisions is clearly assigned and monitored.
4. Demonstrate the following qualities and skills when acting in this capacity:
 - The ability to facilitate focussed and relevant discussions, ensuring that all Committee Members are able to contribute and that no Members are able to unduly dominate discussions at the expense of others;
 - Good communication and interpersonal skills;
 - Impartiality, fairness, tact and diplomacy;
 - Ability to ensure decisions are taken and followed-up;
 - Possesses relevant knowledge of Committee protocol and the Council Constitution;
 - Has the relevant skills to run a meeting well including effective time keeping; and
 - A willingness to devote the necessary time and effort.
5. The Chair will communicate with the Officers in the relevant department to discuss relevant matters which have come up in between meetings including holding a Chair's briefing to allow for a discussion with the Officers to raise any matters/concerns before the meeting begins, to allow the Chair to be aware of any difficulties with an item on the agenda, and can try to push discussion along or point Members in the right direction to come to a decision;

6. A Chair must within 6 months of being appointed, attend Chairs Training and attend all other relevant training including all required training to ensure sufficient knowledge of the subject area for which they are Chair in order to effectively run the Committee or Council Meeting. Failure to attend such training may result in the Member being removed as Chair;
7. The Chair will act as spokesperson for the Committee/Sub-Committee, respond to questions to the Chair at full Council, and liaise with community groups, partners, outside bodies and the public on matters that fall within the remit of the Committee/Sub-Committee.
8. The Executive Committee Chair will also act as the Finance spokesperson for the Council.

VICE CHAIR OF COMMITTEE - ROLE PROFILE

Purpose of the Role

1. In addition to deputising for the Chairs in the event of absence, they might be called on to undertake specific pieces of work on behalf of the Committee or the Council as a whole.

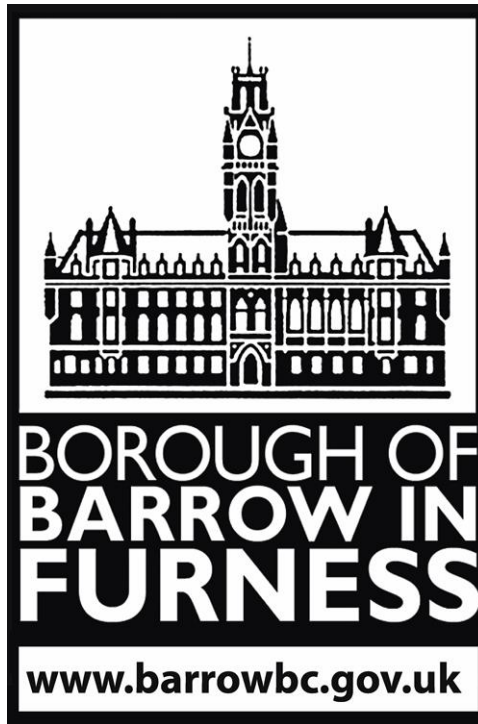
Key Tasks

1. Fulfil all the functions of the Committee Chair in the absence of the Chair;
2. Advise, support and act as a 'critical friend' to the Committee Chair;
3. Act as an active Member of the Committee; and
4. Undertake individual pieces of work on behalf of the Committee and the Council as a whole (e.g. representing at events and meetings, taking part in ad-hoc working groups and taking forward specific tasks).

SCRUTINY COMMITTEE CHAIR

The Chair of Scrutiny Committee should ensure that the scrutiny process is conducted robustly and with equity of treatment for the parties and interests involved – they should:

- Chair the meetings of the Scrutiny Committee, co-ordinate its activities and take a lead role in the work of the Committee;
- Lead the development of an annual work programme for the Committee;
- Contribute effectively to the scrutiny process by ensuring the questioning of the relevant Executive Committee Member/Officer on the development and performance of policy and strategies;
- Ensure that the Committee's work is Member led;
- Lead on the selection of witnesses and in determining how evidence is to be provided in a scrutiny review;
- Work with Officers to commission research to deliver the Scrutiny Committee's work programme;
- Liaise with Officers on the content of the agenda;
- Approve draft minutes before they are presented for formal acceptance;
- Develop a constructive relationship with the Directors/Heads of Service in the areas that the Committee scrutinises;
- Promote transparency and opportunities for public engagement in scrutiny; and
- Act as spokesperson for the Committee.



Part 6

Members' Allowance Scheme

BARROW-IN-FURNESS BOROUGH COUNCIL

The Barrow-in-Furness Borough Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003 hereby makes the following scheme:-

1. This scheme may be cited as the Barrow-in-Furness Borough Council Members' Allowances Scheme, and shall have effect from 1st April, 2022.

2. In this scheme,

“Councillor” means a Member of the Barrow-in-Furness Borough Council who is a Councillor;

“year” means the 12 months ending with 31st March.

Basic Allowance

3. Subject to paragraphs 6 and 11, for each year a basic allowance of £2,798.04 shall be paid to each Councillor.

Special Responsibility Allowance

4. (1) for each year a special responsibility allowance shall be paid to those Councillors who hold the special responsibilities in relation to the Council that are specified in Schedule 1 of this scheme; and

(2) subject to paragraphs 6 and 11, the amount of each such allowance shall be as specified in the said Schedule 1.

Renunciation

5. A Councillor may by notice in writing given to the Director of Resources elect to forego any part of his or her entitlement to an allowance under this scheme.

Part-year Entitlements

6. (1) the provisions of this paragraph shall have effect to regulate the entitlements of a Councillor to basic and special responsibility allowances where, in the course of year, this scheme is amended or that Councillor becomes, or ceases to be, a Councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable;

(2) if an amendment to this scheme changes the amount to which a Councillor is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods;

- (a) beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or
- (b) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year

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

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

Claims and Payments

- 7. A claim for allowance under this scheme shall be made in writing. Claims will be met for a period of up to 12 months from the date of the entitlement.

8. (1) payments shall be made in respect of basic and special responsibility allowance in instalments of one-twelfth of the amount specified in this scheme on the fifteenth day of each month.
- (2) where a payment of one-twelfth of the amount specified in this scheme in respect of a basic allowance or a special responsibility allowance would result in the Councillor receiving more than the amount to which, by virtue of paragraph 6, he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.

Other Allowances

9. Travelling and Subsistence Allowance

Councillors may claim travelling and subsistence allowance as follows in respect of relevant duties prescribed in regulation 8 (2003 Regulations) and shown in Schedule 2.

Travelling Allowance

Private Transport (Motor Vehicles)

Engine Size	Inside the Borough	Outside the Borough	After 8,500 miles
451cc to 999cc	40p per mile	40p per mile	13.7p per mile
1000cc to 1199cc	40p per mile	40p per mile	14.4p per mile
1200cc to 1450cc	40p per mile	40p per mile	16.4p per mile

Private Transport (Motor Cycles) – 30p per mile

The rates above may be increased by a sum of 5.0p per mile for each passenger up to a maximum of four passengers, to whom a travelling allowance would otherwise be payable.

Public Transport – Reimbursement of actual costs.

That no allowance be paid in respect of the use of pedal cycles.

Subsistence Allowance

That the actual and reasonable costs of meals and/or accommodation be paid.

Telephone and Broadband

A maximum Telephone and Broadband allowance of £20 per month.

10. Child Care and Dependent Carers' Allowance

A Child Care and Dependent Carers' Allowance shall be payable based upon reimbursement of actual receipted costs up to a maximum of £10 per hour for up to 10 hours per week, subject to prior agreement by the Director of Resources, in respect of Child Care for children up to the age of 14 or in the case of severely disabled dependents, the dependent is to be certified by a

medical or social services practitioner as requiring attendant care. The allowance is payable to any Member who incurs expenditure whilst undertaking the qualifying duties specified in Schedule 2. The allowance will not be payable where the care is provided by a member of the claimant's own household, nor where the care is already being paid for by another agency.

11. Uprating of Allowance

- (i) That annual adjustments shall be made to the basic allowance and special responsibility allowances so as to increase such allowances from 1st April, 2022 and annually thereafter in accordance with the increases applying to employees from annual national salary awards;
- (ii) That annual adjustments be made to travelling allowance from 1st April, 2022 and annually thereafter to fully reflect the rates of reimbursement to Officers of Barrow-in-Furness Borough Council; and
- (iii) The provision for adjustments referred to in (i) and (ii) should apply for a period of three years.

12. Pensions

No provision is made in this scheme to allow any Councillor admission to the Local Government Pension Scheme.

13. Membership of Other Authorities

Where a Councillor is also a Member of another authority, that Councillor may not receive allowances from more than one authority in respect of the same duties.

14. Mayoral Allowance

- (i) That the Mayoral Personal Allowance remains in line with the Vice-Chairmen of Committees (x 1.2) Special Responsibility Allowances Multiplier;
- (ii) That the Allowance be paid equally, every quarter in advance;
- (iii) That annual adjustments be made to this allowance so as to increase from 1st April, 2022 and annually thereafter in accordance with the increases applying to employees from annual national salary awards; and
- (iv) That the allowance of the Mayor is over and above any entitlement as a Councillor.

SCHEDULE 1

SPECIAL RESPONSIBILITY ALLOWANCES

The following are specified as the special responsibilities in respect of which special responsibility allowances of the amounts shown below are payable to the Borough Councillors holding those responsibilities.

The following special responsibility allowances are determined by applying the multipliers shown to the basic allowance.

Special Responsibility	Multiplier	At 1.4.22 (£)
The Leader of the Council	x 6	16,788.48
Deputy Leader of the Controlling Group	x 2.5	6,995.28
Leader of the Opposition	x 2.5	6,995.28
Chairmen of Executive, Planning and Licensing Committees	x 2	5,596.20
Chairman of Overview and Scrutiny/ Audit & Governance Committee	x 1.6	4,476.96
Chairman of Housing Management Forum	x 1.6	4,476.96
Vice-Chairmen of Committees	x 1.2	3,357.72
Mayoral Personal Allowance (paid quarterly)	x 1.2	3,357.72

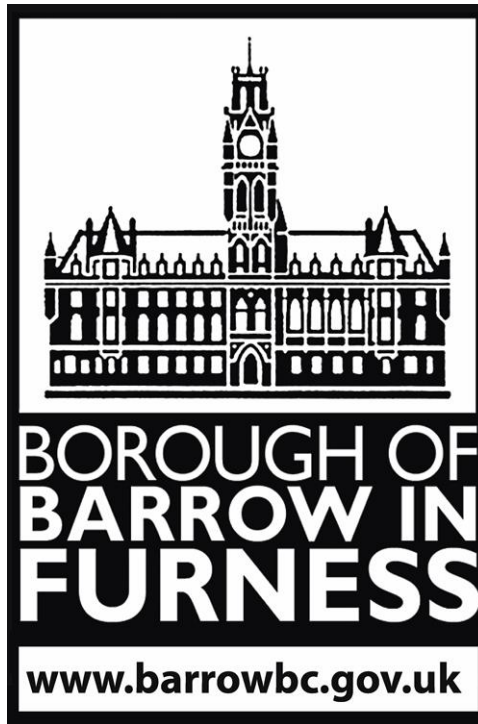
(The above amounts are inclusive of the basic allowance and are subject to annual adjustment as referred to in Paragraph 11. The figures may be rounded for monthly payroll purposes).

Basic Allowance		2,798.04
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SCHEDULE 2

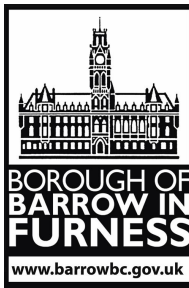
LIST OF DUTIES WHERE TRAVELLING AND SUBSISTENCE IS PAID

- (a) Attendance at a meeting of the authority or of any Committee or Sub-Committee of the authority, or of any other body to which the authority makes appointments or nominations, or of any Committee or Sub-Committee of such a body.
- (b) Attendance at any other meeting the holding of which is authorised by the authority, or a Committee or Sub-Committee of the authority, or a Joint Committee of the authority and one or more other authorities, or a Sub-Committee of such a joint committee, provided that:-
 - (i) where the authority is divided into two or more political groups, it is a meeting to which Members of at least two such groups have been invited, or
 - (ii) if the authority is not so divided it is a meeting to which at least two Members of the authority have been invited.
- (c) Attendance at a meeting of any association of authorities of which the authority is a member.
- (d) The attendance at a meeting of the Executive or a meeting of any of its Committees, where the authority is operating executive arrangements.
- (e) Duties undertaken in pursuance of any standing order requiring a Member or Members to be present while tender documents are opened.
- (f) Duties undertaken in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises; or
- (g) Any other duty approved by the authority, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the authority, or of any of its Committees or Sub-Committees.



Part 7

Role of Lead Members



Role of Lead Members

The Council has identified Lead Member roles for the undermentioned areas of business who will be appointed at the Annual Council Meeting every year. These Members will act as advocate and spokesperson for the area of the Council's business and activities. The main responsibility is to encourage communication and positive action over the issue they represent.

Officer Support - The Lead member plays an important role in promoting their area of interest on behalf of the Council. Each Lead Member will be advised by an appropriate Head of Service, who will meet with the relevant Lead Member on a regular basis to discuss action plans, current activities, national developments or any other matters relating to the interest.

Lead Member areas are aligned to the corporate plan priorities as follows:-

People

1. Community - Thriving communities, community development, voluntary sector;
2. Health and Wellbeing - Health and well being across whole community and supporting older adults; and
3. Children, Young People and Families and Safeguarding Champion - 'Think Family', supporting children and young people, schools and colleges.

Place

4. Climate Emergency - Lead the Councils response to climate emergency;
5. Cleaner and greener neighbourhoods - Cleaner streets, parks, environment;
6. Heritage and Wildlife - Heritage and wildlife, site and habitat protection, conservation, Beautiful Places;
7. Housing Strategy and Homelessness (excluding Housing Stock); and
8. Arts, Culture and Leisure – Arts, Culture, Forum, Dock Museum and Leisure Centre.

Prosperity

9. Economic development and strategic partnerships - Wider economic issues, LEP, Lancaster South Lakes, major projects, COVID recovery.

Cross cutting

10. Equality, Diversity and Inclusion - Inclusive and diverse workplace, trained council and workforce, fair and accessible services for all.



Lead Members should:

1. Act reasonably in their role and recognise and work effectively within the political management and working arrangements adopted by the Council;
2. A Lead Member cannot make decisions (unless they have delegated authority) and must not commit the Council in any way or in a manner that could be interpreted as being contrary to established policy and practice;
3. Lead Members are to be consulted on any press release relevant to their particular area of interest. A Lead Member may however only be a recognised media contact with the prior approval of the Leader;
4. Be consulted on matters relating to their interest area - Decision makers should take full account of any views offered by Lead Members prior to any decision taken on matters within their area of interest;
5. Be consulted on in the formulation of policy and be invited to contribute to any reviews or relevant work programmes that have a direct bearing on their role; and
6. Liaise with the lead Officer as necessary and go through agendas for external meetings or Outside Bodies prior to attendance at such meetings and seek the lead Officer's guidance in responding to external enquiries or requests for information.

Each Lead Member with the assistance of the relevant Officer, will prepare an annual report for submission to Council setting out the actions taken during the course of the year.