



AGENDA

Cumberland Joint Committee

Thursday, 14 April 2022 AT 10:00
In the The Market Hall, Church Street, Wigton, CA7 9AA

APOLOGIES FOR ABSENCE

To receive apologies for absence.

DECLARATIONS OF INTEREST

Members are invited to declare any disclosable pecuniary interests, other registrable interests and any interests, relating to any items on the agenda at this stage.

PUBLIC AND PRESS

To agree that the items of business within Part A of the agenda should be dealt with in public and that the items of business within Part B of the agenda should be dealt with in private.

MINUTES OF PREVIOUS MEETING

The Chair will move the minutes of the meeting held on 30 March 2022 as a correct record. The only part of the minutes that may be discussed is their accuracy.

(Copy minutes to follow).

PART A

To be considered when the Public and Press are present

- A.1 PROPOSED CODE OF CONDUCT, GUIDANCE AND ARRANGEMENTS FOR THE SHADOW AUTHORITY FOR CUMBERLAND** 5 - 96
- To consider and agree the draft Members' Code of Conduct; arrangements for dealing with code of conduct matters; guidance; and register of interest form for recommendation to the Shadow Authority for Cumberland.
(Copy Report herewith)
- A.2 PROPOSED SHADOW AUTHORITY CONSTITUTION** 97 - 226
- To consider and agree the draft Cumberland Shadow Authority Constitution for recommendation to the Shadow Authority for Cumberland.
(Copy Report herewith)
- A.3 CIVIC AND CEREMONIAL MATTERS** 227 - 236
- To note the work being undertaken and timings provided by the Department for Levelling Up, Housing and Communities in respect of the Consequential Matters Order.
(Copy Report herewith)
- A.4 MEMBERS' ALLOWANCES - IRP RECOMMENDATIONS** 237 - 248
- To consider the report of the Independent Remuneration Panel for recommendation to the Shadow Authority for Cumberland.
(Copy Report herewith)

PART B

To be considered when the Public and Press are excluded from the meeting

- NIL -

Members of the Cumberland Joint Committee:

Councillor M Johnson, Allerdale Borough Council
Councillor A Smith, Allerdale Borough Council
Councillor N Cockburn, Allerdale Borough Council
Councillor J Mallinson, Carlisle City Council
Councillor G Ellis, Carlisle City Council
Councillor L Brown, Carlisle City Council (Vice Chair)
Councillor D Moore, Copeland Borough Council
Councillor M Hawkins, Copeland Borough Council
Councillor L Jones-Bulman, Copeland Borough Council
Councillor S Young, Cumbria County Council (Chair)
Councillor K Little, Cumbria County Council
Councillor C Tibble, Cumbria County Council

Enquiries, requests for reports, background papers etc to:
committeeservices@carlisle.gov.uk

CUMBERLAND JOINT COMMITTEE

Item
A.1

Meeting date: 14 April 2022

Report of: Linda Fisher –Technical Lead Legal and Democratic Work Stream
and Monitoring Officer (South Lakeland District Council)

Subject: Proposed Code of Conduct, Guidance and Arrangements for the
Shadow Authority for Cumberland

1.0 SUMMARY:

1.1 The Joint Committee is required to formulate proposals for the code of conduct to be adopted by the Shadow Authority for Cumberland and present those proposals to the first meeting of that shadow authority. This report recommends an appropriate code of conduct; arrangements for dealing with code of conduct matters; guidance; and register of interests form, to fulfil this obligation. The report also seeks authority to start recruitment of the Independent Person(s).

2.0 RECOMMENDATION:

That the Joint Committee:-

2.1 **recommends to the Shadow Authority for Cumberland that it adopts from the date of its first Meeting the Code of Conduct, the Arrangements for Dealing with Standards Matters, the Code of Conduct Guidance and Register of interests Form, as set out in the Report; and**

2.2 **authorises the Monitoring Officer to initiate a recruitment process to enable the Shadow Authority to appoint an Independent Person(s) at the earliest opportunity.**

3.0 BACKGROUND, INTRODUCTION AND CONSIDERATIONS:

3.1 Members of the Joint Committee will be aware that Councils have a legal obligation to adopt a Code of Conduct regarding the behaviour which is expected of members of the Council and co-opted members of the authority (Localism Act 2011).

3.2 The Cumbria (Structural Changes Order) 2022 (“SCO”) establishes Shadow Authorities for the areas to be known as Cumberland and Westmorland & Furness and beforehand, a Joint Committee for each of those areas. Article 25 of the SCO requires that the Cumberland Joint Committee must formulate proposals for the Code of Conduct to be adopted by the shadow authority for Cumberland at the first meeting of the said authority. In formulating the proposals, the Joint Committee must have regard to sections 27 and 28 of the Localism Act 2011 (“the Act”). The two sections of the Act are attached to this report as Appendix 1.

3.3 Section 27 of the Act requires that any relevant authority must promote and maintain high standards of conduct by members and co-opted members of

the authority. In particular, in discharging its duty a relevant authority must adopt a code of conduct dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity. 'Co-opted member' includes persons co-opted on to committees and also a Police and Crime Commissioner when participating in relevant meetings.

- 3.4** Section 28 of the Act requires that the code of conduct, when viewed as a whole, is consistent with the following principles:
- a. Selflessness
 - b. Integrity
 - c. Objectivity
 - d. Accountability
 - e. Openness
 - f. Honesty
 - g. Leadership
- 3.5** The code of conduct must include provisions the authority deems appropriate in respect of the registration in its register, and disclosure of, pecuniary interests and interests other than pecuniary interests.
- 3.6** The authority is required to have in place arrangements under which allegations relating to the code of conduct may be investigated and arrangements under which decisions on allegations can be made.
- 3.7** The arrangements referred to must include provision for the appointment of at least one independent person whose views are to be sought, and taken into account, by the authority before it makes a decision on an allegation that it has decided to investigate. The independent person's views may be sought by the Council or by a member or co-opted member. Section 28 of the Act contains provisions as to who may or may not be an independent person and the manner in which they must be appointed. This report seeks authority for the Monitoring Officers from the relevant authorities to conduct a recruitment exercise in order that the Shadow Authorities may consider shortlisted applications and make appointments at the earliest opportunity.
- 3.8** Once adopted, the Council must publicise such adoption in such manner as it considers likely to bring the adoption, revision or replacement of the code of conduct to the attention of persons who live in its area.
- 3.9 Code of Conduct, Arrangements and Guidance for Cumberland**
- 3.10** Members of the Joint Committee will be aware that the local authorities across Cumbria have adopted, subject to minor local variations, a consistent code of conduct, arrangements and guidance. The code used in Cumbria has only recently been updated across the authorities (or is in the process of being updated) following the publication of a model template by the Local Government Association which was designed to incorporate the best practice recommendations made by the Committee on Standards in Public Life which were published in 2019 (see background documents for the relevant link). Other recommendations of the said Committee require changes to legislation.

3.11 The Joint Committee is invited to consider the following documents and thereafter recommend them for adoption by the Shadow Authority:

Appendix 2: Cumberland Code of Conduct;
Appendix 3: Arrangements for Dealing with Standards Matters;
Appendix 4: Code of Conduct Guidance; and
Appendix 5: Register of Interests Form.

3.12 CONSULTATION

3.13 The Local Government Association carried out a wide consultation when formulating its proposed Code of Conduct. This was promoted with Members of the different Cumbrian Councils at the time in order that they could contribute. The suggested Code and amendments have been consulted upon and discussed by the Cumbrian Monitoring Officers.

4.0 OPTIONS, INCLUDING ALTERNATIVES (IF ANY)

4.1 There is an option to put forward revisions to the code, but this is not recommended. The recommended code is based on the LGA Model Code of Conduct and collaborative work undertaken by the Cumbrian Monitoring Officers.

5.0 IMPLICATIONS:

5.1 Financial and Procurement:

5.1.1 The costs incurred in respect of appointing an Independent Person for the shadow Authority would be funded from the combined LGR reserve.

5.2 Staffing:

5.2.1 There are no direct staffing implications associated with this report.

5.3 Legal:

5.3.1 All Legal implications are outlined within this report.

5.4 Information Governance:

5.4.1 There are no direct information governance implications associated with this report.

6.0 HEALTH AND SUSTAINABILITY IMPACT:

6.1 There are no direct health and sustainability implications associated with this report.

6.2 EQUALITY AND DIVERSITY IMPACT:

6.3 There are no direct equality and diversity implications associated with this report.

7.0 RISKS:

7.1 The Shadow Authority is required to adopt an appropriate code and arrangements for dealing with relevant matters. If it does not do so it will fail to comply with the requirements of the Structural Change Order.

8.0 CONCLUSION:

8.1 In order to comply with recommended best practice it is recommended that the LGA Code of Conduct, with appropriate local amendments, together with the revised Arrangements and Guidance be adopted by the Shadow Authority for Cumberland as from the date of its first Meeting and that the Joint Committee recommend accordingly.

8.2 Once the new Code is in place, training will be provided for Members.

Note: in compliance with section 100d of the Local Government Act 1972 the report has been prepared in part from the following papers:

- <https://www.gov.uk/government/publications/local-government-ethical-standards-report>

Report Author – Mark Lambert - Corporate Director of Governance & Regulatory Services (Carlisle City Council) and Debbie Storr – Head of Legal and Governance - Monitoring Officer (Barrow Borough Council)

APPENDICES

Appendix 1 - Sections 27 and 28 of the Localism Act 2011

Appendix 2 - Proposed Code of Conduct

Appendix 3 - Proposed Arrangements for Dealing with Standards Matters.

Appendix 4 - Proposed Guidance for Standards Matters

Appendix 5 - Proposed Register of Interests Form

Localism Act 2011 c. 20

s. 27 Duty to promote and maintain high standards of conduct

27 Duty to promote and maintain high standards of conduct

- (1) A relevant authority must promote and maintain high standards of conduct by members and co-opted members of the authority.
- (2) In discharging its duty under subsection (1), a relevant authority must, in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.
- (3) A relevant authority that is a parish council—
- (a) may comply with subsection (2) by adopting the code adopted under that subsection by its principal authority, where relevant on the basis that references in that code to its principal authority's register are to its register, and
 - (b) may for that purpose assume that its principal authority has complied with [section 28\(1\) and \(2\)](#).
- (4) In this Chapter "*co-opted member*", in relation to a relevant authority, means 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.
- [
- (4A) In this Chapter "*co-opted member*" includes a police and crime commissioner who—
- (a) is entitled to participate in meetings of a county or district council by virtue of [paragraph 6ZA of Part 1 of Schedule 12 to the Local Government Act 1972](#), or
 - (b) is entitled to participate in meetings of an executive of a county or district council by virtue of [paragraph 4A of Schedule A1 to the Local Government Act 2000](#).
-]
- (5) A reference in this Chapter to a joint committee or joint sub-committee of a relevant authority is a reference to a joint committee on which the authority is represented or a sub-committee of such a committee.

(6) In this Chapter “*relevant authority*” means—

- (a) a county council in England,
- (b) a district council,
- (c) a London borough council,
- (d) a parish council,
- (e) the Greater London Authority,

[...]²[...]³

- (h) the Common Council of the City of London in its capacity as a local authority or police authority,
- (i) the Council of the Isles of Scilly,
- (j) a fire and rescue authority in England constituted by a scheme under [section 2](#) of the [Fire and Rescue Services Act 2004](#) or a scheme to which [section 4](#) of that Act applies,

[...]⁴

- (l) a joint authority established by [Part 4](#) of the [Local Government Act 1985](#),
- (m) an economic prosperity board established under [section 88](#) of the [Local Democracy, Economic Development and Construction Act 2009](#),
- (n) a combined authority established under [section 103](#) of that Act,
- (o) the Broads Authority, or
- (p) a National Park authority in England established under [section 63](#) of the [Environment Act 1995](#).

(7) Any reference in this Chapter to a member of a relevant authority—

- (a) in the case of a relevant authority to which [Part 1A](#) of the [Local Government Act 2000](#) applies, includes a reference to an elected mayor;
- (b) in the case of the Greater London Authority, is a reference to the Mayor of London or a London Assembly member.

(8) Functions that are conferred by this Chapter on a relevant authority to which [Part 1A](#) of the [Local Government Act 2000](#) applies are not to be the responsibility of an executive of the authority under executive arrangements.

(9) Functions that are conferred by this Chapter on the Greater London Authority are to be exercisable by the Mayor of London and the London Assembly acting jointly on behalf of the Authority.

(10) In this Chapter except [section 35](#)—

(a) a reference to a committee or sub-committee of a relevant authority is, where the relevant authority is the Greater London Authority, a reference to—

(i) a committee or sub-committee of the London Assembly, or

(ii) the standards committee, or a sub-committee of that committee, established under that section,

(b) a reference to a joint committee on which a relevant authority is represented is, where the relevant authority is the Greater London Authority, a reference to a joint committee on which the Authority, the London Assembly or the Mayor of London is represented,

(c) a reference to becoming a member of a relevant authority is, where the relevant authority is the Greater London Authority, a reference to becoming the Mayor of London or a member of the London Assembly, and

(d) a reference to a meeting of a relevant authority is, where the relevant authority is the Greater London Authority, a reference to a meeting of the London Assembly;

and in subsection (4)(b) the reference to representing the relevant authority is, where the relevant authority is the Greater London Authority, a reference to representing the Authority, the London Assembly or the Mayor of London.

Notes

- 1 Added by Policing and Crime Act 2017 c. 3 Pt 1 c.2 s.7(14) (April 3, 2017)
- 2 Repealed by Localism Act 2011 c. 20 Pt 1 c.7 s.36(a) (June 7, 2012: repeal came into force on January 15, 2012 but could not take effect until the commencement of 2011 c.20 s.27 on June 7, 2012)
- 3 Repealed by Policing and Crime Act 2017 c. 3 Sch.2(2) para.119 (April 1, 2018)
- 4 Repealed by Localism Act 2011 c. 20 Sch.25(5) para.1 (November 22, 2012: repeal has effect as SI 2012/2913 subject to transitional, transitory and savings provisions specified in SI 2012/2913 arts 3, 4, 5 and 6)

Part 1 LOCAL GOVERNMENT > Chapter 7 STANDARDS > s. 27 Duty to promote and maintain high standards of conduct

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s. 28 Codes of conduct

28 Codes of conduct

(1) A relevant authority must secure that a code adopted by it under [section 27\(2\)](#) (a “code of conduct”) is, when viewed as a whole, consistent with the following principles—

- (a) selflessness;
- (b) integrity;
- (c) objectivity;
- (d) accountability;
- (e) openness;
- (f) honesty;
- (g) leadership.

(2) A relevant authority must secure that its code of conduct includes the provision the authority considers appropriate in respect of the registration in its register, and disclosure, of—

- (a) pecuniary interests, and
- (b) interests other than pecuniary interests.

(3) [Sections 29 to 34](#) do not limit what may be included in a relevant authority’s code of conduct, but nothing in a relevant authority’s code of conduct prejudices the operation of those sections.

(4) A failure to comply with a relevant authority’s code of conduct is not to be dealt with otherwise than in accordance with arrangements made under subsection (6); in particular, a decision is not invalidated just because something that occurred in the process of making the decision involved a failure to comply with the code.

(5) A relevant authority may—

- (a) revise its existing code of conduct, or
- (b) adopt a code of conduct to replace its existing code of conduct.

(6) A relevant authority other than a parish council must have in place—

- (a) arrangements under which allegations can be investigated, and
- (b) arrangements under which decisions on allegations can be made.

(7) Arrangements put in place under subsection (6)(b) by a relevant authority must include provision for the appointment by the authority of at least one independent person—

- (a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and
- (b) whose views may be sought—
 - (i) by the authority in relation to an allegation in circumstances not within paragraph (a),
 - (ii) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation, and
 - (iii) by a member, or co-opted member, of a parish council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority.

(8) For the purposes of subsection (7)—

- (a) a person is not independent if the person is—
 - (i) a member, co-opted member or officer of the authority,
 - (ii) a member, co-opted member or officer of a parish council of which the authority is the principal authority, or
 - (iii) a relative, or close friend, of a person within sub-paragraph (i) or (ii);

(b) a person may not be appointed under the provision required by subsection (7) if at any time during the 5 years ending with the appointment the person was—

- (i) a member, co-opted member or officer of the authority, or
- (ii) a member, co-opted member or officer of a parish council of which the authority is the principal authority;

(c) a person may not be appointed under the provision required by subsection (7) unless—

- (i) the vacancy for an independent person has been advertised in such manner as the authority considers is likely to bring it to the attention of the public,

(ii) the person has submitted an application to fill the vacancy to the authority, and

(iii) the person's appointment has been approved by a majority of the members of the authority;

(d) a person appointed under the provision required by subsection (7) does not cease to be independent as a result of being paid any amounts by way of allowances or expenses in connection with performing the duties of the appointment.

(9) In subsections (6) and (7) "*allegation*", in relation to a relevant authority, means a written allegation—

(a) that a member or co-opted member of the authority has failed to comply with the authority's code of conduct, or

(b) that a member or co-opted member of a parish council for which the authority is the principal authority has failed to comply with the parish council's code of conduct.

(10) For the purposes of subsection (8) a person ("R") is a relative of another person if R is—

(a) the other person's spouse or civil partner,

(b) living with the other person as husband and wife or as if they were civil partners,

(c) a grandparent of the other person,

(d) a lineal descendant of a grandparent of the other person,

(e) a parent, sibling or child of a person within paragraph (a) or (b),

(f) the spouse or civil partner of a person within paragraph (c), (d) or (e), or

(g) living with a person within paragraph (c), (d) or (e) as husband and wife or as if they were civil partners.

(11) If a relevant authority finds that a member or co-opted member of the authority has failed to comply with its code of conduct (whether or not the finding is made following an investigation under arrangements put in place under subsection (6)) it may have regard to the failure in deciding—

(a) whether to take action in relation to the member or co-opted member, and

(b) what action to take.

[

(11A) Subsections (11B) to (11D) apply if a police and crime commissioner is a member or co-opted member of a

relevant authority in the commissioner's capacity as such.

(11B) Arrangements put in place under subsection (6)(b) by the relevant authority must include provision for an allegation against the commissioner to be referred to the police and crime panel for the commissioner's police area.

(11C) If, in response to an allegation referred to it by virtue of subsection (11B), the police and crime panel makes a report or recommendation to the police and crime commissioner under [section 28\(6\)](#) of the [Police Reform and Social Responsibility Act 2011](#), the panel may also make a report or recommendation on the allegation to the relevant authority.

(11D) The relevant authority must take any such report or recommendation into account in determining—

- (a) whether the police and crime commissioner has failed to comply with the authority's code of conduct,
- (b) whether to take action in relation to the commissioner, and
- (c) what action to take.

]

(12) A relevant authority must publicise its adoption, revision or replacement of a code of conduct in such manner as it considers is likely to bring the adoption, revision or replacement of the code of conduct to the attention of persons who live in its area.

(13) A relevant authority's function of adopting, revising or replacing a code of conduct may be discharged only by the authority.

(14) Accordingly—

- (a) in the case of an authority to whom [section 101](#) of the [Local Government Act 1972](#) (arrangements for discharge of functions) applies, the function is not a function to which that section applies;
- (b) in the case of the Greater London Authority, the function is not a function to which [section 35](#) (delegation of functions by the Greater London Authority) applies.

Notes

¹ Added by Policing and Crime Act 2017 c. 3 [Pt 1 c.2 s.7\(15\)](#) (April 3, 2017)

CUMBERLAND COUNCIL

Councillor Code of Conduct

(Adopted [insert date])

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.

8 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.

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

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

Integrity

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

Objectivity

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

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

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 1

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 **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 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

* '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

Appendix 3 (note this appendix contains appendices)

Cumberland Council

Arrangements for dealing with standards allegations under the Localism Act 2011

1 Context

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of this authority *[or of a parish council within its area]* has failed to comply with the authority’s Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the authority *[or of a parish council within the authority’s area]*, or of a Committee or Sub-Committee of the authority, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on any allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member *[or a member or co-opted member of a parish council]* against whom an allegation has been made.

2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and available for inspection on the authority’s website and on request from Reception at the Council Offices, [INSERT ADDRESS].

Each parish council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council’s Code of Conduct, you should do so by going to the website operated by the parish council and request the parish clerk to allow you to inspect the parish council’s Code of Conduct.

3 Making a complaint

If you wish to make a complaint, please write or email to –

Monitoring Officer
Cumberland Council,
INSERT

Or –

[INSERT](#)

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the authority's website and is available on request from Reception at the main council Offices.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it and will keep you informed of the progress of your complaint.

The Monitoring Officer will seek to identify any conflicts of interest which may arise at any stage of the process and put alternative arrangements in place as appropriate.

4 Will your complaint be investigated?

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person and Chair of the Council's Standards Committee, take a decision as to whether it merits formal investigation. This decision will normally be taken within 10 working days of receipt of your complaint. Where the Monitoring Officer has taken a decision, they will inform you of their decision and the reasons for that decision.

In certain cases the Monitoring Officer may refer particular complaints to the Standards Committee where they feel that it would be inappropriate for them to take a decision on it, for example where the Monitoring Officer has previously advised the member on the matter or the complaint is particularly sensitive.

Where the Monitoring Officer requires additional information in order to come to a decision, they may come back to you for such information, and may request information from the member against whom your complaint is directed. Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Clerk before deciding whether the complaint merits formal investigation.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that their conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but you are not willing to accept that offer,

the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

5 How is the investigation conducted?

The Council has adopted a procedure for the investigation of misconduct complaints, which is attached as Appendix Two to these arrangements.

If the Monitoring Officer decides that a complaint merits formal investigation, they will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether they need to meet or speak to you to understand the nature of your complaint, so that you can explain your understanding of events, suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide them with a copy of your complaint, and ask the member to provide their explanation of events, and to identify what documents they need to see and who they need to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

At the end of their investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send their final report to the Monitoring Officer.

6 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and (following consultation with the Independent Person and Chair of the Standards Committee), if he is satisfied that it is sufficient, the Monitoring Officer will write to you and to the member concerned and to the Parish Council, where your complaint relates to a Parish Councillor, notifying you that they is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. The matter will be reported to the Standards Committee. If the Monitoring Officer is not satisfied that the

investigation has been conducted properly, they may ask the Investigating Officer to reconsider their report.

7 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and, after considering the public interest, will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

The Public Interest Stage

In every case where there is sufficient evidence to justify an investigation or formal hearing, Monitoring Officer must go on to consider (following consultation with the Independent Person) whether an investigation or formal hearing is required in the public interest.

It is not the case that an investigation or formal hearing will automatically take place once the evidential stage is met. An investigation or formal hearing will usually take place unless the Monitoring Officer is satisfied that there are public interest factors tending against such an investigation/hearing which outweigh those tending in favour. In some cases, the Monitoring Officer may be satisfied that the public interest can be properly served by offering the relevant elected Member the opportunity to have the matter dealt with by an alternative remedy rather than bringing the complaint before a formal hearing of the Standards Committee.

When deciding the public interest, Monitoring Officer should consider each of the questions set out below as paragraphs a) to e) so as to identify and determine the relevant public interest factors tending for and against investigation/hearing. These factors should enable the Monitoring Officer to form an overall assessment of the public interest.

The explanatory text below each question in paragraphs a) to e) provides guidance to the Monitoring Officer when addressing each particular question and determining whether it identifies public interest factors for or against investigation/hearing. The questions identified are not exhaustive, and not all the questions may be relevant in every case. The weight to be attached to each of the questions, and the factors identified, will also vary according to the facts and merits of each case.

It is quite possible that one public interest factor alone may outweigh a number of other factors which tend in the opposite direction. Although there may be public interest factors tending against an investigation or in a particular case, the Monitoring Officer should consider whether nonetheless an investigation/formal hearing should go ahead and those factors put to the Standards Committee for consideration when coming to its decision.

The Monitoring Officer should consider each of the following questions:

a. How serious is the breach of the Code?

- The more serious the breach, the more likely it is that a formal hearing is required.

- When assessing the seriousness of a breach, the Monitoring Officer should include in their consideration the elected Member's culpability and the harm caused, by asking themselves the questions at b) and c).

b) What is the level of culpability of the elected Member?

- The greater the Member's level of culpability, the more likely it is that an investigation is required.
- Culpability is likely to be determined by:
 - the Member's level of involvement;
 - the extent to which the breach of the Code was premeditated and/or planned;
 - the extent to which the Member has benefitted from the conduct;
 - whether the Member has previously breached the Code of Conduct;
 - whether the breach was or is likely to be continued, repeated or escalated;

c) What are the circumstances of and the harm caused to the complainant?

- The circumstances of the complainant are highly relevant. The more vulnerable the complainant's situation, or the greater the perceived vulnerability of the complainant, the more likely it is that a formal investigation or hearing is required.
- This includes where a position of trust or authority exists between the Member and complainant.
- It is more likely that a formal hearing is required if the conduct complained of was motivated by any form of prejudice against the complainant's actual or presumed ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity; or if the Member targeted or exploited the complainant, or demonstrated hostility towards the complainant, based on any of those characteristics.
- The Monitoring Officer also needs to consider if a formal hearing is likely to have an adverse effect on the complainant's physical or mental health, always bearing in mind the seriousness of the conduct complained of, the availability of special measures and the possibility of a formal hearing without the participation of the complainant.
- The Monitoring Officer should take into account the views expressed by the complainant about the impact that the conduct has had. In appropriate cases, this may also include the views of the complainant's family.
- However, the Monitoring Officer does not act for complainants or their families in the same way as solicitors act for their clients, and Monitoring Officers must form an overall view of the public interest.

d) What is the impact on the community?

- The greater the impact of the conduct complained of on the community, the more likely it is that an investigation or formal hearing is required.
- Community is not restricted to communities defined by location and may relate to a group of people who share certain characteristics, experiences or backgrounds, including an occupational group.

e) Is an investigation or formal hearing a proportionate response?

- In considering whether investigation or formal hearing is proportionate to the likely outcome, the following may be relevant:
 - i. The cost, especially where it could be regarded as excessive when weighed against any likely penalty. The Monitoring Officer should not decide the public interest on the basis of this factor alone. It is essential that regard is also given to the public interest factors identified when considering the other questions in paragraphs a) to e), but cost can be a relevant factor when making an overall assessment of the public interest.
 - ii. Cases should be dealt with in accordance with principles of effective case management.

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, they will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee and the Parish Council for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter for a local hearing.

9 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for local hearings, which is attached as Appendix Three to these arrangements.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give their response to the Investigating Officer's report, in order to identify

what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present their report, call such witnesses as they consider necessary and make representations to substantiate their conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give their evidence, to call witnesses and to make representations to the Hearings Panel as to why they consider that they did not fail to comply with the Code of Conduct.

The Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

10 What action can the Hearings Panel take where a member has failed to comply with the Code of Conduct?

The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly, the Hearings Panel may –

- 10.1 Publish its findings in respect of the Member's conduct;
- 10.2 Send a formal letter to the Member;
- 10.3 Report its findings to Council or to the Parish Council for information;
- 10.4 Recommend to the Member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council;
- 10.5 Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 10.6 Instruct the Monitoring Officer to or recommend that the Parish Council arrange training for the member;
- 10.7 Remove or recommend to the Parish Council that the member be removed from all outside appointments to which they have been appointed or nominated by the authority or by the Parish Council;
- 10.8 Withdraw or recommend to the Parish Council that it withdraws certain facilities provided to the member by the Council; or

10.9 Exclude or recommend that the Parish Council exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

11 What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the member and to the Parish Council, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

The decision notice will include a brief statement of the facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision maker and any sanction applied. The decision notice will be published on the Council's website.

12 Who are the Hearings Panel?

The Hearings Panel is a Sub-Committee of the Council's Standards Committee. The Standards Committee has decided that it will comprise three members of the Council, appointed on a political balance basis.

The Independent Person is invited to attend all meetings of the Hearings Panel and their views are sought and taken into consideration before the Hearings Panel takes any decision on whether the member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

13 Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be "independent" if he/she –

13.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;

13.2 Is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the authority's area, or

- 13.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, “relative” means –
- 13.3.1 Spouse or civil partner;
 - 13.3.2 Living with the other person as husband and wife or as if they were civil partners;
 - 13.3.3 Grandparent of the other person;
 - 13.3.4 A lineal descendent of a grandparent of the other person;
 - 13.3.5 A parent, sibling or child of a person within paragraphs 13.3.1 or 13.3.2;
 - 13.3.6 A spouse or civil partner of a person within paragraphs 13.3.3, 13.3.4 or 13.3.5; or
 - 13.3.7 Living with a person within paragraphs 13.3.3, 13.3.4 or 13.3.5 as husband and wife or as if they were civil partners.

14 Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where they considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

15 Appeals

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

Appendix One	The authority’s Code of Conduct
Appendix Two	Procedure for Investigations
Appendix Three	Procedure for Hearings

CUMBERLAND COUNCIL
Councillor Code of Conduct
Adopted INSERT

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.

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

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

Integrity

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

Objectivity

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

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

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 1

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 **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 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 (Consolidation) Act 1992.
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 (b) which has not been fully discharged.

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

APPENDIX 2

CUMBERLAND COUNCIL

Procedure for Local Investigation of Referred Complaints

Introduction and Summary

This note sets out the procedure which will be followed in the local investigation of allegations of misconduct by Councillors or Co-opted Members (for ease of reference, hereinafter jointly referred to as "Councillors"). No departure will be made from this procedure unless and until the Monitoring Officer has first notified the Councillor against whom the allegation has been made of the proposed variation to the procedure and the reasons for that variation.

This procedure applies to breaches of the authority's Code of Conduct for Members.

When the Monitoring Officer receives an allegation of a failure by a Councillor to comply with the Code of Conduct, and, following consultation with the Independent Person and Chair of the Standards Committee, they are of the opinion that the allegation merits investigation, they shall arrange for an Investigating Officer to investigate the allegation and to report to the Monitoring Officer.

Where the Investigating Officer has found, after investigation, that the Councillor has not acted in breach of the authority's Code of Conduct for Members or a local protocol, the Monitoring Officer will review the Investigating Officer's report and, following consultation with the Independent Person and the Chair of the Standards Committee, if they are of the view that the report is sufficient they will write to you, enclosing a copy of the report and advise you that no further action will be taken.

Where the Investigating Officer has found that there has been a failure to comply with the Code of Conduct for Members or a local protocol and a Local Resolution has not been possible then the Monitoring Officer, following consultation with the Independent Person and the Chair of the Standards Committee, may decide to hold a full hearing to determine whether a breach of the authority's Code of Conduct has occurred and whether any action should be taken in consequence.

In this process, the function of the Investigating Officer is to ensure, as far as possible, that all the information which is relevant to the allegation is identified and presented to the Monitoring Officer, to enable them, in consultation with the Chair of the Standards Committee, to make an informed decision as to whether the Councillor has failed to comply with the authority's Code of Conduct for Members, and upon any consequential action. At any Hearing, the Standards Committee acts in an inquisitorial manner, rather than an adversarial manner, seeking the truth in relation to the conduct of the Councillor on the balance of the information available to it, and may commission further investigation or information if it needs

to do so in order to come to a decision. In the event of the Investigating Officer requiring information from, or the attendance of, any Officer or elected Member in connection with the conduct of an investigation, such Officer or Member will be expected to co-operate fully with the Investigating Officer in accordance with their responsibilities under their contracts of employment and Code of Conduct respectively.

1. Interpretation

‘Councillor’ means the member or co-opted member of the authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the Councillor’s representative.

‘Investigating Officer’ means the person appointed by the Monitoring Officer to undertake that investigation (which may include the Monitoring Officer and/or his or her representative).

‘The Matter’ is the subject matter of the Investigating Officer’s report.

‘The Standards Committee’ refers to the Standards Committee or to any Standards Sub-Committee to which it has delegated the conduct of the hearing, unless the context indicates that it refers only to the Standards Committee itself.

2. Notification of Reference of Allegation to the Monitoring Officer

(a) Appointment of Investigating Officer

If it is determined that an investigation is appropriate, the Monitoring Officer will appoint an Investigating Officer in respect of the allegation and instruct them to conduct an investigation of the allegation and to report thereon to the Monitoring Officer. The Investigating Officer may be an officer of the authority, an officer of another local authority, or an external Investigating Officer.

The Investigating Officer may appoint persons to assist them in the conduct of their functions and may obtain such professional advice as may be necessary for the conduct of the investigation.

(b) Notification to the Councillor

The Monitoring Officer will then notify in writing the Councillor against whom the allegation is made:

- (i) that the allegation has been referred to him for local investigation and determination;
- (ii) the identity of the person making the allegation (unless identification of the complainant might prejudice the investigation or put the complainant at risk);
- (iii) of the conduct which is the subject of the allegation;

- (iv) of the section(s) of the Code of Conduct or local protocol which appear to him to be relevant to the allegation;
- (v) of the procedure which will be followed in respect of the allegation, and
- (vi) of the identity of the Investigating Officer.

(c) *Notification to the Parish or Town Council Clerk*

Where the allegation relates to the conduct of a member of a Parish or Town Council in his her capacity as such, at the same time as notifying the Councillor, the Monitoring Officer will notify the Clerk of the Parish or Town Council concerned in writing of the matters set out in paragraphs 2(b)(i) - (iv) and (vi) above.

(d) Notification to the Person who made the Allegation

At the same time as notifying the Councillor, the Monitoring Officer will notify the person who made the allegation in writing of the matters set out in paragraphs 2(b)(i) - (iv) and (vi) above.

(e) Initial response of the Councillor

In notifying the Councillor of receipt of the allegation, the Monitoring Officer shall request the Councillor to respond to the Investigating Officer in writing within 14 days of notification as follows:

- (i) advising the Investigating Officer whether the Councillor admits or denies the breach of the Code of Conduct or local protocol which is the subject of the allegation;
- (ii) listing any documents which the Councillor would wish the Investigating Officer to take into account in any investigation of the allegation, where possible providing copies of these documents, and informing the Investigating Officer of where the original documents may be inspected,
- (iii) providing the Investigating Officer with the name, address and telephone number (or other appropriate contact details) of any person or organisation whom the Councillor would wish the Investigating Officer to interview in the course of any investigation of the allegation (providing that, in the reasonable opinion of the Investigating Officer, the number of such is not excessive or disproportionate), and
- (iv) providing the Investigating Officer with any information which the Councillor would wish the Investigating Officer to seek from any person or organisation.

(f) Supporting information from the person who made the allegation

In notifying the person who made the allegation as above, the Monitoring Officer will request the person to respond to the Investigating Officer within 14 days

- (i) listing any documents which the person would wish the Investigating Officer to take into account in any investigation of the allegation, where possible providing copies of these documents, and informing the Investigating Officer of where the original documents may be inspected,
- (ii) providing the Investigating Officer with the name, address and telephone number (or other appropriate contact details) of any person or organisation whom the person would wish the Investigating Officer to interview in the course of any investigation of the allegation, and
- (iii) providing the Investigating Officer with any information which the person would wish the Investigating Officer to seek from any person or organisation.

3. Conduct of Investigation

(a) Purpose of the Investigation

The purpose of the Investigating Officer's investigation is to enable them to prepare and present to the Monitoring Officer a report which, if subsequently referred to the Standards Committee, would provide it with sufficient information to determine whether the Councillor has acted in breach of the Code of Conduct or local protocol and, where there has been a breach of the Code of Conduct or local protocol, whether any action should be taken in respect of the Councillor or in consequence of the breach, and what any such action should be.

(b) Termination of the Investigation

The Investigating Officer may terminate their investigation at any point, where they are satisfied that they have sufficient information to enable them to report to the Standards Committee and to enable the Standards Committee to come to a considered decision on the allegation.

(c) Additional Matters

Where, in the course of their investigation, the Investigating Officer becomes aware of any other matter which appears to them to indicate a breach of the Code of Conduct or local protocol by the Councillor other than the breach which they are currently investigating, the Investigating Officer shall either:

- (i) *(where the additional matter relates to an apparent breach of the authority's Code of Conduct by a member of the principal authority)* report the matter to the Monitoring Officer who will provide the Councillor with details of the matter in the form set out in paragraphs

2(b)(iii) and (iv) above and invite the Councillor to provide a statement as to why the additional matter does not constitute a breach of the Code of Conduct;

- (ii) *(where the additional matter constitutes an apparent breach of the authority's local protocols but not a breach of the Code of Conduct by a member of the principal authority)* report the matter to the Monitoring Officer who will provide the Councillor with details of the matter in the form set out in paragraphs 2(b)(iii) and (iv) above and invite the Councillor to provide a statement as to why the additional matter does not constitute a breach of the authority's code of conduct. The Monitoring Officer, in consultation with the Independent Person and the Chair of the Standards Committee, will then take a decision whether to refer the matter to an Investigating Officer for local investigation and/or report to the Standards Committee as appropriate.;
 - (iii) *(Where the additional matter relates to an apparent breach of the Code of Conduct by a Parish or Town Councillor)* notify the Clerk to the Town or Parish Council of the additional matter, and take no further action in respect thereof.
- (d) Following notification to the Councillor, the Investigating Officer will identify an initial list of persons to be interviewed, organisations from whom information is to be sought and documents to be inspected as part of the investigation. Where the Councillor has provided the Investigating Officer with the information requested in accordance with Paragraphs 2(f)(ii) and (iii) above, the Investigating Officer shall include in this list each document, person and organisation referred to in that response, unless they are of the opinion that the inclusion of that document, person or organisation would unreasonably delay the completion of the investigation rather than contribute to the accuracy of the Investigating Officer's final report. The Investigating Officer may supplement or amend this list at any stage of the investigation.
- (e) Production of documents, information and explanations
- (i) In the course of the investigation, the Investigating Officer and any person authorised on their behalf may make such enquiries of any person or organisation, and request any person or organisation to provide any document or information which is in his/its possession or control, or provide any explanation, as they think necessary for the purposes of carrying out the investigation.
 - (ii) In the course of the investigation, the Investigating Officer and any person authorised on their behalf may require any authority of which the Councillor is a member to provide any document which is in his/its possession or control which they think necessary for the purposes of carrying out the investigation.
 - (iii) Any decision about whether any particular document is sensitive or commercially sensitive and thus not suitable for publication shall rest

with the Monitoring Officer in consultation with the Independent Person and Chair of the Standards Committee.

(f) Interviews

(i) Requesting attendance

In the course of the investigation the Investigating Officer may request any person to attend and appear before him or otherwise provide any information, document or explanation for the purpose of Paragraph 3(e), as they think necessary for the purposes of carrying out the investigation.

(ii) Representation

Any person who appears before the Investigating Officer may arrange to be accompanied at their own expense by a solicitor or friend.

(iii) Notes of interviews

Where practicable, following the interview the Investigating Officer shall produce a written note of the material points of the interview, provide two copies of that note to the person interviewed and ask them to return one copy signed as a correct record of the interview, with such corrections or amendments as they may feel necessary for that purpose.

(g) Costs

The Investigating Officer may, where they consider that it is appropriate in order to facilitate the conduct of the investigation, pay to any person who provides any document, information, advice or explanation in response to their request, such fees or allowances as they consider to be appropriate subject to any maxima set by the authority.

4. The Draft Report

(a) When the Investigating Officer is satisfied that they have sufficient information to meet the requirement set out in Paragraph 3(a), or has obtained as much information as is likely to be reasonably capable of being obtained, they shall prepare a draft report with a “confidential” and “draft” marking setting out:

(i) the details of the allegation;

(ii) the relevant provisions of statute, of the Code of Conduct and any relevant local Protocols

(iii) the Councillor’s initial response to notification of the allegation (if any);

(iv) the relevant information, evidence, advice and explanations which

they have obtained in the course of the investigation;

- (v) a list of any documents relevant to the matter;
 - (vi) a list of those persons whom they have interviewed and those organisations from whom they have sought information;
 - (vii) a note of any person or organisation who has failed to co-operate with the investigation and the manner in which they have failed to co-operate;
 - (viii) a statement of their draft findings of fact;
 - (ix) their conclusion (with reasons) as to whether the Councillor has or has not failed to comply with the Code of Conduct for Members of any authority or a local protocol, and
 - (x) any recommendations which the Investigating Officer is minded to make to any authority concerned for reviewing or reconsidering any decision which was the subject of the breach of the Code of Conduct or local protocol, for rectifying any deficiency in the authority's decision-making procedures or for preventing or deterring any breach of the Code of Conduct or local protocol or to remedy the position of any person who may have suffered detriment or injustice as a result of the breach. *Where the allegation relates to a Parish or Town Councillor, such recommendations would be recommendations which the Investigating Officer would recommend that the Standards Committee make to the Parish or Town Council.*
- (b) The draft report should also state that the report does not necessarily represent the Investigating Officer's final finding, and that the investigating Officer will present a final report to the Monitoring Officer once they have considered any comments received on the draft report.
 - (c) The Investigating Officer shall then send a copy of their draft report in confidence to the Councillor and the person making the allegation, and request that they send any comments thereon to them within 14 days.
 - (d) The Investigating Officer may send a copy of, or relevant extracts from their draft report in confidence to any person on whose evidence they have relied in compiling the draft report, and request that they send any comments thereon to them within 14 days.

5. The Final Report

- (a) After the expiry of that period (or such extended period as the Investigating Officer may allow), the Investigating Officer shall reconsider and amend their draft report in the light of any comments received, and produce and send to the Monitoring Officer his final report. The final report should be marked "final" and state that the report represents the Investigating Officer's final findings and may, if necessary, be presented to the Standards

Committee, and should, subject to 3(e)(iii), have appended to it copies of any documents which the Investigating Officer has relied on in reaching their conclusions, such as background documents of telephone conversations, letters, notes of interviews with witnesses and a chronology of events;

- (b) The Monitoring Officer shall then send a copy of the final report to the Councillor, advising that:
 - (i) where the final report concludes that there has not been a failure to comply with the Code of Conduct for Members or a local protocol, (if the Monitoring Officer, in consultation with the Independent Person and Chair of the Standards Committee are satisfied) that no further action is required, and
 - (ii) where the final report concludes that there has been a failure by the Councillor to comply with the Code of Conduct for Members or with a local protocol, they will consider, in consultation with the Independent Person and Chair of the Standards Committee, whether the matter be further dealt with by Local Resolution or a Local Hearing.
- (c) If the complaint is dealt with by Local Resolution then that is the end of the matter.
- (d) If it is determined that there should be a Local Hearing then the Procedure for Determination of Allegations about the Personal Conduct of Members will apply.

CUMBERLAND COUNCIL**PROCEDURE FOR DETERMINATION OF ALLEGATIONS ABOUT THE
PERSONAL CONDUCT OF COUNCIL MEMBERS****INTRODUCTION**

1. The local determination of complaints by the Standards Committee (or sub-committee thereof) following a local investigation and referral by the Monitoring Officer, will be governed by this procedure.
2. The person[s] making the complaint will be referred to in this procedure as the Complainant and the person against whom the complaint is made will be referred to as the Member. The allegation will be heard by the Standards Committee or a Sub-Committee of the Standards Committee.

PRE-HEARING PROCESS [LOCAL INVESTIGATIONS]

3. Upon receipt of the final report of the Investigating Officer including a finding that the Member failed to comply with the Code of Conduct for Members and where it has not been possible to reach a local resolution or the Monitoring Officer, in consultation with the Independent Person and the Chair of the Standards Committee, finds that the matter should be considered at a formal hearing the Monitoring Officer shall arrange for the Standards Committee to consider the matter.
4. Where the Monitoring Officer is the Investigating Officer they must arrange for a separate legal advisor to the Committee to be appointed in respect of the allegation.

NOTIFYING THE MEMBER AND COMPLAINANT

5. Within five working days of the receipt of the Investigating Officer's report the Monitoring Officer shall send a copy of the report to the Member and, where possible, the Complainant, making the provision of the report conditional upon any appropriate undertaking of confidentiality. The Chairman and Members of the Committee shall be informed of the allegation by the Monitoring Officer, as well as any Parish or Town Council Clerk where the allegation relates to conduct of a Member in their capacity as a member of a Parish or Town Council.

6. The Member shall be asked for a written response, within fifteen working days of the receipt of the report, which response shall set out the reply to the Investigating Officer's report and state whether or not they:
 - i. disagree with any of the findings of fact in the Investigating Officer's report, including the reasons for any disagreement;
 - ii. wants to be represented, at their own expense, at the hearing by any other person;
 - iii. wants to give evidence to the Committee, either verbally or in writing;
 - iv. wants to call relevant witnesses to give evidence to the Committee;
 - v. wants any part of the hearing to be held in private;
 - vi. wants any part of the Investigating Officer's report or other relevant documents to be withheld from the public.

7. The Member shall be informed that if, at the meeting of the Committee, they seek to dispute any matter contained in the Investigating Officer's report without having previously notified the Monitoring Officer of the intention to do so the Committee may either [a] adjourn the meeting to enable the Investigating Officer to provide a response, or [b] refuse to allow the disputed matter to be raised.

8. Upon receipt, the Monitoring Officer shall invite the relevant Investigating Officer to comment, within ten working days, on the Member's response, and to say whether or not they:
 - i. want to be represented or be present at the hearing;
 - ii. wants to call relevant witnesses to give evidence or submit written or other evidence to the Committee;
 - iii. wants any part of the hearing to be held in private;
 - iv. wants any part of the Investigating Officer's report or other relevant documents to be withheld from the public.

9. Upon receipt of the Investigating Officer's response, the Monitoring Officer will consider the responses of the Member and the Investigating Officer and request the Monitoring Officer to set a date for the hearing in consultation with the Chairman.

10. The Member and the Investigating Officer are entitled to request that any witnesses they want should be called. However, the Chairman of the Hearing may

limit the number of witnesses to be called, if they believe the number requested is unreasonable and that some witnesses will simply be repeating the evidence of earlier witnesses, or else not providing evidence that will assist the Committee to reach its decision.

11. Nothing in this procedure shall limit the Chairman of the Hearing from requesting the attendance of any additional witnesses whose evidence they consider would assist the Committee to reach its decision.
12. The Monitoring Officer, in consultation with the Chairman, will:
 - i. confirm a date, time and place for the Hearing, which must be within three months from the date that the Investigating Officer's report was received;
 - ii. confirm the main facts of the case that are agreed;
 - iii. confirm the main facts that are not agreed;
 - iv. provide copies of any written evidence to the relevant parties;
 - v. confirm which witnesses will be called by the parties;
 - vi. provide the parties with a copy of the proposed procedure for the Hearing, specifying which parts of the matter, if any, may be considered in private; and
 - vii. ensure the appropriate information, with the agenda, is provided to everyone involved in the Hearing at least two weeks before the proposed date of the Hearing.

THE HEARING

13. The Committee shall decide, on a balance of probabilities, whether the complaint[s] is or are upheld upon the evidence presented to it.
14. Each Committee Member shall have one vote, and all matters/issues shall be decided by a simple majority of votes cast. If there are equal numbers of votes for and against, the Chairman will have second or casting vote.
15. The meeting of the Committee will be open to the public and press unless confidential information or exempt information is likely to be disclosed.

PROCEDURE AT THE HEARING

16. The initial order of business at the meeting shall be as follows:-

- i. Establishing whether the Committee is quorate;
 - ii. Declarations of interest;
 - iii. Introductions
 - iv. Consideration as to whether to adjourn or to proceed in the absence of the Member, if the Member is not present;
 - v. Consideration of any procedural issues and, in particular, any representation from the Investigating Officer and/or the Member as to reasons why the Committee should exclude the press and public and determination as to whether to exclude the press and public.
17. The purpose of the Hearing is to determine the facts at issue and what action, if any, should be taken. An inquisitorial approach will be adopted by the Committee members in seeking information and clarifying facts and issues. The Chairman will control the procedure and evidence presented at the Hearing, including the questioning of witnesses.
18. The Committee members may at any time seek legal advice from their advisor. [Such advice will be notified to the public in the presence of the Investigation Officer and the Member.]
19. The procedure will be as follows, subject to the Chairman being able to make changes as he or she thinks fit in order to ensure a fair and efficient hearing.

PROCEEDING IN THE ABSENCE OF THE MEMBER

20. If the Member is not present at the start of the Hearing:
- i. The Chairman will ask the Monitoring Officer whether the Member has indicated their intention not to attend the Hearing;
 - ii. The Standards Committee shall then consider any reasons which the Member has provided for not attending the Hearing and shall decide whether it is satisfied that there is sufficient reason for such failure to attend;
 - iii. If the Standards Committee is satisfied with such reasons, it shall adjourn the Hearing to another date;
 - iv. If the Standards Committee is not satisfied with such reasons, or if the Member has not given any such reasons, the Standards Committee shall decide whether to consider the matter and make a determination in the absence of the member or to adjourn the Hearing to another date.

Presentation by the Investigating Officer

- 21 The Investigating Officer will present the evidence which is relevant to the matter. The Investigating Officer may introduce any witness required to substantiate any matter contained in the report which has been disputed and present any other relevant evidence.
- 22 The Member or their representative may ask questions of the Investigating Officer or any witness.
- 23 The Committee members may ask questions of the Investigating Officer or any witness.

Presentation by the Member

- 24 The Member or their representative will present the evidence which is relevant to the matter. The Member or their representative may introduce witnesses or present any other relevant evidence.
- 25 The Investigating Officer may ask questions of the Member, or any witness.
- 26 The Committee members may ask questions of the Member or any witness.

Summing Up

- 27 The Investigating Officer and then the Member or their representative will be given the opportunity to sum up.

Power to Adjourn

- 28 If the Committee at any time prior to determining whether there was a failure to comply with the Code of Conduct are of the opinion that they require additional evidence on any point in order to be able to come to a considered conclusion on the matter the Committee may (on not more than one occasion) adjourn the hearing and make a request to the Monitoring Officer to seek and provide such additional evidence and to undertake further investigation on any point specified by the Standards Committee.

Decision by the Committee

29. The Committee will consider in private all the evidence which it has heard in order to establish its findings of fact.
30. At any stage in the consideration of the matter the Committee may return to ask further questions of the Investigating Officer or the Member or seek further information. The other party will be given an opportunity to comment upon the questions asked or the responses made.

31. The Committee may seek legal advice at any time. Such advice may be given in the presence of the Investigating Officer and the Member if appropriate.
32. At the conclusion of their deliberations, the Chairman will advise the Member and the Investigating Officer of their findings and whether the Code of Conduct has been breached.
33. If the Committee concludes that the Member has acted in breach of the Code representations will be invited from the Investigating Officer and the Member as to what action, if any, it should take. The Committee may ask questions of the Member and the Investigating Officer.

Determining the Matter

34. The Committee, having heard any representations, will consider what actions, if any, to take.

The findings that the Committee may make are:

- a) That there has been no breach of the Code;
- b) That the Member has failed to comply with the Code of Conduct, but that no action needs to be taken;
- c) That the Member has failed to comply with the Code of Conduct and the sanction(s) should be that the Standards Committee:
 - ❖ Publish its findings in respect of the Member's conduct;
 - ❖ Send a formal letter to the Member
 - ❖ Report its findings to the Council or Parish Council for information;
 - ❖ Recommend to the member's Group Leader (or in the case of an ungrouped member(s), recommend to Council or Committees) that they be removed from any or all committees or sub-committees of the Council;
 - ❖ Recommend to the Leader of the Council that the member be removed from the Executive or removed from particular Portfolio responsibilities;
 - ❖ Instruct the Monitoring Officer or recommend that the Parish Council arrange training for the member;
 - ❖ Remove or recommend to the Parish Council that the member be removed from all outside appointments to which they have been appointed or nominated by the Council or the Parish Council;
 - ❖ Withdraw or recommend to the Parish Council that it withdraws certain facilities provided to the member by the Council; or
 - ❖ Exclude or recommend that the Parish Council exclude the member from the member from Council's offices or other premises, with the

exception of meeting rooms as necessary for attending Council, Committees and Sub-Committee meetings.

35. In deciding what penalty to set, the Committee will consider all relevant circumstances.
36. The Chairman will announce the decision of the Committee, the action, if any, it will take and the reasons for the decision.
37. The Committee will then consider in open session whether there are any recommendations which should be made to any Authority concerned arising from the consideration of the allegation.

APPEAL

38. There is no right of appeal against the decision of the Hearing Panel.

NOTICE OF FINDINGS

39. A full written decision in draft [including the reasons for it] will be prepared as soon as practicable. The draft decision will be forwarded to the Chairman of the Committee for approval.
40. Once approved and as soon as reasonably practicable after the Hearing the full written decision will be forwarded to the Member, the Complainant [where possible], the Investigating Officer and any other Authority concerned.
41. If the Hearing Panel wishes to publish its finding, the Monitoring Officer, subject to paragraph 42, shall arrange for a summary of the findings to be published in one newspaper circulating in the area of the Authority in accordance with paragraphs 43 and 44 or in such other manner as the Hearing Panel may determine (for example, by reporting the matter to Council for information).
42. Where the Committee determines that there has not been a breach of the Code of Conduct, the notice shall:
 - i. State that the Committee found that the Member had not failed to comply with the Code of Conduct and shall give its reasons for reaching that finding; and
 - ii. Not be published in the local newspaper if the Member so requests.
43. Where the Committee determines that there has been a failure to comply with the Code of Code but no action is required, the notice shall:

- i. State that the Committee found that the Member had failed to comply with the Code of Conduct but that no action needs to be taken in respect of that failure;
 - ii. Specify the details of the failure;
 - iii. Give reasons for the decision reached; and
44. Where the Committee determines that there has been a failure to comply with the Code of Conduct and that a sanction should be imposed, the notice shall include a brief statement of the facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision maker and any sanction applied. The decision notice will be published on the Council's website.
45. Copies of the agenda, reports and minutes of a Hearing, as well as any background papers, apart from sections of documents relating to parts of the Hearing that were held in private, shall be available for public inspection for six years after the Hearing.

GUIDANCE ON CODE OF CONDUCT

This document has been produced by the Cumberland/Westmorland and Furness Monitoring Officers to offer guidance on the Code of Conduct for Members. The code, amended from time to time to reflect current guidance, applies to all members and co-opted members of the Council.

The Member code does not apply to the actions of the Council as a whole, or to the conduct of its officers and employees.

Ultimately, it is the members' responsibility to take specific advice from the Monitoring Officer where appropriate and to make a decision as to the most suitable course of action.

Code of Conduct

The Code of Conduct ("the Code") is not intended to be an exhaustive list of all the obligations that are placed on Members, but it is the responsibility of individual members to comply with the provisions of the Code as well as such other legal obligations as may apply to them from time to time.

The Code is intended to be consistent with the seven principles as attached to the code which define the standards that members should uphold. A failure to act in accordance with these general principles may amount to a breach of the Code of Conduct. For example, by placing yourself in situations where your honesty and integrity may be questioned, your conduct may be conduct which could "bring the Council or your office as a member of the Council into disrepute".

When does the Code apply to you?

The Code applies to you whenever you act in your official capacity as a member or co-opted member of the Authority. A co-opted member is a person who is not a member of the Council but who is either a member of any committee or sub-committee of the Council, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council and who is entitled to vote on any question that falls to be decided at that meeting of that committee or sub-committee.

For the purposes of the Code, a "meeting" is a meeting of the Council, any of its committees, sub-committees, joint committees or joint sub-committees.

General Obligations under the Code

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend, a close associate, an employer or business carried on by you.

For example, your behaviour would be improper if you sought to further your private interests through your position as a member.

You must not place yourself under a financial or other obligation to outside individuals or organisations that may influence you in the performance of your official duties.

It would not be appropriate to accept favours, gifts or hospitality from someone that may, at a later date, require something from the Council that you are in a position to influence. For example, you may be offered a discount by a business in the area which subsequently applies for a planning permission and/or a licence. You may be on the relevant committee dealing with the application and, therefore, be in a difficult position.

You must not disclose any information given to you as a Member in breach of any confidence.

There may be circumstances where you are required to do so by law but you should seek the advice of the Monitoring Officer if there is any doubt about this.

You must not disclose confidential information, or information which you believe to be of a confidential nature, except in any of the following circumstances:

- You have the consent of the person authorised to give it.
- You are required by law to do so.
- The disclosure is made to a third party for the purposes of obtaining professional advice (for example, your lawyer or other professional adviser) provided that person agrees not to disclose the information to any other person.
- The disclosure is in the public interest. This is only justified in limited circumstances, when all of the following four requirements are met:
 1. the disclosure must be reasonable
 2. the disclosure must be in the public interest
 3. the disclosure must be made in good faith
 4. the disclosure must be made in compliance with any reasonable requirements of your authority

In relation to the disclosure of confidential information in the public interest, the four requirements to be met are outlined in more detail below.

1. The first requirement, that the disclosure must be reasonable, requires you to consider matters such as:

- Whether you believe that the information disclosed, and any allegation contained in it, is substantially true. If you do not believe this, the disclosure is unlikely to be reasonable.
- Whether you make the disclosure for personal gain. If you are paid to disclose the information, the disclosure is unlikely to be reasonable.
- The identity of the person to whom the disclosure is made. It may be reasonable to disclose information to the police or to an appropriate regulator. It is less likely to be reasonable for you to disclose the information to the world at large through the media.

- The extent of the information disclosed. The inclusion of unnecessary detail, and in particular, private matters such as addresses or telephone numbers, is likely to render the disclosure unreasonable.
- The seriousness of the matter. The more serious the matter disclosed, the more likely it is that the disclosure will be reasonable.
- The timing of the disclosure. If the matter to which the disclosure relates has already occurred, and is unlikely to occur again, the disclosure may be less likely to be reasonable than if the matter is continuing, or is likely to recur.
- Whether the disclosure involves your authority failing in a duty of confidence owed to another person.

2. The second requirement, that the disclosure must be in the public interest, needs to involve one or more of the following matters or something of comparable seriousness, that has either happened in the past, is currently happening, or is likely to happen in the future:

- (a) A criminal offence is committed.
- (b) Your authority or some other person fails to comply with any legal obligation to which they are subject.
- (c) A miscarriage of justice occurs.
- (d) The health or safety of any individual is in danger.
- (e) The environment is likely to be damaged.
- (f) That information tending to show any matter falling within (a) to (e) is deliberately concealed.

3. The third requirement, that the disclosure is made in good faith, will not be met if you act with an ulterior motive, for example, to achieve a party political advantage or to settle a score with a political opponent.

4. The fourth requirement, that you comply with the reasonable requirements of your authority, means that before making the disclosure you must comply with your authority's policies or protocols on matters such as whistle-blowing and confidential information. You must first raise your concerns through the appropriate channels set out in such policies or protocols.

In summary, to decide whether the disclosure is reasonable and in the public interest, you may need to conduct a balancing exercise weighing up the public interest in maintaining confidentiality against any countervailing public interest favouring disclosure. This will require a careful focus on how confidential the information is, on any potentially harmful consequences of its disclosure, and on any factors which may justify its disclosure despite these potential consequences.

In some situations, it is extremely unlikely that a disclosure can be justified in the public interest. These will include where the disclosure amounts to a criminal offence, or where the information disclosed is protected by legal professional privilege.

You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council, or your office as a member of the Council, into disrepute.

You must not bring your office or authority into disrepute whilst acting in your official capacity.

As a member, your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on your office or your authority. Dishonest and deceitful behaviour in your role as a member may bring your authority into disrepute, as may conduct in your private life which results in a criminal conviction, such as dishonest, threatening or violent behaviour.

You must treat others with respect and promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their sex, race, age, religion, gender, sexual orientation or disability. You should respect the impartiality and integrity of the authority's statutory officers and its other employees.

Respect

You must treat others with respect. In politics, rival groupings are common, either in formal political parties or more informal alliances. It is expected that each will campaign for their ideas, and they may also seek to discredit the politics and actions of their opponents. Criticism of ideas and opinion is part of democratic debate, and does not in itself amount to failing to treat someone with respect.

Ideas and policies may be robustly criticised, but individuals should not be subject to unreasonable or excessive personal attacks. This particularly applies to dealing with the public and officers. Chairs of meetings are expected to apply the rules of debate and procedure rules or standing orders to prevent abusive or disorderly conduct.

Whilst there may be unreasonable demands on members, members should, as far as possible, treat people courteously and with consideration. Rude and offensive behaviour lowers the public's expectations and confidence in its elected representatives.

Equality

You must not do anything which may cause your authority to breach any equality laws. You must be careful not to act in a way which may amount to any of the prohibited forms of discrimination, or do anything which hinders your authority's fulfilment of its positive duties under equality laws. Such conduct may cause your authority to breach the law, and you may find yourself subject to a complaint that you have breached this paragraph of the code of conduct.

Bullying

You should not bully any person. As an elected Member you are in a position of authority and power over Council employees and others. Bullying is offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can make a person feel vulnerable, upset, humiliated, undermined or threatened. Power

does not always mean being in a position of authority, but can include both personal strength and the power to coerce through fear or intimidation.

Bullying can take the form of physical, verbal and non-verbal conduct. Bullying may include, by way of example:

- (a) Physical or psychological threats;
- (b) Overbearing and intimidating levels of supervision/instruction;
- (c) Inappropriate derogatory remarks about someone's performance;

Legitimate, reasonable and constructive criticism of a worker's performance or behaviour, or reasonable instructions given to workers in the course of their employment, will not amount to bullying on their own.

Harassment

You should not harass any person. Harassment is any unwanted physical, verbal or non-verbal conduct that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. A single incident can amount to harassment.

It also includes treating someone less favourably because they have submitted or refused to submit to such behaviour in the past.

Unlawful harassment may involve conduct of a sexual nature (sexual harassment), or it may be related to age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, colour, nationality, ethnic or national origin, religion or belief, sex or sexual orientation. Harassment is unacceptable even if it does not fall within any of these categories.

Harassment may include, for example:

- (a) Unwanted physical conduct or "horseplay", including touching, pinching, pushing and grabbing;
- (b) Continued suggestions for social activity after it has been made clear that such suggestions are unwelcome;
- (c) Sending or displaying material that is pornographic or that some people may find offensive (including e-mails, text messages, video clips and images sent by mobile phones or posted on the internet);
- (d) Unwelcome sexual advances or suggestive behaviour (which the harasser may perceive as harmless);
- (e) Racist, sexist, homophobic or ageist jokes, or derogatory or stereotypical remarks about a particular ethnic or religious group or gender;
- (f) Outing or threatening to out someone as gay or lesbian;
- (g) Offensive e-mails, text messages or social media content; or
- (h) Mocking, mimicking or belittling a person's disability.

A person may be harassed even if they were not the intended "target". For example, a person may be harassed by racist jokes about a different ethnic group if the jokes create an offensive environment.

Impartiality and integrity of officers of the authority

You should respect the impartiality and integrity of the Authority's statutory officers and its other employees.

You should not approach or pressure anyone who works for, or on behalf of the authority to carry out their duties in a biased or partisan way. They must be neutral and should not be coerced or persuaded to act in a way that would undermine their neutrality. For example, you should not get officers to help you prepare party political material, or to help you with matters relating to your private business.

Although you can robustly question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits on merit.

As an elected Member of the Council you are responsible for administering resources on behalf of the public of the area that you serve. You should administer these resources fairly and in accordance with the law. It is inappropriate for the Council's resources or powers to be used in such a way that the authority and its Members be left open to accusations that in appropriate influence played a part, for example, "it's not what you know, it's who you know!"

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

This requirement is linked to carrying out all duties in a fair and transparent manner. Members are able to be held to account for their actions and, this being the case, you must be open to cooperate with any legitimate scrutiny that is to be applied.

You must be open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

The law requires that Members give reasons for their decisions. This is so that the public we serve are able to understand why we have taken a course of action and, if necessary, exercise any right of challenge that is open to them.

You must declare any private interests, both disclosable pecuniary interests and any registrable interests, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interest in a matter which conforms to the procedures within the code.

The Code of Conduct contains a scheme for the registration of interests. It exists to support openness and transparency; the public are able to see where you may have an interest. Secondly, the scheme of registration exists to protect individual Members against accusations of a conflict of interest, etc. Lastly, the registration of disclosable pecuniary interests is required by law.

You must ensure, when using or authorising the use by others of the resources of your authority, that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

Where your authority provides you with resources (for example telephone, computer and other IT facilities, transport or support from council employees), you must only use these resources or employees for carrying out your local authority business and any other activity which your authority has authorised you to use them for.

You must be familiar with the rules applying to the use of these resources made by your authority. Failure to comply with the authority's rules is likely to amount to a breach of the code.

If you authorise someone (for example a member of your family) to use your authority's resources, you must take care to ensure that this is allowed by the authority's rules.

You should never use council resources for purely political purposes, including designing and distributing party political material produced for publicity purposes.

You must promote and support high standards of conduct when serving in your office.

You have a duty to promote and support high standards of conduct and be consistent with the seven general principles attached to the Code.

INTERESTS

Register of interests

Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

You have two types of registrable interests

- a) A Disclosable Pecuniary Interest and
- b) Interests other than pecuniary interests that the Council has decided should be registered

Disclosable Pecuniary Interests

1. These are interests which must be notified to the Council's Monitoring Officer within 28 days beginning with the day on which you become a member or co-opted member of the authority in accordance with the statutory requirements of the Localism Act 2011. These are enforced by criminal sanction, and failure to declare is a criminal offence.
2. You need to register your interests so that the public, authority staff and fellow members know which of your interests might give rise to a conflict of interest. The register is a document that can be consulted when (or before) an issue arises, and so allows others to know what interests you have, and whether they might give rise to a potential conflict of interest.
3. The register also protects you. You are responsible for deciding whether or not you should declare an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be declared by you or other members, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local government is maintained.
4. A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) of the following descriptions:
 - (a) Details of any employment, office, trade, profession or vocation carried on for profit or gain
 - (b) Details of any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. (This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992).

- (c) Details of any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority under which goods or services are to be provided or works are to be executed; and which has not been fully discharged.
- (d) Details of any beneficial interest in land which is within the area of the relevant authority.
- (e) Details of any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
- (f) Details of any tenancy where (to your knowledge) the landlord is the relevant authority; and the tenant is a body in which the relevant person has a beneficial interest.
- (g) Details of any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of the relevant authority; and either the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or if that share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For the purposes of the foregoing “relevant authority” means the District Council, and “relevant period” means the period of 12 months ending with the day on which you notify the Monitoring Officer of your disclosable pecuniary interest.

Notification of Other Interests

5. In addition to the disclosable pecuniary interests, you must, within 28 days of the Code being adopted by or applied to your authority; or your election or appointment to office (where that is later), notify the Monitoring Officer in writing of the details of your interests within the following categories, which the Council has decided must be included in the register of interests:

- (a) Details of any unpaid Directorships;
- (b) Details of any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the District Council;
- (c) Details of any body of which you are a member or in a position of general control or management and which –
 - (i) exercises functions of a public nature,
 - (ii) is directed to charitable purposes or
 - (iii) is a body which includes as one of its principal purposes influencing public opinion or policy (this includes political parties or trade union);

- (d) Details of any persons from who you have a received/rejected a gift or hospitality with an estimated value of at least £50. (You must register any gifts and hospitality worth £50 or over that you receive/reject personally in connection with your official duties).

What is a “body exercising functions of a public nature”?

6. Although it is not possible to produce a definitive list of such bodies, here are some criteria to consider when deciding whether or not a body meets that definition:

- Does that body carry out a public service?
- Is the body taking the place of local or central government in carrying out the function?
- Is the body (including one outsourced in the private sector) exercising a function delegated to it by a public authority?
- Is the function exercised under legislation or according to some statutory power?
- Can the body be judicially reviewed?

Unless you answer “yes” to one of the above questions, it is unlikely that the body in your case is exercising functions of a public nature.

Examples of bodies included in this definition: government agencies, other councils, public health bodies, council-owned companies exercising public functions, arms-length management organisations carrying out housing functions on behalf of your authority, school governing bodies.

If you need further information or specific advice, please contact your Monitoring Officer.

What do things mean?

Here are some definitions from the legislation that may help you. Ask for advice if necessary:

“the Act”	means the Localism Act 2011 ;
“body in which the relevant person has a beneficial interest”	means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
“director”	includes a member of the committee of management of an industrial and provident society;
“land”	excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the

	relevant person (alone or jointly with another) to occupy the land or to receive income;
“M”	means a member of a relevant authority;
“member”	includes a co-opted member;
“relevant authority”	means the authority of which M is a member;
“relevant period”	means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7) , as the case may be, of the Act;
“relevant person”	means <ul style="list-style-type: none"> (i) M (ii) M's spouse or civil partner, (iii) a person with whom M is living as husband and wife, or (iv) a person with whom M is living as if they were civil partners,

<p>“securities”</p>	<p>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.</p>
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Gifts and Hospitality

7. You must register the gift or hospitality and its source within 28 days of receiving it.
8. You should ask yourself would I have been given/offered this if I was not on the Council? If you are in doubt as to the motive behind a gift or hospitality, we recommend that you register it or speak to the Monitoring Officer or your parish clerk where appropriate.
9. You do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept. However, you should always register a gift or hospitality if it could be perceived as something given to you because of your position or if your authority requires you to.

What if I do not know the value of a gift or hospitality?

10. The general rule is, if in doubt as to the value of a gift or hospitality, you should register it, as a matter of good practice and in accordance with the principles of openness and accountability in public life.
11. You may have to estimate how much a gift or hospitality is worth. Also, an accumulation of small gifts you received from the same source over a short period that add up to £50 or more should be registered.

Changes to Interests

12. You must, within 28 days of becoming aware of any new interest or change to any interest registered notify the Monitoring Officer of the details of that new interest or change.

Disclosure of Interests

13. Where you have a registrable interest in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of that interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

Sensitive interests

14. Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

What is sensitive information?

15. It may include your sensitive employment (such as certain scientific research or the Special Forces) or other interests that are likely to create serious risk of violence or intimidation against you or someone who lives with you.
16. You should provide this information to your Monitoring Officer and explain your concerns regarding the disclosure of the sensitive information; including why it is likely to create a serious risk that you or a person who lives with you will be subjected to violence or intimidation. You do not need to include this information in your register of interests, if your Monitoring Officer agrees but you need to disclose at meetings the fact that you have a disclosable pecuniary interest in the matter concern.

Non participation in case of disclosable pecuniary interest

17. If you are present at a meeting of the Council, Executive or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting:
 - You may not participate in any discussion of the matter at the meeting.
 - You may not participate in any vote taken on the matter at the meeting.
 - If the interest is not registered, you must disclose the interest to the meeting.
 - If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Dispensations

18. The Monitoring Officer or Standards Committee may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest. These circumstances are where:
 1. It is considered that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business.
 2. That, without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business.
 3. That, without a dispensation, no member of the Executive would be able to participate on this matter.

4. That the authority considers that the dispensation is in the interests of persons living in the authority's area
5. That the authority considers that it is otherwise appropriate to grant a dispensation.

Offences

19. It is a criminal offence to
 - Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
 - Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
 - Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
 - Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
 - As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
 - Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

Bias/Predetermination

Although not part of the Code, members need to be clear that they are not biased going into the decision making process.

If you have a personal interest in a matter as a result of the matter affecting the well-being or financial position of yourself, member of your family or close association more than it would affect the majority of other people in the ward or electoral divisions affected by the decision, or in the authority's areas or constituency then there may be potential for bias/predetermination.

The rules against bias say that there are three distinct elements. The first seeks accuracy in public decision-making and the second seeks the absence of prejudice or partiality on the part of you as the decision-maker. An accurate decision is more likely to be achieved by a decision-maker who is in fact impartial or disinterested in the outcome of the decision and who puts aside any personal prejudices.

The third requirement is for public confidence in the decision-making process. Even though the decision-maker may in fact be scrupulously impartial, the appearance of bias can itself call into question the legitimacy of the decision-making process. In general, the rule against bias looks to the appearance or risk of bias rather than bias in fact, in order to ensure that justice should not only be done, but should manifestly and undoubtedly be seen to be done.

To varying degrees, these “requirements” might be seen to provide the rationales behind what are generally taken to be three separate rules against bias: “automatic” (or “presumed”) bias, “actual” bias and “appearance” bias.

The rationale behind “automatic” or “presumed” bias appears to be that in certain situations (such as if you have a pecuniary or proprietary interest in the outcome of the proceedings) then it must be presumed that you are incapable of impartiality. Since a motive for bias is thought to be so obvious in such cases, the decisions are not allowed to stand even though no investigation is made into whether the decision-maker was biased *in fact*. **In these circumstances you should not participate in a decision.**

The Localism Act 2011 has enshrined the rules relating to pre-disposition and predetermination into statute. In essence you are not taken to have had, or appeared to have had, a closed mind when making a decision just because you have previously done anything that directly or in-directly indicated what view you may take in relation to a matter and that matter was relevant to the decision.

So, you are entitled to have a pre-disposition one way or another as long as you have not pre-determined the outcome. You are able to express an opinion providing that you come to the relevant meeting with an open mind, able to take account of all of the evidence and make your decision on the day.

What does “affecting well-being” or “financial position” mean?

The term “well-being” can be described as a condition of contentment and happiness. Anything that could affect your quality of life, either positively or negatively, is likely to affect your well-being.

A personal interest can affect you, your family or close personal associates positively and negatively. So if you or they have the potential to gain or lose from a matter under consideration, a personal interest would need to be declared in both situations.

Who is a member of your family or close association?

A member of your family should be given wide meaning. It includes a partner (someone you are married to, your civil partner, or someone you live with in a similar capacity), a parent, parent-in-law, a son or daughter, a stepson, or stepdaughter, the child of a partner, a brother or sister of yourself or your partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece and the partners of any of these people.

A person with whom you have a close association is someone that you are in either regular or irregular contact with over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone whom you know through general social contacts.

What if I am not aware of my personal interest?

Clearly you cannot be expected to declare something of which you are unaware. However you should not ignore the existence of interests which, from the point of view of a reasonable and objective observer, you should have been aware. If you become aware, or should have realised, that you have an interest during consideration of the item, you should immediately declare this and take the appropriate action.

When must I leave the room where the meeting is held?

You must leave immediately before any debate starts.

Non participation in case of pecuniary interest

Disclosable Pecuniary Interests

Subject to the following paragraph below if you have a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting, then you should declare that interest to the meeting and should leave the room whilst any discussion or vote takes place.

If a dispensation has been granted to you in relation to a disclosable pecuniary interest then, subject to the terms of the dispensation, you may be relieved from the above restrictions but will still be required to declare the interest to the meeting.

Where you have a disclosable pecuniary interest in any business of the Council, you may attend a Meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the Meeting for the same purpose, whether under a statutory right or otherwise. Once any such representations etc have been made, the Member should leave the room whilst any discussion or vote takes place.

This would mean that as under current arrangements, Members will leave the room during an item in which they have a Disclosable Pecuniary Interest.

In the interests of transparency it is good practice for you to make the nature of a disclosable interest known when such a matter arises at a meeting. You should identify the nature of the interest which you have in any matter so that is known and understood by all and is a matter of public record. If a declaration is not made, other than through the register, it would not necessarily be apparent to anyone who is present at the meeting why a particular Member is not participating or voting in any matter.

CUMBERLAND COUNCIL

DECLARATION OF INTERESTS

I,.....(full name in block capitals), being an elected member or co-opted member of Cumberland Council (the Council) give notice to the Monitoring Officer of the following disclosable pecuniary interests, as required by the Localism Act 2011, and other interests, as required by the Council’s Code of Conduct.

I understand that –

- Following any disclosure of an interest not on the authority’s register or subject of pending notification, I must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure; and
• the information declared on this form will be kept in a Register available for public inspection and published on the Cumberland Council’s website.

SENSITIVE INTERESTS

A “sensitive interest” is an interest which could result in, or is likely to result in a serious risk that you, or a person connected with you, may be subjected to violence or intimidation.

Where you consider that this may apply to you, you should consult the Monitoring Officer. Subject to their agreement, you may not need to include that interest on this form.

However, when the interest is no longer considered to be a “sensitive interest” you must notify the Monitoring Officer within 28 days of that change. The Monitoring Officer can be contacted at the offices of ***** or email *****

DISCLOSABLE PECUNIARY INTERESTS

These are interests specified in regulations made by the Secretary of State. They include your interests and those of your partner. (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners). However, when completing the form, you do not need to necessarily differentiate between which interests apply to you and/ or which apply to your partner.

Words in italics give some explanation/background about what is required. Definitions are provided at the back of the form.

Please answer all questions, stating “None” where this is appropriate.

1. Details of any employment, office, trade, profession or vocation carried on for profit or gain.

Include all employment or business which you or your partner carry out, as well as any activity that generates income for you or them. Do not include your work you carry out in your role as a Town/ Parish Councillor.

This does not include unearned income e.g. from property or investments, but should include unpaid work. Give a short description of the activity concerned e.g. "window cleaner" or the job title e.g. "teacher".

Also, with regard to you or your partner, state the name of –

- any person who employs (has appointed) you/them;*
- any firm in which you/they are a partner;*
- any company for which you/ they are a remunerated Director.*

2. Sponsorship - Details of any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. (This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

Please state the amount and name of any person(s) or body who has/have made a payment in respect of your election or made a contribution towards expenses incurred by you in carrying out your duties within the last twelve months.

3. Contracts - Details of any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority –

(a) under which goods or services are to be provided or works are to be executed; and

(b) which has not been fully discharged.

Give a description of any contract which currently exists for goods, services or works made between the Council and –

- *You or your partner ;*
- *A firm in which you or your partner are a partner;*
- *A company of which you or your partner are a remunerated director; or*
- *A body specified in question 7 below.*

4. Land - Details of any beneficial interest in land which is within the area of the relevant authority.

Give the address, or a brief description, of any land (including buildings or parts of buildings) in the Town/Parish area in which you or your partner have a beneficial interest (i.e. where you or they have some proprietary interest for your/their own benefit). This will also include your or your partner's home whether the interest is as owner, lessee or tenants, including Council tenancies. Also include details of any property which you or your partner receive rent for, or where you or they are a mortgagee.

5. Licences - Details of any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

Give the address, or a brief description, of any land (including buildings or parts of buildings) in the Town/ Parish area which you or your partner neither own, nor have a tenancy for, but have a right to occupy for a period of 28 days or longer

6. Corporate Tenancies - Details of any tenancy where (to M's knowledge) –

(a) The landlord is the relevant authority; and

(b) The tenant is a body in which the relevant person has a beneficial interest.

List any tenancies of property where you are aware that the landlord is the Town/ Parish Council and where the tenant is either

- *Yourself or your partner,*
- *a firm in which you or your partner are a partner, or*
- *a company where you or your partner are a Director.*

7. Securities - Details of any beneficial interest in securities of a body where

(a) That body (to M's knowledge) has a place of business or land in the area of the relevant authority; and

(b) Either –

(i) The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) If that share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

State any corporate body that has a place of business or land in the Town/ Parish area and in whom you or your partner have a beneficial interest in a class of securities of that person or body that exceeds the nominal share value of £25,000 or one hundredth of the total issued share capital (whichever is the lower).

Other Registrable Interests

These interests relate to you alone (not your partner) and are those interests which the Council has determined should be entered in the authority's Register of Interest.

8. Details of any unpaid Directorships.

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9. Membership of Organisations – I am a member of, or I am in a position of general control or management in -

(a) The following body/ bodies to which I have been <u>appointed by the Council</u> -
(b) The following body/ bodies which <u>exercise functions of a public nature</u> (e.g. school governing body or another Council)
(c) The following body/ bodies which are <u>directed to charitable purposes</u> (e.g. a Masonic Lodge)
(d) The following body/ bodies whose principal purposes include the <u>influence of public opinion or policy</u> . (This includes political parties and Trade unions)

Gifts and Hospitality

Give details of any person from whom you have received/rejected (in your capacity as a member/ co-opted member) a gift or hospitality with an estimated value of at least £50.

Signed

Date

Definitions

In accordance with the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 -

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“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.

Meeting Date: 14 April 2022

**Report of: Linda Fisher – Technical Lead, Legal and Democratic Workstream
and Monitoring Officer (South Lakeland District Council)**

Subject: Proposed Shadow Authority Constitution

1.0 SUMMARY

1.1 This report recommends a Constitution for adoption by the Shadow Authority for Cumberland Council at its first meeting on 17 May 2022.

2.0 RECOMMENDATION

2.1 That the Joint Committee

- 1. reviews the draft Constitution and provides feedback;**
- 2. subject to any required amendments, recommends the said Constitution for adoption by the Cumberland Shadow Authority at its inaugural meeting on 17 May 2022 and thereby, amongst other things, creates a Leader and Cabinet Executive within the meaning of Part 1A of the Local Government Act 2000; and**
- 3. delegates authority to the Monitoring Officer for Carlisle City Council, following consultation with the Chair and Vice-Chair of the Joint Committee, to make further amendments which may be beneficial between the date of today's Joint Committee Meeting and the publication of the relevant report for the Cumberland Shadow Authority.**

3.0 BACKGROUND

3.1 The Cumbria (Structural Changes) Order 2022 (“the SCO”) changes the arrangements for local government in the County of Cumbria. Two new Unitary Authorities will come into existence, one known as Cumberland Council and the other as Westmorland and Furness Council.

3.2 The two new Councils assume full responsibility for functions from 1 April 2023 onwards (vesting day) but elections will be held on 5 May 2022 for the Authorities. From the fourth day after the 2022 election until immediately before vesting day what are to be known as Shadow Authorities will exist.

3.3 Part 3 of the SCO sets out what is required of the Shadow Authorities and the role includes:

- the creation of a leader and cabinet executive;
- the designation of interim Head of Paid Service, Monitoring Officer and Chief Finance Officer (s151);
- the appointment, before 31 December 2022, of the Authority’s Head of Paid Service, Monitoring Officer and Chief Finance Officer (s151)
- adoption of a code of conduct for the Shadow Authority;
- formulation of proposals for a scheme of Members’ allowances;
- discharge of functions via the shadow executive;
- review and revise the Implementation Plan;
- commence and sustain their running as shadow authorities;
- prepare the authorities for the assumption, as Cumberland or Westmorland and Furness Council, of local government functions and full local authority powers on 1 April 2023;
- preparation of any budgets or plans required by Cumberland or Westmorland and Furness Council when those functions are assumed;
- liaison with the county council and relevant district councils and the other Shadow Authority for the purpose of ensuring continuity of service delivery of public services on and after 1 April 2023; and
- complying with the Article 24 Direction (approval of prescribed capital and revenue expenditure by the existing councils)

3.4 The shadow authorities have all of the powers of a non-metropolitan county council or a non-metropolitan district council but it is important to note that the shadow authorities only carry out the restricted role prescribed in the SCO and other relevant legislation. During the shadow period the county council and the six districts remain responsible for the delivery of all their existing services.

3.5 Each of the Cumberland and Westmorland and Furness Councils will require a Constitution for the shadow period in order to facilitate its activities. It is

important to note that the shadow authority Constitution is a different document to the unitary Council Constitution which will be required post vesting day, with the latter document having to cover all functions and services delivered by the new Councils.

3.6 The Monitoring Officer Constitution workstream reviewed several examples of previous shadow authority constitutions with a view to identifying best practice currently available. The proposed shadow authority constitution is attached to this report as Appendix 1.

3.7 THE PROPOSED SHADOW AUTHORITY CONSTITUTION

3.8 The Constitution contains the following sections:

- The Powers and Duties of the Shadow Authority
- The Shadow Authority: shadow member roles, the Chair, the Leader, allowances, conduct etc.
- The rights and responsibilities of members of the public
- Functions of the Shadow Authority
- Role of the Chair
- Overview and Scrutiny
- The Shadow Executive: Leader, Deputy Leader and other members
- Other Committees: senior appointments committee and standards committee
- The Code of Conduct
- Functions of Officers: Head of the Paid Service, Monitoring Officer and Chief Finance Officer
- Decision making and legal matters
- Review and revision of the Constitution
- Budget and Policy Framework
- Responsibility for Functions
- Procedure Rules: access to information, executive, overview and scrutiny and meeting rules
- Financial Procedure Rules

3.8 It is important to note that this is a proposed constitution drafted for a body of Members not yet in existence. It is intended to be a workable document but one which is easily amended to cater for the wishes of the new Council. Any Member may request the Monitoring Officer to amend the Constitution and if the proposed change is compliant with statute and not likely to conflict with policy then a report will be submitted to the Shadow Authority. The Monitoring Officer may also make minor amendments (following a consultation process with the Chief Finance Officer, the Leader and the Chair) to reflect legislative changes or for any other reason providing no power reserved to the Shadow Authority is changed. These matters would then be reported to the next meeting of the Shadow Authority.

- 3.9** The Executive is to be the Leader plus between two and nine appointed persons.
- 3.10** The Shadow Authority will have three committees and the Constitution provides that the Overview and Scrutiny Committee will have twelve members whilst the Senior Appointments Committee and the Standards Committee will each have seven members. The Overview and Scrutiny workstream preference is for one Scrutiny Panel which then utilises task and finish groups.
- 3.11** The Chair of the Shadow Authority includes the remit of attending such civic events as are appropriate, for example Remembrance Sunday. Any such events will continue to be organised by the relevant existing local authorities.
- 3.12** Part 3 of the SCO requires that the Shadow Authority, at its first meeting, must create a leader and cabinet executive in accordance with Part 1A of the Local Government Act 2000 and this is achieved via the adoption of the Constitution.
- 3.13** The obligation is to adopt suitable arrangements at the first meeting of the new Shadow Authority but, of course, Members may have different views as to what they wish their Constitution to contain and provide for. To this end, Members should note the ability for the Constitution to be easily amended in accordance with Members' wishes. If Members of the Shadow Authority wish their Constitution to have different provisions then the recommended course of action is for them to approve the proposed Constitution and instruct officers to report to the next Shadow Authority meeting appropriate revisions to the said Constitution.
- 3.14 FURTHER WORK**
- 3.15** Members of the Joint Committee will acknowledge that the Constitution for the Shadow Authority is a significant piece of work. The members of the Joint Committee may have amendments that they wish to be made and, in addition, the Monitoring Officers would welcome the ability to continue to work on the document prior to submission to the inaugural meeting of the Shadow Authority. In relation to this last point, it is recommended that the Joint Committee approve the Constitution, subject to any changes they wish to see incorporated, and also delegate authority to the Monitoring Officers, following consultation with the Chair and Vice-Chair of the Joint Committee to make such further amendments to the document which may be felt to be beneficial. Any such changes would be reported to the May meeting of the Joint Committee.

3.16 SECTION 24 OF THE PUBLIC INVOLVEMENT IN HEALTH ACT 2007

3.17 Members will be aware that the Government intend to issue a direction pursuant to section 24 of the Public Involvement in Health Act 2007 which, briefly, will regulate the ability of the existing Councils to enter into certain contracts and arrangements. The section is referenced within the body of the Constitution by way of acknowledgement of the role of the Shadow Authority in the process, however, the said role and a protocol for dealing with the requirements will be the subject of a separate report to the Shadow Authority setting out the detailed mechanism setting out how the process will be implemented.

3.18 FURTHER CONSULTATION

3.19 The draft Constitution has been consulted upon with all of the various workstreams and the Chief Executives' Programme Board.

4.0 OPTIONS, INCLUDING ALTERNATIVES (IF ANY)

4.1 The Shadow Authority must have suitable arrangements in place to comply with the law and its requirements. The recommended option for the Joint Committee is to consider the appended draft constitution and suggest any amendments it wishes.

4.2 As stated within the body of the report, it will be helpful to allow the draft constitution to continue to be worked upon up to the first meeting of the Shadow Authority so it is suggested that the Joint Committee delegate authority to the Monitoring Officers to continue to work upon the document and make any appropriate amendments following consultation with the Chair and Vice-Chair of the Joint Committee.

5.0 IMPLICATIONS

5.1 Financial and Procurement

5.1.1 There are no direct financial or procurement issues arising from this report but the proposed Constitution does set in place the framework of financial rules within which the Shadow Authority will operate. The Section 151 Officers have input into the formulation of the said rules.

5.2 Staffing

5.2.1 The proposed Constitution does include the Shadow Authority's officer employment procedure rules which are of particular relevance to the required appointment of both the interim and permanent Statutory Officer posts.

5.3 Legal

5.3.1 The Monitoring Officers workstream has drafted the report and Constitution to deliver the requirements of the Structural Change Order and a sound Constitution. The Constitution has been drafted in such a way that it may easily be amended to cater for the needs of the Shadow Authority during its existence in 2022/23.

5.4 Information Governance

5.4.1 There are no direct information governance issues arising though the Constitution does identify the Monitoring Officer as the proper officer to deal with data protection issues.

6.0 HEALTH AND SUSTAINABILITY IMPACT

6.1 There are no direct health and sustainability implications associated with this report.

6.2 EQUALITY AND DIVERSITY IMPACT

6.3 There are no direct equality and diversity implications associated with this report.

7.0 RISKS

7.1 The proposal of a suitable Constitution is a role of the Joint Committee and the risk in not so proposing the document is that the Shadow Authority will not have the required Constitution to facilitate its operation.

8.0 CONCLUSION

8.1 This report provides members of the Joint Committee with an opportunity to provide comments on the draft Constitution. It requests a specific delegation to the Monitoring Officer, the Chair and Vice-chair of the Joint Committee to make further amendments. It proposes that a report is brought back to the final meeting of the Joint Committee with any amendments. The report ensures we meet the requirements of the SCO and the Terms of Reference for the Joint Committee.

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APPENDICES: Appendix 1 – Proposed draft Constitution for the Shadow Authority

CUMBERLAND SHADOW AUTHORITY

CONSTITUTION

(Approved by the Shadow Authority on XXXX)

2022/2023

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Note: For the purposes of this Constitution, where the term Monitoring Officer, Head of Paid Service or Chief Financial Officer are utilised, this will apply to the officer duly designated at that time, whether interim, acting or permanent.

Part 1 – Constitution – summary and explanation

Part 1 – Constitution – summary and explanation

General

- 1 Shadow Authority for the Cumberland Council (“the Shadow Authority”) has been created by the Cumbria (Structural Changes) Order 2022 (“the 2022 Order”) and will operate as the Shadow Authority for Cumberland Council that will become a local authority on 1 April 2023. The Shadow Authority will operate during the period beginning with the fourth day after the 2022 Election Day and ending immediately before 1st April 2023, “the Shadow Period”. As required under the Local Government Act 2000, the Shadow Authority has approved this Constitution which sets out:
 - How the Shadow Authority operates;
 - How its decisions are made; and
 - The procedures which will be followed.
- 2 Some of the processes in the Constitution are required by law while others are considered by the Shadow Authority to be necessary to ensure that it operates effectively and efficiently; in the interests of the people it serves and to deliver the requirements of the 2022 Order.

The Constitution and its Content

- 3 The Constitution is divided into seven parts.

Part 1 sets out an explanation of what the Shadow Authority is and how it works.

Part 2 sets out the formal articles of the Constitution:

Article 1 – The Constitution;
Article 2 – The Shadow Authority;
Article 3 – Rights and responsibilities of members of the public;
Article 4 – The Shadow Authority;
Article 5 – The role of the Chair;
Article 6 – Overview and Scrutiny;
Article 7 – The Shadow Executive;
Article 8 – Other Committees;
Article 9 – Joint Arrangements;
Article 10 – Arrangements for promoting good standards of behaviour by Members;
Article 11 – Officers;
Article 12 - Decision Making;
Article 13 – Legal Matters;
Article 14 - Review, revision, suspension, interpretation and publication of the Constitution; and
Article 15 – Budget and Policy Framework

Part 3 sets out the responsibility of bodies and individuals for various functions carried out by the Shadow Authority in relation to the exercise of its powers.

Part 4 contains the Rules of Procedure which are designed to regulate the conduct of the Shadow Authority’s business to ensure decisions are made in accordance with the law and the wishes of the Shadow Authority.

Part 5 includes the Code of Conduct for Shadow Members which is designed to ensure that Members carry out their duties to the highest ethical standards. It also includes a protocol on Member/Officer relations.

Part 6 covers the Scheme of Shadow Members' Allowances. Article 10 of the 2022 Order provides that the Shadow Authority has to prepare and adopt a scheme for the payment of allowances to its members.

Part 7 sets out a glossary to this constitution.

The Shadow Authority and how it operates in making decisions

There are 46 Shadow Members who sit on the Shadow Authority. The Members who comprise the Shadow Authority are the persons who were elected as members of Cumberland Council on the ordinary day of elections of councillors in 2022. The role of the Shadow Authority is to:

- Prepare for the assumption as Cumberland Council of local government functions and full local authority powers on 1 April 2023;
- Prepare budgets and plans required by Cumberland Council when local government functions are assumed on 1 April 2023; and
- Liaise with Cumbria County Council, the Cumberland councils and Cumberland Shadow Authority to ensure continuity of public service delivery on and after 1 April 2023 and thereafter.
- Carry out all functions prescribed by the Cumbria Structural Changes Order 2022, namely:
 - Create the Shadow Executive;
 - Adopt a code of conduct for the Shadow Authority;
 - Designate an interim monitoring officer, interim chief finance officer and interim head of paid service;
 - Appoint a monitoring officer, chief finance officer and head of paid service;
 - Prepare and adopt a scheme of members' allowances;
 - Keep under review and revise as necessary the implementation plan for Cumberland Council;
 - Take all such practical steps as are necessary or expedient to commence and sustain their running as shadow authorities.
- Carry out any other function or role prescribed by any other relevant legislation.

The Shadow Members are directly accountable to their constituents for the running of the Shadow Authority. Whilst Shadow Members have this very broad role they have a duty to represent the interests of all their constituents. They also work closely with officers in developing policies and strategies to give direction to the Shadow Authority's vision .

The Shadow Authority will meet during the Shadow Period. Meetings are open to the public, but the public may be excluded where an item of a confidential or exempt nature is being discussed.

There are two main areas in the Shadow Authority's political structure covering the Shadow Executive and Overview and Scrutiny. These are covered in more detail within the Constitution.

Executive

At its first meeting, the Shadow Full Authority for Cumberland must create a leader and cabinet executive within the meaning of Part 1A of the Local Government Act 2000. The cabinet executive will comprise of the executive leader together with at least 2, but not more than 9, shadow authority councillors appointed to the executive by the executive leader. The leader must appoint one of the members of the executive as deputy leader.

The Shadow Executive is that part of the Shadow Authority which is responsible for most of the day-to-day decisions.

The leader of the Cumberland Shadow Executive is appointed by the Shadow Authority for Cumberland.

Should a vacancy occur in the office of leader of the Shadow Executive during the Shadow Period, the Shadow Authority must elect a new leader and from among members of the Shadow Authority.

Any Key Decisions to be made by the Shadow Executive are published on a monthly basis in the Shadow Executive Forward Plan which looks at the forthcoming four-month period. It is not always possible to anticipate all the items to be included in the Plan. In cases where this is not possible items will be added to the Plan at the next date of publication. Special arrangements apply where a matter is urgent or cannot be included in the Plan.

Overview and Scrutiny Committee

The Shadow Authority's Overview and Scrutiny arrangements ensure that Shadow Members who are not on the Shadow Executive can be involved in Shadow Executive decisions by questioning and making recommendations.

The Overview and Scrutiny arrangements will reflect as far as practicable the overall political proportionality of the Shadow Authority. Members of the Shadow Executive cannot sit on the Overview and Scrutiny Committee.

General

In performing their various roles, Shadow Members are supported by the Officers who give advice and implement decisions. Officers ensure the Shadow Authority acts within the law and uses resources efficiently and effectively.

As the Shadow Authority is a public body, members of the public have a number of rights in their dealings with it. Whilst some are legal rights such as the right to film, audio record or to report on meetings, others will depend on the Shadow Authority's own processes. These rights are set out in Parts 2 and 4 of this Constitution.

The Constitution will be updated to reflect changes within the Shadow Authority, its procedures and processes.

Part 2 – ARTICLES OF THE CONSTITUTION

Part 2 – ARTICLES OF THE CONSTITUTION

Article 1 – The Constitution;

Article 2 – The Shadow Authority;

Article 3 – Rights and responsibilities of members of the public;

Article 4 – The Shadow Authority;

Article 5 – The role of the Chair;

Article 6 – Overview and Scrutiny;

Article 7 – The Shadow Executive;

Article 8 – Other Committees;

Article 9 – Joint Arrangements;

Article 10 – Arrangements for promoting good standards of behaviour by Members;

Article 11 – Officers;

Article 12 – Decision Making;

Article 13 – Legal Matters;

Article 14 – Review, revision, suspension, interpretation and publication of the Constitution;
and

Article 15 – Budget and Policy Framework

Article 1 – The Constitution

1 Powers and duties of the Shadow Authority

- 1.1 The powers and duties of the Shadow Authority are set down in Acts of Parliament and secondary legislation. The Shadow Authority will exercise those powers and duties in accordance with the law and its Constitution.

2 The Constitution

- 2.1 The Shadow Authority's Constitution includes all those parts listed in Part 1 – Summary and Explanation.

3 Purpose of the Constitution

- 3.1 The objectives of this Constitution are:
- (a) To support the preparations for the establishment of the Cumberland Council post vesting day;
 - (b) To provide a framework for clear leadership to the community in partnership with its people, businesses and other organisations;
 - (c) To enable decisions to be taken efficiently and effectively;
 - (d) To provide a robust and effective overview and scrutiny function;
 - (e) To ensure that a decision will not be reviewed or scrutinised by anyone who was directly involved in making the decision; and
 - (f) To ensure that those responsibilities for decision making can be clearly identified by local people and that they can explain the reasons for their decisions.
- 3.2 The Shadow Authority will ensure that the articles, procedural rules and protocols in this Constitution reflect and deliver the objectives set out above.

Article 2 – The Shadow Authority

1 Composition

- 1.1 The Shadow Authority comprises the 46 Members elected through elections to Cumberland Council held on 5 May 2022.

2 Term of Office

- 2.1 Members term of office commenced on the 4th day after the May 2022 election, the date that the Shadow Period commenced, and ends the fourth day after the 2027 election.

3 Role of Shadow Members

- 3.1 Shadow Members will undertake the following roles:
- (a) as a body, they will keep under review and revise as necessary the implementation plan for Cumberland Council, set the Shadow Authority's major plans, policies and strategies as required by law, perform those functions identified in the 2022 Order and will take decisions on such matters as must be reserved to the full Shadow Authority by law or as provided for in this Constitution;
 - (b) oversee the Shadow Authority's strategic and corporate management;
 - (c) represent their communities and the views of their electorate in the decision-making process;
 - (d) support, as appropriate, individuals in their dealings with the Shadow Authority and represent them in seeking to resolve particular concerns or grievances;
 - (e) balance the different interests of people within their constituency with a view to representing their constituency as a whole;
 - (f) participate, as appropriate, in the decision making and/or overview and scrutiny processes; and
 - (g) maintain the highest standards of conduct and ethics and will observe the Shadow Authority's Code of Conduct for elected Shadow Members.

4 Shadow Members Representational Roles

- 4.1 All Shadow Members represent their constituents and the Shadow Authority sees this as an important role and responsibility under this Constitution.
- 4.2 Shadow Members have an important job in consulting their communities on the development of policies, plans and strategies and other local initiatives.
- 4.3 The Shadow Authority will ensure in its processes that appropriate procedures are in place so that Shadow Members can contribute to the Shadow Authority's business on behalf of their local community both in terms of policy development and decision making.

5 Shadow Members Rights

- 5.1 Shadow Members will have rights of access to any document, information, land or buildings of the Shadow Authority where this is necessary for the proper discharge of their functions as a Shadow Member and in accordance with the law and this Constitution.
- 5.2 A Shadow Member is not permitted to make available to the press or to a member of the public any information which they have been sent or given in whatever form and which is exempt or confidential information as defined in the Access to Information Procedure Rules which are set out in Part 4 of this Constitution.
- 5.3 A Shadow Member shall not divulge information given in confidence to them to anyone other than a Shadow Member or officer or other person legally entitled to know it.

6 Chair and Vice-Chair of the Shadow Authority

- 6.1 The Shadow Authority will elect, from amongst its number, at its first meeting, a Shadow Member to serve as Chair of the Shadow Authority for the Shadow Period.
- 6.2 Similarly, the Shadow Authority will appoint the Vice-Chair of the Shadow Authority for the Shadow Period.
- 6.3 Where a vacancy occurs in respect of either office, the Shadow Authority will elect/appoint as appropriate at its next meeting.
- 6.4 A member of the Shadow Executive cannot be elected or appointed as Chair or Vice-Chair of the Shadow Authority while serving on the Shadow Executive, otherwise any Shadow Member is eligible for election/appointment as Chair or Vice-Chair of the Shadow Authority.
- 6.5 Where the Chair and Vice-Chair of the Shadow Authority are both absent from a meeting of the Shadow Authority, or part of it, the Shadow Authority will appoint one of their members, other than a member of the Shadow Executive, to preside.

7 Leader of the Shadow Authority

- 7.1 The Leader of the Shadow Authority will be appointed at the first meeting of the Shadow Authority and hold office until the first meeting of Cumberland Council following vesting day-

8 Other Offices

- 8.1 The Shadow Authority will elect other Members to fill such offices as it may determine from time to time in accordance with any requirements set out in law or this Constitution.

9 Conduct of Shadow Members

- 9.1 All Shadow Members are required, at all times, to observe the Shadow Members' Code of Conduct and to have appropriate regard to such other protocols, policies, guidance and advice as may be issued from time to time through the Shadow Authority's formal processes.

10 Shadow Members' Scheme of Allowances

- 10.1 All Shadow Members shall be entitled to receive such allowances as are laid down from time to time in the Shadow Members' Scheme of Allowances and/or statute.

11 Shadow Member Support

- 11.1 The Shadow Authority will also provide support to Shadow Members as appropriate to enable them to fulfil their roles and responsibilities.

Article 3 – Rights and responsibilities of Members of the Public

1 Rights

1.1 Members of the public have the following rights in regard to the affairs of the Shadow Authority:

- (a) access to information subject to such constraints as may be imposed by law and as set out in the Access to Information Procedure Rules in Part 4 of this Constitution;
- (b) to attend meetings of the Shadow Authority and its committees and sub-committees except where exempt or confidential information is likely to be disclosed;
- (c) to attend public meetings of the Shadow Executive except where exempt or confidential information is likely to be disclosed;
- (d) to film, audio record or report on meetings of the Shadow Authority and its committees and sub-committees and the Shadow Executive, except where exempt or confidential information is likely to be disclosed, subject to guidelines published on the Shadow Authority's website and available at meetings;
- (e) to have access to the Shadow Authority's Forward Plan of Key Decisions to be taken by the Shadow Executive;
- (f) in accordance with the statutory framework to inspect reports, background papers and any records of decisions made by the Shadow Authority, the Shadow Executive, a committee, a sub-committee, the Leader or an Executive Member subject to provisions on exempt or confidential information applying;
- (g) to ask questions or present petitions at designated meetings in accordance with such procedures as the Shadow Authority may determine from time to time;
- (h) to contribute to investigations by the Overview and Scrutiny Committee where invited to do so; and
- (i) to complain to the Shadow Authority where there is an alleged breach of the Shadow Members' Code of Conduct.

2 Responsibilities of Members of the Public

2.1 The Shadow Authority in turn expects members of the public not to use violent, abusive or threatening behaviour in any form against any Shadow Member, Officer or persons acting for or on behalf of the Shadow Authority.

2.2 The Shadow Authority also asks that the property, assets and other resources of the authority, Shadow Members, Officers or persons acting for or on behalf of the Shadow Authority are not wilfully harmed or damaged.

2.3 When attending a meeting of the Authority, the public will follow the reasonable instructions of the chair of the meeting and not disturb the conduct of business. The chair of the meeting, under the approved Meeting Procedure Rules, has the right if required to exclude a member of the public who is causing a disturbance to the conduct of business.

Article 4 – The Shadow Authority

1 Functions

- 1.1 The functions of the Shadow Authority are set out in the Cumbria (Structural Changes) Order 2022 (“the 2022 Order”) and in relevant consequential orders.
- 1.2 The Shadow Authority has the functions set out in Part 3 of this Constitution.
- 1.3 Except where there is provision by statute or this Constitution, the functions conferred by or under the Structural Changes Order are to be delegated to, and discharged by, its Executive Committee.

2 Shadow Authority Meeting

- 2.1 The first meeting of the Shadow Authority will be held no later than 19 May 2022.
- 2.2 Ordinary meetings will be held according to a calendar of meetings to be agreed by the Shadow Authority and which will be published once agreed.
- 2.3 Extraordinary meetings may be called as and when required as provided in the Shadow Authority Procedure Rules.

3 Conduct of Shadow Authority Meetings

- 3.1 Shadow Authority meetings will be conducted in accordance with the law and the Shadow Authority’s Meeting Procedure Rules.

4 Responsibility for Functions

- 4.1 The Shadow Authority will maintain a record of those Shadow Authority functions which are the responsibility of its subordinate bodies i.e. committee or Officers of the Authority.

Article 5 – The role of the Chair of the Shadow Authority

1 Civic Role

- 1.1 The Chair of the Shadow Authority, supported by the Vice-Chair, and as appropriate other Shadow Members, will perform the civic role on behalf of the Shadow Authority.
- 1.2 The civic role entails raising and maintaining the profile of the Shadow Authority's area, the Shadow Authority and its members to the public. The office will promote the aims and values of the Shadow Authority in an apolitical manner.
- 1.3 The Chair will promote such civic and ceremonial functions as the Shadow Authority may determine following consultations, where appropriate.
- 1.4 The Chair will represent the Shadow Authority at civic and ceremonial functions of other local authorities or involving other appropriate bodies.

2 Shadow Authority Role

- 2.1 The Chair will be elected by the Shadow Authority at its first meeting. The Vice- Chair is also appointed at the same meeting.
- 2.2 The Chair is responsible for the following:
 - (a) upholding and promoting the purposes of this Constitution and interpreting it with appropriate advice when necessary;
 - (b) presiding over meetings of the Shadow Authority to ensure that business is carried out efficiently and effectively whilst preserving the rights of Shadow Members and the interests of members of the public;
 - (c) ensuring that at Shadow Authority meetings matters of concern to local communities can be debated through the appropriate Shadow Members;
 - (d) ensuring that Shadow Members who are not on the Shadow Executive Committee or who do not hold the Chair of a main committee are able to hold those office holders to account;
 - (e) promoting public involvement in the Shadow Authority's affairs and acting as a contact between members of the public and organisations and the Shadow Authority; and
 - (f) undertaking such other roles as may be placed upon the office from time to time by the Shadow Authority.
- 2.3 The role of Chair is apolitical.
- 2.4 The Chair will represent the Shadow Authority at civic and ceremonial functions of other local authorities or involving other appropriate bodies.

3 Vice-Chair of the Shadow Authority

- 3.1 The Vice-Chair will support the Chair in his/her civic role and will carry out civic duties as well on behalf of the civic office.

- 3.2 The Vice-Chair will also deputise in the absence of the Chair in carrying out the responsibilities of the office of Chair.

Article 6 – Overview and Scrutiny Committee

1 Overview and Scrutiny

- 1.1 The Shadow Authority has established arrangements for the overview and scrutiny of decisions or other action taken by the Shadow Executive and others in accordance with the Local Government Act 2000 as applied by the 2022 Order. This Article sets out those arrangements. It should be read in conjunction with the Overview and Scrutiny Procedure Rules.
- 1.2 The Shadow Authority will keep under review its overview and scrutiny arrangements and will make changes where it considers these are appropriate and will lead to improvements and an improved overview and scrutiny function.

2 Responsibilities of the Overview and Scrutiny Committee

- 2.1 The Overview and Scrutiny Committee has the functions set out in Part 3 of this Constitution.

3 Membership of the Overview and Scrutiny Committee

- 3.1 The Overview and Scrutiny Committee shall comprise twelve Shadow Members.
- 3.2 No member of the Shadow Executive may be a member of the Overview and Scrutiny Committee or any Overview and Scrutiny task and finish panel.
- 3.3 Any body established under these Scrutiny arrangements will be a politically proportionate body reflecting the overall political representation on the Shadow Authority.

4 Conduct of Overview and Scrutiny Committee meetings

- 4.1 Conduct of the proceedings at Overview and Scrutiny Committee meetings shall be in accordance with the Shadow Authority and Overview and Scrutiny Procedure Rules as appropriate.

5 Task and Finish Panels

- 5.1 The Overview and Scrutiny Committee may establish such task and finish panels as it considers necessary after taking into account the availability of resources, the work programme and scope of the review.
- 5.2 The Committee will appoint the Chair (and Vice Chair, if appropriate) of each panel and agree the membership

Article 7 – The Shadow Executive

1 Role of the Shadow Executive

- 1.1 The role of the Shadow Executive is limited to functions contained in the 2022 Order. The Shadow Executive will carry out all of the Shadow Authority's duties and responsibilities which are not the responsibility of any other part of the Shadow Authority, whether by law or under this Constitution, and in particular it will carry out those duties and responsibilities of the Shadow Executive which are contained in the 2022 Order.
- 1.2 The Shadow Executive shall be responsible for making recommendations to the Shadow Authority on the setting of the 2023/2024 budgets for the Cumberland Council.

2 Composition of the Shadow Executive

- 2.1 The Leader of the Shadow Authority will be appointed at the first meeting of the Shadow Authority and hold office until the first meeting of Cumberland Council following vesting day subject to 3.1 below
- 2.2 The Shadow Executive will consist of the Leader and between two and nine Shadow Members appointed by the Leader.
- 2.3 The Deputy Leader of the Authority will be appointed and may be removed by the Leader.
- 2.4 The Shadow Executive will be chaired by the Leader of the Authority, or in their absence by the Deputy Leader. Should both the Leader and Deputy Leader be absent at a meeting, the remaining Shadow Executive Members will elect a Chair for the duration of that meeting.
- 2.5 No deputy or substitution arrangements are allowed in respect of the Shadow Executive. Neither the Chair nor Vice-Chair of the Shadow Authority may be appointed to the Shadow Executive. No Member of the Overview and Scrutiny Committee may be on the Executive.

3 The Leader and Deputy Leader

- 3.1 The Leader of the Shadow Authority will be appointed at the first meeting of the Shadow Authority and hold office until the first meeting of Cumberland Council following vesting day unless
 - (a) they resign from the office of Leader; or
 - (b) they become ineligible to be a Shadow Member for a specified period or indefinitely; or
 - (c) they cease to be a Shadow Member: or
 - (d) the Shadow Authority passes a resolution to remove them as Leader.
- 3.2 Where there is a vacancy in the office of Leader, the Deputy Leader shall assume the responsibilities of the Leader until the next meeting of the Shadow Authority, whether that be an Ordinary or Extraordinary meeting of the Authority.

- 3.3 If the vacancy in the position results as a resolution of the Shadow Authority to remove the Leader, a new Leader may be elected at that meeting, or the vacancy be filled at the subsequent meeting of the Shadow Authority.
- 3.4 If the Leader is subject to a successful resolution (see 3.1.d above), this will not impact on their right to be a member of the Shadow Executive.
- 3.6 If for any reason the Leader of the Authority is unable to act or the office of Leader is vacant, the Deputy Leader must act in their place. If for any reason both the Leader and Deputy Leader are unable to act, or both posts are vacant, the Shadow Executive must act or must arrange for another Executive Member to act in the interim, until a permanent solution is determined.

4 Proceedings of the Shadow Executive

- 4.1 All proceedings of the Shadow Executive and its Committees shall be conducted in accordance with the Shadow Executive Procedure Rules set out in this Constitution.

5 Responsibility for Functions

- 5.1 The Leader may undertake any of the functions of the Shadow Executive themselves or may arrange for the discharge of any executive functions by: the Shadow Executive as a whole another member of the Shadow Executive; a sub-committee of the Shadow Executive; or an Officer or a Joint Committee.
- 5.2 If the Leader is unavailable, absent or there is a vacancy in the post of the Leader, the Deputy Leader may act in place of the Leader and exercise any executive power of the Leader.
- 5.3 Unless the Shadow Executive requests the Shadow Authority to discharge any function in accordance with Article 19 of the 2022 Order, the Shadow Executive can exercise any function of the Shadow Authority conferred on the Shadow Authority by or under the 2022 Order save to the extent any provision of any Act, the 2022 Order or regulations under section 9D or 9DA of the Local Government Act 2000 require otherwise.
- 5.4 The Shadow Executive and other committees can delegate powers to the extent as provided for in Part 1A of the Local Government Act 2000. The arrangements set out in this Constitution reflect those currently agreed. Further, the Shadow Executive can also delegate its powers to any Officer of the Shadow Authority, and/or Cumberland councils or Cumbria County Council as defined in the 2022 Order.
- 5.5 The Leader will ensure that a record is kept of the Shadow Executive functions which are the responsibility of any sub-committee of the Shadow Executive, any Executive Member, Officers or under any joint arrangements. A copy of that record to be deposited with the Shadow Authority's three statutory officers.
- 5.6 Where a delegation arrangement is made under paragraph 5.4 above, it shall not preclude the body or person delegating the function, or part of it, from exercising that function on giving notice in writing to that body or person.
- 5.7 The Leader may establish portfolios of executive functions for the purpose of delegating any executive function to a Member of the Shadow Executive.

6 Sub-Committees of the Shadow Executive

- 6.1 The Shadow Executive may establish from its membership, sub-committees with full or partial delegated powers to undertake its responsibilities and functions.

7 Task and Finish Groups

- 7.1 The Shadow Executive may establish any Task and Finish Groups it determines are required to assist in formulating recommendations, guidance or providing advice, on matters relating to the Executive's responsibilities and functions.
- 7.2 Task and Finish Groups cannot determine matters on behalf of the Shadow Executive but may provide recommendations for deliberation and determination by the Executive Committee.
- 7.3 Each Task and Finish Group will be chaired by a Member of the Shadow Executive; however, its full membership can be drawn from other Members of the Shadow Authority and include other stakeholder representatives where appropriate.

Article 8 – Other Committees

1 Other Committees

- 1.1 The Shadow Authority will appoint the following other Committees to take such decisions which are not within the responsibilities of the Shadow Executive:

Committee	Shadow Members
Overview and Scrutiny Committee	Twelve
Senior Appointments Committee	Seven
Standards Committee	Seven

- 1.2 The Shadow Authority may appoint other Committees, Sub-Committees and Special Committees with delegated powers to act under specific terms of reference which must be set out in the minutes.
- 1.3 To the extent that any committees are not exercising executive functions the provisions of sections 15-17 of the Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990 will apply to their membership.

2 Powers of Committees

- 2.1 The Committees shall have the functions set out in Part 3 of this Constitution.
- 2.2 A Committee may, at any time, decline to exercise a delegated power. The matter must then be considered and determined by the Shadow Authority as appropriate.

3 Conduct of Committee Meetings

- 3.1 Committee meetings will be conducted in accordance with the law and the Meeting Procedure Rules set out in Part 4 of this Constitution.

Article 9 – Joint Arrangements

There are currently no joint arrangements.

Article 10 – Arrangements for promoting good standards of behaviour

1 Adoption of a Code of Conduct for Shadow Members

- 1.1 The Shadow Authority has adopted the Code of Conduct for Shadow Members set out in Part 5 of this Constitution.

2 Application of the Code of Conduct

- 2.1 The Code of Conduct will apply to all Shadow Members when they are acting as a member of the Shadow Authority or hold themselves out as doing so.

3 Alleged breaches of the Code of Conduct

- 3.1 Any allegations that a Shadow Member has breached the Code of Conduct are to be reported to the Monitoring Officer who will follow the approved arrangements for dealing with such matters.

4 Independent Person

- 4.1 For the purposes of Part 5 of this Constitution, references to “the Independent Person” are to a person appointed by the Shadow Authority for the purposes of s28 of the Localism Act 2011.

Article 11 – Officers

1 Cumbria (Structural Changes) Order 2022

- 1.1 Article 9 of the 2022 Order makes provision for the Shadow Authority to designate officers to the posts of interim Monitoring Officer, interim Chief Finance Officer and to be its interim Head of Paid Service, and by 31st December 2022 to appoint the Cumberland Authority's permanent Monitoring Officer, permanent Chief Finance Officer and permanent Head of Paid Service.
- 1.2 The roles and functions of those officers are set out in the 2022 Order.
- 1.3 The Monitoring Officer may appoint, in writing, a deputy as appropriate.
- 1.4 The Chief Finance Officer may appoint, in writing, a deputy as appropriate.

2 Functions of the Head of Paid Service

- 2.1 The Head of Paid Service will report to the Shadow Authority on the manner in which the Shadow Authority develops its functions and the co-ordination of those functions. They also have statutory functions in relation to staff directly employed or engaged by the Shadow Authority. The Head of Paid service is the returning officer for the Cumberland Council.

3 Functions of the Monitoring Officer

- 3.1 The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Shadow Members, staff and the public.
- 3.2 After consulting with the Head of Paid Service, the Monitoring Officer will report to the Shadow Authority, (or to the Shadow Executive in relation to a Shadow Executive function), if they consider any proposal, decision or omission would give rise to unlawfulness or if any decision or omission would give rising to a finding of maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- 3.3 They will contribute to the promotion and maintenance of high standards of conduct.
- 3.4 They will provide advice to all Shadow Members on issues in relation to the scope of powers and authority to take decisions, maladministration, financial impropriety and probity.

4 Functions of the Chief Finance Officer

- 4.1 After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Shadow Authority (or to the Shadow Executive in relation to a Shadow Executive function) and the Shadow Authority's external auditor, if appointed, if they consider 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 Shadow Authority is about to enter an item of account unlawfully.
- 4.2 They will have overall responsibility for the administration of the financial affairs of the Shadow Authority.

- 4.3 They will contribute to the corporate management of the Shadow Authority, in particular, through the provision of professional financial advice.
- 4.4 They will provide advice on issues to all Shadow Members in relation to the scope of powers and authority to take decisions, maladministration, financial impropriety and probity issues and will support and advise Shadow Members and officers in their respective roles.
- 4.5 They will provide financial information to the media, members of the public and the community.
- 5 Duty to provide sufficient resources to the Monitoring Officer and the Chief Finance Officer**
- 5.1 The Shadow Authority will provide these officers with such or procure the provision to these officers of such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed in their statutory roles.
- 6 Conduct**
- 6.1 Officers will comply with any protocol on Member/Officer Relations that has been adopted by the Shadow Authority.
- 7 Employment**
- 7.1 The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules as set out in this Constitution.

The functions set out in this Article are the functions of the officers who are appointed to the specified posts on an interim and a permanent basis.

Article 12 – Decision Making

1 General

- 1.1 The Shadow Authority will keep an up-to-date record, which shall be available for public inspection, of who has responsibility for making decisions in relation to Shadow Authority functions and services.
- 1.2 All decisions of the Shadow Authority will be made in accordance with the law, this Constitution and the principles set out below.

2 Types of Decision and the Decision-Takers

- 2.1 The Shadow Authority will take all decisions which it has reserved to itself or which it is required to take by law.
- 2.2 The Shadow Executive will take all decisions including Key Decisions which it is required to determine as required by law or because the Shadow Authority has decided to delegate the matter to the Shadow Executive.
- 2.3 Other Committees, Sub-Committees, Executive Members, Officers will take such decisions as are delegated to them by the Shadow Authority or the Shadow Executive.

3 Decision Making Procedures

- 3.1 In taking decisions the Shadow Authority, the Shadow Executive, Overview and Scrutiny Committee, and other Committees and Sub-Committees will follow the Shadow Authority's Procedure Rules and in particular as follows:
 - (a) Shadow Authority – Meeting Procedure Rules Parts A and D;
 - (b) Shadow Executive – Shadow Executive Procedure Rules and Meeting Procedure Rules Part C; and
 - (c) Overview and Scrutiny Committee – Overview and Scrutiny Procedure Rules and Meeting Procedure Rules Parts C.

4 Definition of Key Decision

- 4.1 A Key Decision means:

“a decision which, is likely -

- (a) To result in the relevant local authority incurring expenditure which is, or the making of savings which are, over £500,000; or
- (b) To be significant in terms of its effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.”

In determining the meaning of “*significant*” for these purposes the Shadow Authority will have regard to any guidance for the time being issued by the Secretary of State in accordance with section 9Q of the Local Government Act 2000, and the advice of the Shadow Authority’s statutory officers.

Article 13 – Legal Matters

1 Legal Proceedings

- 1.1 The Monitoring Officer is authorised to institute, defend or participate in any legal proceedings or to take such other action where such action is necessary to give effect to decisions of, or on behalf of, the Shadow Authority or in any case where they consider that such action is necessary to protect or further the Shadow Authority's interests.

2 Document Authentication

- 2.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Shadow Authority, it will be signed by the Monitoring Officer or other person authorised by him/her unless any enactment otherwise authorises or requires, or the Shadow Authority has given requisite authority to some other person.
- 2.2 In the absence of any authority given to a specific officer, whether by this Constitution or in any other manner, all contracts entered into on behalf of the Shadow Authority may be signed by any one or more of the following:
- (a) the Head of Paid Service;
 - (b) the Monitoring Officer; and/or
 - (c) the Chief Finance Officer.

3 Address for service of documents

- 3.1 Documents to be served on the Shadow Authority may be addressed to the Monitoring Officer at the main offices of the Shadow Authority. For this purpose and all purposes connected with this Constitution the Shadow Authority's main office is at the main office of the Authority as stated on the Shadow Authority's website.

Article 14 – Review, Revision, Suspension, Interpretation and Publication of the Constitution

1 Review

- 1.1 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.

2 Changing the Constitution

- 2.1 Any Member, the Shadow Authority or part of the Shadow Authority may request the Monitoring Officer to consider changes to the Constitution. The Monitoring Officer will consider any requests for changes to the Constitution to ensure their compliance with statute. If the proposed changes are compliant with statute and are not likely to conflict with policy approved by the Shadow Authority, the Monitoring Officer will submit a report to Shadow Authority accordingly.

- 2.2 The Monitoring Officer may make minor amendments to the Constitution, in consultation with the Chief Finance Officer, the Leader and the Chair of the Authority:

- (a) where they consider this necessary and/or expedient to reflect legislative change, secure consistency, address any legal ambiguity and/or other legal issue and/or address any uncertainty in interpretation; or
- (b) for any other reason, provided that any such amendment does not seek to remove any reserved power of the Shadow Authority and/or the Shadow Executive and confirmation of such amendments are reported to the next available meeting of the Shadow Authority.

Should any consultee (listed above) request any proposed amendment be submitted to the full Shadow Authority for ratification then this will be submitted to the next scheduled meeting.

- 2.3 For proposed changes from Executive arrangements, the Authority must comply with necessary statute.

3 Suspension of the Constitution

- 3.1 The Articles of this Constitution may not be suspended. However, the Meeting Procedure Rules set out in this Constitution may be suspended by the Shadow Authority to the extent permitted within those Rules and the law.

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

4 Interpretation

- 4.1 The ruling of the Chair of the Shadow Authority as to the construction or application of this Constitution or as to any proceedings of the Shadow Authority shall not be challenged at any meeting of the Shadow Authority. Such interpretation will have regard to the purposes of this Constitution.

- 4.2 The Chair will consult with the Monitoring Officer, or in the Monitoring Officer's absence, other appropriate officers prior to any ruling under 4.1 above.

5 Publication

5.1 The Monitoring Officer:

- (a) will give each Shadow Authority Member access to a copy of this Constitution in their preferred format;
- (b) will ensure that a copy of this Constitution is made available on the Shadow Authority's website;
- (c) will ensure that copies are available for inspection at the Shadow Authority's Main Office, and other appropriate locations, and can be purchased by members of the public and press on payment of a reasonable fee;
- (d) will ensure that the summary of the Constitution is made available within the area and is updated as necessary.

Article 15 - Budget and Policy Framework

This article details those policy documents and strategy documents which comprise the “policy framework” which the Shadow Authority will be responsible for adopting in preparation of the Cumberland Authority assuming local government functions and full local authority powers on 1 April 2023. This policy framework and the annual budget are the responsibility of the Shadow Full Authority.

Framework

- (a) General Fund Budget;
- (b) Housing Revenue Account Budget;
- (c) Capital Programme;
- (e) Medium Term Financial Strategy onwards;
- (f) Capital Strategy;
- (g) Treasury Management Strategy;
- (h) The Council Plan;
- (i) The Implementation Plan to keep under review and revise as necessary.

If the following matters are considered, they are **reserved** for Shadow Authority as set out in legislation –

- (i) Adopting and changing the Shadow Authority Constitution (subject to Article 14 above);
- (ii) Confirming the appointment or designation, of the interim, acting or permanent Head of Paid Service, Chief Finance Officer, Monitoring Officer ;
- (iii) Adopting or amending a Member Allowance Scheme for the Shadow Full Authority (following receipt of recommendations from an Independent Remuneration Panel);
- (iv) The Annual Library Plan;
- (v) The Best Value Performance Plan;
- (vi) The Children and Young People’s Plan;
- (vii) The Crime and Disorder Reduction Strategy;
- (viii) The Development Plan Documents;
- (ix) The Licensing Authority Policy Statement;
- (x) The Local Transport Plan;
- (xi) The Sustainable Community Strategy;
- (xii) The Youth Justice Plan;
- (xiii) The Gambling Licensing Policy

- (xiv) All other matters which by law must be reserved to the Shadow Authority.

Part 3 – Responsibility for Functions

Responsibility for Functions

1 General

- 1.1 The Shadow Authority has the functions set out in the 2022 Order and in particular it will have the following responsibilities:
- (a) to commence and sustain its running as a Shadow Authority;
 - (b) to prepare the Shadow Authority for the assumption of local government functions and full local authority powers on 1 April 2023;
 - (c) to prepare any budgets or plans required beyond 1 April 2023 when those functions and powers are assumed;
 - (d) to liaise with Cumbria County Council and the Westmorland and Furness Shadow Authority for the purposes of ensuring continuity of public service delivery on and after 1 April 2023;
 - (e) to take all such practical steps as are necessary or expedient to liaise with the other local authorities within its area for the purposes of ensuring continuity of public service delivery on and after 1 April 2023; and
 - (f) to exercise any of the Local Government Act 1972 functions referred to in, and in accordance with the 2022 Order (as amended).
- 1.2 The powers and functions of the Shadow Authority are therefore limited and, consequently, the powers and functions of its Shadow Executive, committees, sub-committees and other decision-making bodies are similarly limited. The responsibilities for functions described in this Part of the Constitution must therefore be considered in this context. However, upon the assumption of full local authority functions and powers on 1 April 2023, these responsibilities will increase.
- 1.3 The Shadow Authority is required in this Constitution to set out the allocation of responsibilities for its functions.
- 1.4 The following paragraphs cover functions which are:
- (a) the responsibility of the Leader and the Shadow Executive;
 - (b) the responsibility of the Shadow Authority and/or its Committees/Sub-Committees; and
 - (c) the responsibility of Officers.
- 1.5 Where a function is not specified as being the responsibility of the Shadow Authority, a Committee, Sub-Committee or officer that function shall, unless otherwise proved to the contrary by law, be the responsibility of the Executive.

- 1.6 The exercise of any power or duty is subject to compliance with the law, the provisions of this Constitution and that sufficient budgetary provision having been made.
- 1.7 Any reference to a function or matter includes a reference to all statutory powers about that function or matter whether directly or indirectly and authority to exercise all such powers.
- 1.8 Any reference in the scheme of delegation to an Act of Parliament or statutory instrument includes a reference to any amendment, modification or statutory re- enactment (with or without modification).
- 1.9 Where a power or duty of the Authority has been delegated the delegation includes any action that may be incidental to the exercise of the power or duty.

2 Functions of the Leader and the Shadow Executive

- 2.1 The functions to be exercised by the Leader or Shadow Executive are set out in Article 7 of this Constitution. Where the Leader or the Shadow Executive Committee is exercising a Shadow Executive function, in whole or in part, the Leader or the Shadow Executive is empowered to take all necessary and appropriate decisions to fulfil the obligations placed upon them subject to any restrictions or constraints imposed by the law or this Constitution.
- 2.2 The Leader may delegate functions to an Executive Member who is responsible for a portfolio for such functions in accordance with Article 7.

3 Responsibilities of committees of the Shadow Executive

- 3.1 Where the Shadow has arranged for an executive function to be exercised by a subcommittee of the Shadow Executive or an individual Executive member, the committee or Member is empowered to take all necessary and appropriate decisions to fulfil the obligations placed upon it by the Executive, subject to any restrictions or constraints imposed by the law or this Constitution.

4 Functions of the Shadow Authority

- 4.1 The functions of the Shadow Authority are set out in Article 4 of Part 2 but include:
 - (a) Adopting the budget and policy framework for the Cumberland Council and setting of the council tax for its area. For these purposes the budget includes the setting of council tax and the policy framework means such plans and strategies as must by law be approved by the Shadow Authority;
 - (b) adopting the Shadow Authority's Constitution in accordance with the requirements of section 9P of the Local Government Act 2000;
 - (c) appointing the:
 - (i) Chair of the Shadow Authority;
 - (ii) Vice-Chair of the Shadow Authority;
 - (iii) Chair and Vice-Chair of Committees (except the Executive Committee), Sub-Committees and Special Committees, Panels and Working Groups if the relevant Committee, Sub-Committee, Special

Committee, Panel or Working Group fails to elect a chair or vice-chair;
Leader and

- (iv) Such other offices as may be required by or under the 2022 Order or this Constitution;
- (d) Appointment and removal of the Leader;
- (e) Adopting the Shadow Authority's Codes of Conduct for Shadow Members and Officers and the Protocol on Member/Officer Relations;
- (f) Where permitted by the law, will make arrangements for appointments to outside bodies;
- (g) Carrying out all duties specified in and compliant with the 2022 Order where the Shadow Executive has given notice under Article 19 of the 2022 Order;
- (h) Approving the Shadow Members Allowance Scheme, including any pension provision for Members, following advice from any Independent Remuneration Panel;
- (i) Appointment, designation or dismissal of statutory officers as required under the 2022 Order or other legislation;
- (j) May determine other matters which may from time to time be submitted to it for determination, either by resolution or through approved procedures, where such matters do not fall within the functions of the Shadow Executive.

5 Regulatory Committees

- 5.1 Until the Shadow Authority assumes local government functions and full local authority powers on 1 April 2023, in accordance with the 2022 Order, the Shadow Authority will not exercise any regulatory powers and functions. The Shadow Authority will, however, take such practical steps as are necessary or expedient to prepare the Cumberland Council for the assumption of such regulatory functions and powers.

6 Responsibility of the Senior Appointments Committee

- 6.1 The Senior Appointments Committee is a sub-committee of the Shadow Authority and has responsibility for:
 - (a) undertaking the selection process for, and formulating recommendations to the Shadow Authority in relation to, the appointment of the permanent Head of Paid Service of the Cumberland Council before 31st December 2022 in accordance with the appropriate procedures set out in the Officer Employment Procedure Rules;
 - (b) undertaking the selection process for, and confirming the recommendation to the Shadow Authority for the appointment of, the permanent Monitoring Officer and section 151 Officer of the Cumberland Council before 31st December 2022 in accordance with the appropriate procedures set out in the Officer Employment Procedure Rules;
 - (c) undertaking the dismissal processes of the Head of Paid Service, Monitoring Officer and section 151 Officer in accordance with statutory requirements and the appropriate procedures set out in the Officer Employment Procedure Rules;

- (d) undertaking the selection, appointment and dismissal processes and determining the terms and conditions for those other senior appointments specified in the Local Authorities (Standing Orders) (England) Regulations 2001 in accordance with the appropriate procedures set out in the Officer Employment Procedure Rules;
- (e) Where appropriate and in accordance with statutory requirements hearing and determining any grievances or appeals by the permanent Monitoring Officer, section 151 Officer and Head of Paid Service of the Cumberland Council.

7 Responsibility of the Overview and Scrutiny Committee

7.1 The Shadow Authority shall have one Overview and Scrutiny Committee, which may commission task and finish groups to undertake scrutiny projects. The Overview and Scrutiny Committee will specifically:

- (a) discharge the Shadow Authority's functions under Section 9F of the Local Government Act 2000;
- (b) oversee the Shadow Authority's overall overview and scrutiny function including the preparation, implementation, monitoring and review of an annual work programme for overview and scrutiny;
- (c) Scrutinise the Shadow Executive's Budget proposals for 2023/2024.
- (d) establish such task and finish groups, appointing the Chair with such membership as it sees fit, to undertake overview and scrutiny on a task and finish basis;
- (e) ensure that officers discharge their responsibilities effectively and efficiently in relation to the overview and scrutiny function;
- (f) scrutinise decisions of the Shadow Executive, and offer advice or make recommendations on the matter under scrutiny once the Overview and Scrutiny Committee have considered the issues;
- (g) refer to the Shadow Authority, the Shadow Executive or appropriate Committee/Sub-Committee any matter which, following scrutiny, the Overview and Scrutiny Committee determines should be brought to the attention of the Shadow Authority, Shadow Executive or the Committee or Sub-Committee.
- (h) if requested, offer any views or advice to the Shadow Executive in relation to any matter referred to the Overview and Scrutiny Committee for consideration;
- (i) in performing its role, the Committee may consult and involve the local community and other public, private and voluntary bodies or organisations;
- (j) review the Shadow Authority's response to its obligations in respect of the overall performance management regime and where appropriate advise the Shadow Executive and the Shadow Authority of its findings;
- (k) scrutinise decisions after implementation to examine their effect and outcomes;
- (l) contribute to ensuring that the Shadow Authority develops and maintains effective policies and procedures for handling complaints and other customer feedback to the Shadow Authority; monitor the overall level and nature of complaints and

other customer feedback received and make recommendations regarding actions to address identified issues as appropriate; and

- (m) contribute to ensuring that the Shadow Authority has in place appropriate mechanisms to protect organisational integrity including the development of appropriate policies and guidance.

8 Responsibility of the Standards Committee

- 8.1 In accordance with the approved arrangements, the Standards Committee is responsible for assessing and determining allegations referred to it that Shadow Members have breached the Shadow Authority's Code of Conduct in accordance with Article 10 of this Constitution.

9 Independent Remuneration Panel

- 9.1 The 2022 Order requires the Shadow Authority to prepare and make a scheme for the payment of allowances to its Shadow Members. The Independent Remuneration Panel shall have the functions given by Regulation 21 of the Local Authorities (Members' Allowances) (England) Regulations 2003.

10 Powers of Officers

- 10.1 The Shadow Authority and its Shadow Executive Committee may delegate such powers, responsibilities and decisions to any of its own officers, or to any officers of Cumbria County Council or the Cumberland councils as defined in the 2022 Order.

- 10.2 The Head of Paid Service shall have the power to take:

- (a) all necessary action for the effective day-to-day management, operation and/or administration of the Shadow Authority and for the efficient discharge of the professional responsibilities of their office;
- (b) any action required to implement a decision of the Shadow Authority, the Leader, the Shadow Executive or any committee or sub-committee;
- (c) in consultation with the Leader, unless the Leader is unavailable or absent, any urgent action as may be appropriate in connection with any of the executive or non-executive functions of the Shadow Authority; and
- (d) without prejudice to the above, any action for the purposes of agreeing the terms and entering into any secondment agreements under section 113 of the Local Government Act 1972 and/or any arrangements for the purposes of securing the provisions of any goods and/or services whether pursuant to the Local Authorities (Goods and Services) Act 1970 or otherwise.

- 10.3 The Monitoring Officer, and the Chief Finance Officer have the statutory powers which are set out in the 2022 Order together with the power:

- (a) to take all necessary action within their areas of responsibility for the effective day-to-day management, operation and/or administration of the Shadow Authority and for the efficient discharge of the professional responsibilities of their office;
- (b) to take any action within their areas of responsibility required to implement a decision of the Shadow Authority, the Leader, the Shadow Executive or any committee or sub-committee;

- (c) without prejudice to the above, to take any action for the purposes of agreeing the terms and entering into any secondment agreement under section 113 of the Local Government Act 1972 and/or any arrangements for the purposes of securing the provision of any goods and/or services whether pursuant to the Local Authorities (Goods and Services) Act 1970 or otherwise; and
- (d) to exercise any power of the Head of Paid Service if unavailable, absent and/or any such post is vacant.

10.4 When exercising delegated powers Officers:

- (a) must comply with the Shadow Authority's Financial and other relevant Procedure Rules and with the law:
- (b) may authorise expenditure only which is in accordance with approved estimates and which does not require an approval which has not been authorised or received;
- (c) save to the extent that the determining officer considers necessary, in order to give effect to a matter to which delegation 10.3 (c) above relates, shall comply with approved policies, schemes or directions of the Shadow Authority, Leader, Shadow Executive Committee or of any Committee and shall not depart from such policies, schemes or directions; and
- (d) shall consult with the appropriate professional or technical officer(s) of the Shadow Authority or the Cumberland councils (as defined in the 2022 Order) and Cumbria County Council.

10.5 Delegation to officers does not affect the powers of the Shadow Authority, Leader, Shadow Executive or any Committee at any time to decide upon any delegated matter.

10.6 Officers may refer issues on which they have delegated power to the body or person by whom the delegation was given.

10.7 Authority to take decisions and other action including the signing of documents and the requirement to arrange consultations shall be undertaken on behalf of the Shadow Authority in the name of the Officer to whom the authority to act is given, but need not necessarily be personally by them.

10.8 Any specific delegation to the Head of Paid Service, Monitoring Officer or the Chief Finance Officer (including power to act as the Proper Officer), may be exercised by another Officer specifically designated in writing by the Head of Paid Service, Monitoring Officer or the Chief Finance Officer to whom the delegation applied initially, in accordance with any general directions issued and included in such written authorisation.

10.9 Neither the Monitoring Officer's nor the Chief Finance Officer's statutory responsibilities may be delegated, although they may each appoint a member of their staff to carry out those functions in their absence.

Statutory and Proper Officers

<u>Legislation and Section</u>	<u>Function</u>	<u>Proper Officer</u>
<u>Section 4(1) Local Government and Housing Act 1989</u>	<u>Head of Paid Service</u>	<u>Head of Paid Service</u>
<u>Section 151 Local Government Act 1972</u>	<u>Chief Financial Officer</u>	<u>Chief Finance Officer</u>
<u>Section 5 Local Government and Housing Act 1989</u>	<u>Monitoring Officer</u>	<u>Monitoring Officer</u>
<u>Section 9FB Local Government Act 2000</u>	<u>Scrutiny Officer</u>	<u>Monitoring Officer</u>
<u>Section 35 Representation of the People Act 1983</u>	<u>Returning Officer</u>	<u>Head of Paid Service</u>
<u>Section 8 Representation of the People Act 1983</u>	<u>Electoral Registration Officer</u>	<u>Head of Paid Service</u>
<u>Section 69 Data Protection Act 2018</u> <u>Article 37 General Data Protection Regulation 2018</u>	<u>Data Protection Officer</u>	<u>Monitoring Officer</u>

Notes

1. Section 113 of the Local Government Finance Act 1988 provides that the Chief Finance Officer must also be the Council Tax Registration Officer.
2. Section 114 of the Local Government Finance Act 1988 provides that the Chief Finance Officer must nominate a suitably qualified member of staff to carry out the duties under that section when the Chief Finance Officer is unable to act through absence or illness.
3. Section 5(7) of the Local Government and Housing Act 1989 provides that the Monitoring Officer must nominate a deputy to act when the Monitoring Officer is unable to do so through absence or illness.
4. Section 35 of the Representation of the People Act 1983 provides that the Returning Officer may appoint deputies to assist in the duties of the Returning Officer.
5. Section 5(2) of the Representation of the People Act 1983 provides that the Electoral Registration Officer may appoint deputies to assist in the duties of the Electoral Registration Officer.

Proper Officers

Proper Officers are listed below. Proper Officers may appoint a Deputy to act when the Proper Officer is unavailable.

<u>Legislation, section and function</u>	<u>Proper Officer</u>
Local Government Act 1972	
Section 83(1)(4) - Proper Officer to witness and receive declaration of acceptance of office	Head of Paid Service and Monitoring Officer
Section 84(1) - Proper Officer for receipt of resignation of Members of the Council	Head of Paid Service
Section 88 – Proper Officer to convene a meeting of the Council when the office of Chair is vacant	Head of Paid Service

Section 89(1)(b) - Proper Officer to receive notice of vacancy in the officer of Member	Head of Paid Service
Section 96(2) - Proper Officer to record and keep in a book particulars of such disclosures	Head of Paid Service
Section 100(A) - Proper Officer for designating committee reports as confidential or exempt	Monitoring Officer
Section 100(B)(2) - Proper Officer for circulation of reports and agendas	Monitoring Officer
Section 100(B)(7)(C) - Proper Officer for supply of papers to the press	Monitoring Officer
Section 100(C)(2) - Proper Officer for summarising minutes	Monitoring Officer
Section 100(1)(1) and (5) - Proper Officer for identifying papers not open to members	Monitoring Officer
Section 100(F)(2) Proper Officer for identifying papers not open to members	Monitoring Officer
Section 115(2) - Proper Officer to receive money due from officers	Chief Finance Officer
Section 225(1) - Proper Officer to receive documents placed on deposit with the Council	Monitoring Officer
Section 229 – Proper Officer to certify photographic copies of documents	Monitoring Officer
Schedule 3 Paragraph 6(2) - Proper Officer by whom declarations of acceptance of office by Members shall be retained	Monitoring Officer
Schedule 12, Section 99 – Contains provisions governing conduct of meetings, including requirements for notices to be given by Proper Officer and the appointment of the Proper Officer to sign summons to attend meetings of the Council and specifying the proposed business	Monitoring Officer
Representation of the People Act 1983 – Section 67(7)(b) - Receipt of notice of an election agent for local elections Sections 82 and 89 – receipt of election expense declaration and returns for the holding of those documents for public inspection Section 128 – Provision that a copy of any petition questioning a local government election shall be sent to the Proper Officer who shall publish it in the local authority area – and any regulations made thereunder.	Head of Paid Service
Local Government Finance Act 1988	
Section 114 – Duty to report	Chief Finance Officer
Section 116 – Proper Officer must give the authority’s auditor notice of meetings held under section 115	Chief Finance Officer
Local Government and Housing Act 1989	
Section 2 – Listing and publication of politically sensitive posts	Head of Paid Service

Sections 15-17 – To receive notification of political groups and to allocate committee seats according to political balance	Monitoring Officer
Local Government (Committees and Political Groups) Regulations 1990	
Section 14 – For the purposes of the composition of committees and nominations to political groups, Proper Officer's duty to notify Leader or representative of a political group	Monitoring Officer
Local Government Act 2000 and Regulations made thereunder	
All references to the Proper Officer in the Act and subordinate legislation	Monitoring Officer
Local Authorities (Standing Orders) (England) Regulations 2001	
Schedule 1 Part II paragraph 3 – Proper Officer to give written notice of appointment or dismissal of officers	Monitoring Officer
Local Elections (Principal Areas) (England and Wales) Rules 2006 and Local Elections (Parishes and Communities) (Rules) 2006	
Schedule 2 to each set of rules – Retention and public inspection of documents after an election	Head of Paid Service
Localism Act 2011 and Regulations made thereunder	
To receive complaints for failure to comply with Code of Conduct	Monitoring Officer

Part 4

Rules of Procedure

A Access to Information Procedure Rules

1 General

- 1.1 These rules apply to all meetings of the Shadow Authority, its Committees and Sub- Committees and to public meetings of the Shadow Executive.
- 1.2 In these Rules the word “meeting” means a meeting or meetings of any of these bodies unless specified otherwise.
- 1.3 These rules do not affect any other specific rights to information contained elsewhere in this Constitution or the law.
- 1.4 Members of the public may attend all public meetings subject to the exceptions contained in these Rules.
- 1.5 Members of the press and public are also entitled to film, audio record and report on meetings of the Shadow Authority, Committees and Shadow Executive, except in circumstances where the public have been excluded as permitted by law. Any such filming, audio recording or reporting shall be in accordance with any guidelines published by the Shadow Authority on its website or made available at the meeting.

2 Notice of Meetings

- 2.1 The Shadow Authority will give, wherever possible, at least five clear working days’ notice of any such meeting by publicising, including by electronic means, relevant details.
- 2.2 A copy of the official notice will also be published on the Shadow Authority’s website.

3 Agenda and Supporting Papers – Rights of Access

- 3.1 Copies of the Agenda and supporting papers will be made available on the Shadow Authority’s website, for inspection by the public at least five clear working days before the meeting. Where an item is added to an Agenda at a later date, a supplementary agenda will be made available, with any supporting papers, to the public as soon as possible.
- 3.2 The Shadow Authority will supply on request copies of any agenda and reports which are open to public inspection, and if the Monitoring Officer thinks fit, copies of any further documents supplied to Shadow Members relating to that item.
- 3.3 The Shadow Authority may require any person to make a payment in advance covering postage and actual costs incurred connected to the supply of the papers in Rule 3.2 above.

4 Access to Decision Records, Minutes, Agenda and Supporting Papers after a meeting

- 4.1 The Shadow Authority will make electronically available, for a period of six years from the date of the meeting:
- (a) the minutes of the meeting where, unless these rules or the Constitution minutes are required to be made, excluding any part of the minutes relating to the conduct of business when the public were not present or where exempt or confidential information would be disclosed; and
 - (b) the records of decisions taken (which may be included within the minutes), together with reasons by the Shadow Executive, excluding any part of the record relating to the conduct of business when the public were not present or where exempt or confidential information would be disclosed; and
 - (c) where information relating to a decision is considered in private, a summary of the proceedings to provide a reasonably fair and coherent record will be provided excluding any information which is of a confidential or exempt nature; and
 - (d) the agenda and supporting papers covering items which were considered when the public were entitled to be present.

5 Background Documents

- 5.1 The Officer, in whose name an item is to be submitted for decision, will set out in the agenda a list of the background documents which in his/her opinion:
- (a) relates to the subject matter of the item in question; and
 - (b) discloses any facts or matters on which the agenda item or an important part of it has been based; and
 - (c) has been relied upon to a material extent in preparing the agenda item.
- 5.2 Background documents which have been made available for public inspection will continue to be available for a period of four years from the date the decision is made.

6 Definition of Confidential and Exempt Information

- 6.1 For the purposes of these Rules the definitions of confidential and exempt information are set out below.
- 6.2 Confidential information means information supplied or given to the Shadow Authority by a Government Department on terms which forbid its disclosure to the public or is information which cannot be disclosed to the public by Order of the Courts.

- 6.3 Exempt information is information falling within any of the categories set out in Appendix 1 subject to the conditions noted in that Appendix.

7 Exclusion of the Public from Meetings

Confidential Information – Requirement to Exclude

- 7.1 The public will be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the proceedings, that confidential information, as described in Rule 6.2 above will be disclosed.

Exempt Information – Discretion to Exclude

- 7.2 In the case of exempt information, the public may be excluded from a meeting whenever it is likely, in view of the nature of the business to be transacted or the proceedings, that exempt information within the categories set out at Appendix 1 will be disclosed.

8 No public right of access to agenda papers

- 8.1 The Monitoring Officer, where they consider it necessary, may refuse access by the public to any agenda or supporting papers which in their opinion relate to items during which, in accordance with Rule 7 above, the meeting is not to be open to the public. Any such papers will be clearly marked “Not for Publication” and will contain the category of information to be disclosed as set out in Appendix 1 to these Rules. Similar provisions apply to the disclosures of documents related to decisions of the Shadow Authority, including the Shadow Executive.

9 The Shadow Executive: Application of these Rules

- 9.1 Rules 10 to 20 will apply to the Shadow Executive and any Committees or Sub-Committees which it may establish from time to time.
- 9.2 Where the Shadow Executive, including a Committee or Sub-Committee of the Shadow Executive meet to discuss a Key Decision, with an Officer or Officers present, within 28 days of the date according to the Forward Plan by which it is to be decided, then the Shadow Executive must comply with Rules 1 to 8 above unless Rule 12 (general exception) or 13 (special urgency) apply. This requirement does not apply where the sole purpose of the meeting is for officers to brief Shadow Members.

10 Procedure before taking a Key Decision

- 10.1 Subject to Rules 12 or 13, a Key Decision cannot be taken unless:
- (a) a notice (“the Forward Plan”) has been published in connection with the matter in question and made available to the public at the main office of the Shadow Authority; and
 - (b) at least 28 clear calendar days have elapsed since publication of the Forward Plan; and

- (c) where the decision is to be taken at a meeting of the Shadow Executive, including a Committee or Sub-Committee of the Shadow Executive, public notice of the meeting has been given under Rule 2 above.

11 The Forward Plan

- 11.1 The Forward Plan will be prepared on behalf of the Leader on a monthly basis to cover a four-month period beginning with the first day of any month. The Forward Plan will be rolled forward and published each month to cover the four-month period beginning again with the new date of publication. There will be instances where it is impracticable to include an item in the Forward Plan. In this case Rule 12 or 13 below will apply.
- 11.2 The Forward Plan will contain such matters considered to be Key Decisions to be taken during the period covered by the Forward Plan.
- 11.3 The Forward Plan will describe in respect of each matter the following particulars:
 - (a) the matter relating to the decision to be made;
 - (b) the name and title of the decision taker if an individual, or the name and details of the membership where the decision taker is a body;
 - (c) the date on which, or the period within which, the decision will be taken;
 - (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
 - (e) the means by which any such consultation is proposed to be undertaken;
 - (f) the steps any person might take to make representations to the Shadow Executive or decision taker about the matter before the decision is made, and the date by which those steps must be taken.
 - (g) a list of the documents to be submitted to the decision taker for consideration in relation to the matter;
 - (h) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
 - (i) that other documents relevant to the matter may be submitted to the decision taker; and
 - (j) the procedure for requesting details of those documents (if any) as they become available.
- 11.4 Where in relation to any matter where the public may be excluded from a public meeting under Rule 7, or documents relating to the decision need not be disclosed to the public, the Forward Plan must contain the particulars of the

matter, but may not contain any confidential information, exempt information or particulars of the advice of a political adviser or assistant.

12 General exception for Key Decisions

- 12.1 If a matter which is likely to be a Key Decision has not been included in the Forward Plan then, subject to Rule 13, the decision may still be taken if:
- (a) the decision has to be taken by such a date that it is impracticable to defer the decision until it can be included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates; and
 - (b) the Monitoring Officer has informed the Chair of the Overview and Scrutiny Committee, or if there is no such person, each member of the Committee in writing, by notice, of the matter to which the decision is to be made; and
 - (c) the Monitoring Officer has made copies of that notice available to the public at the Main Office of the Shadow Authority; and
 - (d) at least five clear working days have elapsed since the Monitoring Officer complied with his/her obligations under this paragraph.
- 12.2 Where such a decision is taken by the Shadow Executive, it must be taken in public subject to any requirements relating to the disclosure of confidential or exempt information and the exclusion of the public.

13 Special urgency for Key Decisions

- 13.1 If by virtue of the date by which a Key Decision must be taken, the requirements of Rule 12 above cannot be followed, then the decision can only be taken if the decision maker (if an individual) or the Leader if the decision is to be taken by the Shadow Executive or sub-committee of the Shadow Executive, obtains the agreement of the Chair of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chair of the Overview and Scrutiny Committee or if they are unable to act, then the agreement of the Chair of the Shadow Authority, or in his/her absence the Vice Chair will suffice.
- 13.2 In addition to the requirement for the Chair of the Overview and Scrutiny Committee to agree to the matter being dealt with as urgent business, the Chair of the Overview and Scrutiny Committee will be consulted, and may comment, on the subject matter of the decision itself.

14 Report to Shadow Authority

- 14.1 If the Overview and Scrutiny Committee is of the opinion that a Key Decision has been taken which was not:
- (a) included in the Forward Plan; or
 - (b) the subject of the general exception procedure under Rule 12 above; or

- (c) the subject of an agreement with the Overview and Scrutiny Committee Chair, or the Chair/Vice Chair of the Shadow Authority under Rule 13 above;
- (d) The Committee may require the Shadow Executive to submit a report to the Shadow Authority within such reasonable time as the Committee specifies.

14.2 In response to any requirement under Rule 14.1 above, the Shadow Executive will prepare a report for submission to the next available meeting of the Shadow Authority. However, if the next meeting of the Shadow Authority is within 7 clear working days of the resolution of the Committee, then the report may be submitted to the subsequent meeting. The report to the Shadow Authority will set out particulars of the decision, the individual or body taking the decision, and if the Shadow Executive is of the opinion that it was not a Key Decision, the reasons for that opinion.

15 Record of decisions of the Shadow Executive

15.1 After any meeting of the Shadow Executive or any of its Committees or Sub-Committees, whether held in public or private, the Monitoring Officer or their nominee, or where no officer was present, the person presiding at the meeting, will normally produce as soon as practicable an electronic record (which may be included within the minutes) of every decision taken at that meeting. The record will include:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the decision taker;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision taker; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer.

16 Meeting of the Shadow Executive in private

16.1 Where a meeting of the Shadow Executive, including a Committee or Sub-Committee of the Shadow Executive, is to be held in private under these Rules, at least 28 clear days before the meeting, the Shadow Executive shall make available at the main office of the Shadow Authority a notice of its intention to hold a meeting in private giving reasons as to why the meeting is to be held in private.

16.2 At least five clear working days before the meeting, the Shadow Executive must make available at the main office of the Shadow Authority a further notice of its intention to hold a meeting in private containing: the reasons as to why the meeting is to be held in private; details of any representation received by the

Shadow Executive about why the meeting should be open to the public; and a statement of the Shadow Executive's response to any such representations.

- 16.3 Copies of the notices required by Rules 16.1 and 16.2 shall be sent to the Chair of the Overview and Scrutiny Committee.
- 16.4 Where the date by which a private meeting must be held makes compliance with Rules 16.1 and 16.2 impracticable, the meeting may only be held in private where the Shadow Executive has obtained agreement from:
- (a) the Chair of the Overview and Scrutiny Committee; or
 - (b) if there is no such person, or if the Chair of the Overview and Scrutiny Committee is unable to act, the Chair of the Shadow Authority; or
 - (c) where there is no Chair of either the Overview and Scrutiny Committee or of the Shadow Authority able to act, the Vice-Chair of the Shadow Authority.

17 Attendance at private meetings of the Shadow Executive

- 17.1 Any Member of the Shadow Executive may attend a private meeting of a Committee or Sub-Committee of the Shadow Executive whether or not they are members of that body unless the body determines otherwise.
- 17.2 Any Shadow Executive member who is not a member of such a Committee or Subcommittee shall be entitled to speak with the consent of the person presiding but not to vote.

18 Officer attendance at Shadow Executive Meetings

- 18.1 The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, or their nominees, are entitled to attend any meeting of the Shadow Executive. The Shadow Executive cannot meet unless the Monitoring Officer has been given reasonable notice that a meeting is to take place. This provision also applies to Committees and Sub-Committees of the Shadow Executive.
- 18.2 A private meeting of the Shadow Executive, including a Committee or Sub-Committee of the Shadow Executive, may only take place in the presence of the Monitoring Officer or their nominee, who shall have responsibility for recording and publicising any decisions.

19 Decisions by Members of the Shadow Executive

- 19.1 Where an individual member of the Shadow Executive receives a report, which they intend to take into account in making any Key Decision for which they have delegated authority, then they will not make the decision until at least five clear working days after receipt of that report.
- 19.2 On giving of such a report to a member of the Shadow Executive, the person who prepared the report will give a copy of it to the Chair of the Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

- 19.3 As soon as reasonably practicable after an executive decision has been taken by a delegated member of the Shadow Executive, a written record of the decision must be produced which must include the following:
- (a) a record of the decision including the date it was made; (b) a record of the reasons for the decision;
 - (b) details of any alternative options considered and rejected by the Member;
 - (c) a record of any conflict of interest relating to the matter decided which is declared by any Member of the Shadow Executive who is consulted by the Member which relates to the decision; and
 - (d) the provisions of Rules 4 and 5 will also apply to the making of decisions by Shadow Executive Members.

20 Record of Executive and non-Executive decisions taken by Officers

- 20.1 As soon as reasonably practicable after an Officer has made a decision which is an Executive decision (i.e. the responsibility of the Shadow Executive) a written statement will be prepared including:
- (a) a record of the decision including the date it was made;
 - (b) a record of the reasons for the decision;
 - (c) details of any alternative options considered and rejected by the Officer when making the decision;
 - (d) a record of any conflict of interest declared by any Executive Member who is consulted by the Officer which relates to the decision; and
 - (e) in respect of any declared conflict of interest, a note of dispensation granted by the Monitoring Officer.
- 20.2 Any record prepared in accordance with Rule 20.1 and any report considered by the Officer and relevant to the decision will be available for public inspection at the Main Office of the Shadow Authority and on the Shadow Authority's website.
- 20.3 Rules 20.1 to 20.2 do not apply to day-to-day administrative or operational decisions of the Shadow Authority taken by Officers in connection with the discharge of functions which are the responsibility of the Shadow Executive.
- 20.4 As soon as reasonably practicable after an Officer has made a decision under an express delegation from the Shadow Authority, its Committees, Sub-Committees or any Joint Committee in which the Shadow Authority is involved or under a general delegation from one of these bodies where the effect of the decision is to grant a permission or licence, affect the rights of an individual or award a contract or incur expenditure, which in either case materially affects the Shadow Authority's position a written statement will be prepared including:

- (a) a record of the decision including the date it was made;
 - (b) a record of the reasons for the decision;
 - (c) details of any alternative options considered and rejected by the officer when making the decision; and
 - (d) a record of the name of any Shadow Member or local government body who has declared an interest (for decisions taken under an express delegation).
- 20.5 Any record prepared in accordance with Rule 20.4 together with any background papers considered by the officer and relevant to the decision will be available for public inspection at the main office of the Shadow Authority and on the Shadow Authority's website.
- 20.6 Rules 20.4 to 20.5 do not apply to:
- (a) routine administrative and organisational decisions;
 - (b) decisions on operational matters such as day-to-day variations in services;
 - (c) decisions if the whole or part of the record contains confidential or exempt information; and
 - (d) decisions that are already required to be published by other legislation, provided the record published includes the date the decision was taken and the reasons for the decision.

Access to documents – Overview and Scrutiny Committee

- 21.1 Subject to Rule 21.4 below, any member of the Overview and Scrutiny Committee is entitled to copies of any document which is in the possession or control of the Leader and/or the Shadow Executive including its Committees and Sub-Committees and which contains material relating to:
- (a) any business transacted at a public or private meeting of the Shadow Executive including any of its Committees and Sub-Committees;
 - (b) any decision taken by an individual member of the Shadow Executive; or
 - (c) any Executive decision taken by an officer in accordance with Part 3 of this Constitution.
- 21.2 Where a member of the Overview and Scrutiny Committee (including its Sub-Committees) requests a document which falls within Rule 21.1 the Leader must provide that document as soon as reasonably practicable and, in any case, no later than 10 clear working days after the Leader receives the request.
- 21.3 Subject to Rule 21.4 the Chair of the Overview and Scrutiny Committee is entitled to see papers in relation to private decisions of the Shadow Executive before the decision is made.

- 21.4 Where the Leader so determines, a member of the Overview and Scrutiny Committee will not be entitled to:
- (a) any document that is in draft form;
 - (b) any such document or 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 any review contained in any programme of work of the Committee;
 - (c) the advice of an assistant to a political group who has been appointed pursuant to section 9 of the Local Government and Housing Act 1989.

Where the Leader determines that a member of the Overview and Scrutiny Committee is not entitled to a copy of a document, or part of any such document, for the reasons set out above the Leader must provide the Overview and Scrutiny Committee with a written statement setting out their reasons for that decision.

22 Additional rights of access for Shadow Members

- 22.1 All Shadow Members will be entitled to inspect any document which is in the possession or under the control of the Leader and or the Shadow Executive including its Committees or Sub-Committees and contains material relating to any business to be transacted at a public meeting; any business previously transacted at a private meeting; any decision made by an individual Member; or an Executive decision by an officer unless in the opinion of the Monitoring Officer it contains exempt information falling within the categories of exempt information as set out in the Appendix; or it contains the advice of a political advisor.
- 22.2 All Shadow Members will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Leader or the Shadow Executive including its Committees and Sub-Committees which relates to any Key Decision unless Rule 22.1 above applies.
- 22.3 In relation to public meetings, where a document is required to be available for inspection by all Shadow Members under Rule 22.1 it must be available for at least 5 clear working days before the meeting except where the meeting is convened at shorter notice or an item is added to an agenda at shorter notice in which case the document must be available for inspection when the meeting is convened or the item is added to the agenda.
- 22.4 In relation to private meetings, decisions made by an individual Member or Executive decisions made by an Officer, where a document is required to be available for inspection by all Shadow Members under Rule 22.1 must be available within 1 working day of the meeting concluding or where an Executive decision is made by an individual Member or an Officer with in 1 working day of the decision being made.
- 22.5 These rights of a Shadow Member are additional to any right they may have.

Appendix 1 – Descriptions of Exempt Information

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

- (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 of legal professional privilege could be maintained in legal proceedings.
- (6) Information which reveals that the authority proposes –
 - (a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) To make an order or direction under any enactment.
- (7) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Qualifications

Information falling within the above descriptions is not exempt information if it is required to be registered under:

- (a) The Companies Acts (as defined in section 2 of the Companies Act 2006);
- (b) The Friendly Societies Act 1974;
- (c) The Friendly Societies Act 1992;
- (d) The Co-operative and Community Benefit Societies Act 2014;
- (e) The Building Societies Act 1986; or
- (f) The Charities Act 2011.

Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission or permission in principle pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

Information which –

- (a) Falls within any of the descriptions above; and
- (b) Is not prevented from being exempt by the previous two qualifications is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

B SHADOW AUTHORITY PROCEDURE RULES

1 Shadow Authority meetings

- 1.1 The Shadow Authority will decide when its meetings will take place. Details will be contained in a calendar of meetings which will be approved by the Shadow Authority.
- 1.2 Meetings of the Shadow Authority will normally commence at 10:00am. The Chair, or the Shadow Authority, can agree to hold a meeting at a different place or time.
- 1.3 A special meeting or extraordinary meeting can be called by resolution or by the Chair, or five Shadow Members can ask the Chair, in writing, to call a special meeting or extraordinary meeting. If the Chair does not agree, then those Shadow Members can call the meeting by giving written notice to the Monitoring Officer.

Calling extraordinary meetings of committees, sub-committees, panels and working groups

- 1.4 The chair of a committee, sub-committee, panel or working group or the Chair of the Shadow Authority may call a special meeting of a committee, sub-committee, panel or working group at any time. A special meeting shall also be called on the requisition of a quarter of the whole number of the relevant body delivered in writing to the Monitoring Officer but in no case shall less than three members requisition a special meeting. The summons to the special meeting shall set out the business to be considered thereat and no business other than that set out in the summons shall be considered at the meeting.

Order of business

- 1.5 Business shall be dealt with in the order in which it is set out in the agenda unless the Shadow Authority decides otherwise.

Urgent business

- 1.6 Business cannot be dealt with at a Shadow Authority meeting unless it is included in the summons or unless the Chair has agreed in consultation with the Head of Paid Service that it is urgent and cannot wait until the next scheduled meeting. The Chair must give the reasons for urgency, which must be recorded in the minutes of the meeting.

2 Chair and Vice-Chair of the Shadow Authority

- 2.1 At its first meeting, the Shadow Authority will elect its Chair and appoint its Vice-Chair for the Shadow Period.
- 2.2 The Chair of the Shadow Authority, or in their absence the Vice-Chair (who will have the same powers and duties as the Chair), will preside at meetings of the Shadow Authority. Where both the Chair and Vice-Chair are absent, the Shadow Authority will appoint another Shadow Member, other than a member of the

Shadow Executive, to chair the meeting, who will have the same powers and duties as the Chair.

3 Quorum

- 3.1 No business shall be dealt with at a meeting of the Shadow Authority or any committee if there are fewer than a quarter of the whole of the Shadow Authority or Committee members present.
- 3.2 Where the meeting has started, and the number of Shadow Members present is fewer than a quarter of the whole of the Shadow Members and does not meet the minimum quorum requirements described in 3.1 above, the Chair will adjourn the meeting. Where the Chair does not give a date and/or time, all business not completed will be considered at the next meeting.

4 What the Shadow Authority can decide

- 4.1 The Shadow Authority will decide such matters as required by the law, and those matters set out in Part 3 of this Constitution.

5. Notice of and Summons to Meetings

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

6. Chair of Meeting and Appointment of Chairs of Committees

- 6.1 The person presiding at the meeting may exercise any power or duty of the chair. Where these rules apply to committee, sub-committee, panel or working group meetings, references to the chair also include the chair of committees, sub-committees, panels and working groups. The ruling of the chair on the construction or application of any of these Council Procedure Rules or upon any proceedings of the meeting shall not be challenged at any meeting.
- 6.2 Every committee, sub-committee, panel or working group shall at its first meeting after appointment before proceeding to any other business elect a chair and may at any time elect a vice-chair. In the absence from a meeting of the chair (and vice-chair if elected) the chair for that meeting shall be appointed before the business of the meeting is proceeded with. If a committee, sub-committee, panel or working group fails to elect a chair or vice-chair the Shadow Authority may appoint a chair of the relevant committee, sub-committee, panel or working group.
- 6.3 If a committee, sub-committee, panel or working group fails to elect a chair or vice-chair as provided for under Rule 6.2 above, then the Council may make such an appointment from among the voting members of the relevant committee, sub-committee, panel or working group.

7. Duration of Meeting

- 7.1 Unless otherwise specified, the duration of all meetings of the Shadow Authority, any committee or any sub-committee will be a maximum of 3 hours.
- 7.2 If the 3 hour limit is approaching, by a simple majority of all Members in attendance agreeing, the meeting may continue beyond the 3 hour guillotine, however a revised finish time should be agreed.
- 7.3 If an extension to the meeting has been agreed, and the revised closure time is being approached a further extension may be agreed, as per 8.2 above.
- 7.4 In the case of the Senior Appointments Committee, 8.1-8.3 shall not apply where that Committee is interviewing candidates for positions within the Shadow Authority or Cumberland Council.

8. Questions by the public and presentation of petitions and deputations

8.1 General

Members of the public may ask questions of the Leader of the Shadow Authority or any other member of the Shadow Authority at meetings of the Executive or at ordinary meetings of the Shadow Authority and questions of the chair of any committee, sub-committee, panel or working group at meetings of that body.

8.2 Order of questions

Questions will be asked in the order notice of them was received, except that the chair or person presiding at the meeting may group together similar questions.

8.3 Notice of questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Monitoring Officer no later than midday two clear days before the day of the meeting. Each question must give the name and address of the questioner and must, if the questioner wishes the question to be answered by a specific named member, name that member of the Council to whom it is to be put. If the questioner does not name a specific member, then the question will be answered by the leader or such member of the executive whom they nominate in respect of any matter for which the executive is responsible, and by the chair of a relevant committee, sub-committee, panel or working group in respect of that body's functions.

8.4 Number of questions

At any one meeting no person may submit more than 2 questions and no more than 2 such questions may be asked on behalf of one organisation.

8.5 **Scope of questions**

The Monitoring Officer may reject a question if it:

- is not about a matter for which the local authority has a responsibility or which affects the district;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Shadow Authority, or the relevant committee, sub-committee, panel or working group in the past six months; or
- requires the disclosure of confidential or exempt information.

8.6 **Record of questions**

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

Copies of all questions will be circulated to all members of the relevant body at which they will be asked and will be made available to the public attending the meeting.

8.7 **Asking the question at the meeting**

The chair will invite the questioner to put the question. If a questioner who has submitted a written question is unable to be present, they may ask the chair to put the question on their behalf. The chair may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

8.8 **Supplemental question**

A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question.

A supplementary question must arise directly out of the original question or the reply. The chair may reject a supplementary question on any of the grounds in Rule 8.5 above.

8.9 **Written answers**

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

8.10 **Reference of question to the executive or a committee**

Unless the chair decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to the

executive or the appropriate committee, sub-committee, panel or working group. Once seconded, such a motion will be voted on without discussion.

8.11 Deputations and Petitions

- (a) Deputations may be received at ordinary meetings of the Council and at meetings of the executive, committees, sub-committees, panels and working groups immediately following questions by the public. The nature and object of the deputation and the names of members shall be delivered in writing to the Monitoring Officer at least 14 days before the relevant meeting. A member of the deputation may speak on the issue for up to five minutes. The issue raised by the deputation must relate to a matter which falls within the powers and duties of the Council, or the relevant body as determined by the Monitoring Officer or which affects the district.
- (b) Except where the matter raised by a deputation or petition appears as a separate item on the agenda of the relevant meeting, there shall be no discussion at the meeting on any matter raised by a deputation or petition, but any member may move that the matter be referred to the next meeting of the executive or the appropriate committee, sub-committee, panel or working group which shall be immediately put to the vote.
- (c) A subject or related matter which has been raised at a meeting of the Council or other relevant body cannot be raised at the next subsequent meeting of that body.
- (d) Deputations and petitions scheduled to be heard at a particular meeting shall be dealt with in order of receipt and in the event of there being insufficient time to hear them all, opportunity shall be given for them to be heard at a subsequent meeting.

9. Questions by Members

9.1 On reports and minutes of meetings of the executive, committees, sub-committees, panels and working groups

A member of the Shadow Authority may ask the leader, the relevant member of the Shadow Executive or the chair of a committee, sub-committee, panel or working group any question without notice upon an item of the report of or upon the minutes of meetings of the relevant body when that item is being received or under consideration by the Shadow Authority.

9.2 Questions on notice at Shadow Authority Meetings

Subject to Rule 9.4, a member of the Council may ask:

- the chair;
- the leader or any other member of the executive;
- the chair of any committee, sub-committee, panel or working group a question on any matter in relation to which the Council has powers or duties or which affects the district.

9.3 Questions on notice at committees, sub-committees, panels and working groups

Subject to Rule 9.4, a member of a committee, sub-committee, panel or working group may ask the chair of it a question on any matter in relation to which the Council has powers or duties or which affect the district and which falls within the terms of reference of that body.

9.4 Notice of questions

A member may only ask a question under Rule 9.2 or 9.3 if either:

- (a) they have given notice of the question in writing or by electronic mail to the Monitoring Officer no later than midday at least two clear days before the day of the meeting; or
- (b) the question relates to urgent matters, they have the consent of the chair of the Shadow Authority in respect of any question to be asked at a Shadow Authority meeting and the chair of the relevant committee, sub-committee, panel or working group in respect of any question to be asked at that meeting and the content of the question is given to the Monitoring Officer by 9.30 a.m. on the day of the meeting.

9.5 Response

An answer may take the form of:

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

9.6 Supplementary question

A member asking a question under Rule 9.2 or 9.3 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.

10. MOTIONS ON NOTICE

10.1 Notice

Except for motions which can be moved without notice under Rule 12, written notice of every motion, signed by the member or members of the Council, must be delivered to the Monitoring Officer not later than midday 11 clear days (including weekends) before the date of the meeting. These will be entered in a book open to public inspection.

10.2 **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 to a later meeting or withdraw it.

10.3 **Scope**

Motions must be about matters for which the Shadow Authority has a responsibility or which affect the districts.

10.4 **Scrutiny of Motion**

If it shall appear to the Monitoring Officer that a motion of which they have received notice is not in order, or has been delayed in the post, or is framed in improper or unbecoming language, they shall take the direction of the chair upon whether and in what form it shall be placed upon the Agenda paper and the decision of the chair, after consultation if possible with the givers of the notice, shall be final.

10.5 **Motion not Moved**

If a motion thus set out in the summons be not moved by a member who gave notice thereof or by some other member on his/her behalf it shall, unless postponed by consent of the Shadow Authority, be treated as withdrawn and shall not be moved without fresh notice.

11. **Motions and Amendments which may be moved without notice**

11.1 The following motions and amendments may be moved without notice:

- (a) to appoint a chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee or member arising from an item on the summons for the meeting;
- (e) to receive reports or adoption of recommendations of the Shadow Executive, committees, sub-committees, panels, working groups or officers and any resolutions following from them;
- (f) to withdraw a motion;
- (g) to amend a motion;
- (h) to proceed to the next business;
- (i) that the question be now put;

- (j) to adjourn a debate;
 - (k) to adjourn a meeting;
 - (l) that the meeting continue beyond 3 hours in duration.
 - (m) to suspend a particular Shadow Authority Procedure Rule;
 - (n) to exclude the public and press in accordance with the Access to Information Rules;
 - (o) to not hear further a named member or to exclude them from the meeting;
and
 - (p) to give the consent of the Shadow Authority where its consent is required by this Constitution.
- 11.2 The chair, with or without notice, may propose a resolution upon any matter which they may deem a matter of urgency and which is within the functions or powers of the Shadow Authority.

12. Rules of Debate

12.1 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.

12.2 Right to require motions and amendments in writing

A motion or amendment shall not be discussed unless it has been proposed and seconded and, unless notice has already been given in accordance with Rule 12, it shall, if required by the Chair, be put into writing and handed to the Chair before it is further discussed or put to the meeting.

12.3 Seconders' speech

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

12.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 10 minutes without the consent of the chair.

12.5 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 they last spoke;
- (c) if their first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

12.6 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
 - (v) 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 provided that the Chair 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 Shadow Authority'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.
- (e) After an amendment has been carried, the chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

12.7 Alteration of motion

- (a) A member may alter a motion of which they have 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 they have 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.

12.8 **Withdrawal of motion**

A member may withdraw a motion which they have 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.

12.9 **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.

12.10 **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 postpone consideration of the motion;
- (d) to proceed to the next business;
- (e) that the question be now put;
- (f) to adjourn a debate;
- (g) to adjourn a meeting;
- (h) that the meeting continue beyond 3 hours in duration;
- (i) to exclude the public and press in accordance with the Access to Information Rules; and
- (j) to not hear further a member or to exclude them from the meeting.

12.11 Closure motions

- (a) A member who has not spoken on the subject under discussion may move, without comment, the following motions at the end of a speech of another member:
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the chair thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed, they will give the mover of the original motion a right of reply and then put the original motion to the vote.
- (c) If a motion that the question be now put is seconded and the chair thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed they will give the mover of the original motion a right of reply before putting their motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.
- (e) A second motion "That the Shadow Authority proceed to the next business", "That the debate be now adjourned" or "That the Shadow Authority does now adjourn" shall not be made within 15 minutes unless it be moved by the Chair.

12.12 Point of order

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

12.13 Personal explanation

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

12.14 Motions affecting persons employed by the Council

If any member wishes to raise a question at a meeting of the Shadow Authority concerning the appointment, promotion, dismissal, salary, superannuation or conditions of service or concerning the conduct of any person employed by the Council, they shall without specifying the name or department of the person concerned, inform the chair of their wish to raise such a question and such question shall not be the subject of discussion until the Shadow Authority has decided upon the motion of the chair put without debate whether or not the power of exclusion under Section 100A of the Local Government Act 1972 shall be exercised.

12.15 Irrelevance

The chair shall call a member to order for irrelevance or repetition and may direct such member if speaking to discontinue his or her speech and the member shall thereupon be silent and resume his or her seat.

13. Previous Decisions and Motions

13.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of the Shadow Authority within the past six months cannot be moved unless the notice of motion is signed by at least 12 members.

13.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of the Shadow Authority in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 12 members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

13.3 Rules 13.1 and 13.2 shall not apply to motions moved in pursuance of a recommendation of the executive or any committee, sub-committee, panel or working group.

14. Voting

14.1 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.

14.2 Chair's casting vote

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

14.3 **Voting**

Unless a recorded vote is demanded under Rule 15.4, the chair will take the vote by either show of hands or electronic means, or if there is no dissent, by the affirmation of the meeting. The ruling of the Chair as to the voting methodology to be used will be final.

14.4 **Recorded vote**

If before the vote is taken at least one fourth of 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.

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

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

14.6 **Voting on appointments**

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

15. **Minutes**

15.1 **Signing the minutes**

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

15.2 **No requirement to sign minutes of previous meeting at extraordinary meeting**

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

15.3 **Form of minutes**

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

16. Record of Attendance

The attendance of members at meetings of the Shadow Authority shall be recorded in such a manner as the Council may from time to time determine.

17. Exclusion of Public

Members of the public and press may only be excluded either in accordance with the Access to Information Rules of this Constitution or Rule 20 (Disturbance by Public).

18. Members' Conduct

18.1 Standing to speak

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

18.2 Chair standing

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

18.3 Member not to be heard further

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

18.4 Member to leave the meeting

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

18.5 General disturbance

If there is a general disturbance making orderly business impossible, the chair may adjourn the meeting for as long as they think necessary.

19. Disturbance by Public

19.1 Removal of member of the public

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

19.2 Clearance of part of meeting room

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

20. Recording of Meetings

20.1 While any meeting is open to the public, any person present is permitted to report the proceedings by:

- (i) filming, photographing or making an audio recording of the proceedings at the meeting;
- (ii) using any other means for enabling persons not present to see or hear proceedings at the meeting as it takes place or later;
- (iii) reporting or providing commentary on proceedings at the meeting orally (but not whilst present in the meeting) or in writing, so that the report or commentary is available to other persons as the meeting takes place or later; or
- (iv) using any communication method, including the internet, to publish, post or otherwise share the report.

20.2 The right to report is subject to the chair's power to deal with disturbance at the meeting. The meeting should not be disrupted by, for example, reporting activities, flash photography or intrusive equipment.

20.3 Any person recording a meeting is requested to focus on recording councillors, officers and the public who are directly involved in the conduct of the meeting. No recording should take place of children, vulnerable persons or other members of the public who actively object to being filmed.

21. Declarations of Interest

21.1 Subject to Rule 22.2, if a Member has a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting, then the Member should declare that interest to the meeting and should leave the room whilst any discussion or vote takes place.

21.2 If a dispensation has been granted to a Member in relation to a disclosable pecuniary interest then subject to the terms of the dispensation the Member may be relieved from the above restrictions but will still be required to declare the interest to the meeting.

21.3 Where a Member has a disclosable pecuniary interest in any business of the Shadow Authority, they may attend a Meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the Meeting for the same purpose, whether under a statutory right or otherwise. Once any such

representations etc have been made, the Member should leave the room whilst any discussion or vote takes place.

22. Suspension and Amendment of Shadow Authority Procedure Rules

22.1 Suspension

All of these Rules of Procedure may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Shadow Authority are present. Suspension can only be for the duration of the meeting.

22.2 Amendment

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

23. Application To Committees, Sub-Committees, Panels and Working Groups

All of the Rules of Procedure apply to meetings of the Shadow Authority. The Rules also apply to meetings of committees, sub-committees, panels and working groups where the context so permits. The Rules do not apply to meetings of the Shadow Executive unless specifically stated and meetings of the executive are governed by the Shadow Executive Procedure Rules.

C SHADOW EXECUTIVE PROCEDURE RULES

Meetings of the Shadow Executive

- 1.1 The Shadow Executive will meet as indicated in the Shadow Authority's programme of meetings. The Shadow Executive or the Leader may agree to change the date of any programmed meeting, to cancel a meeting or to arrange additional meetings as they see fit. Locations of meetings will be published in the calendar of meetings.
- 1.2 The Shadow Executive may meet in public or in private, subject to legal requirements and the Access to Information Procedure Rules set out in this Constitution.
- 1.3 The Leader will chair meetings of the Shadow Executive or in his/her absence, the Deputy Leader will preside. Where both the Leader and Deputy Leader are absent, the Members present, will appoint one member of the Shadow Executive to chair that meeting.
- 1.4 Attendance by other Members of the Shadow Authority or the public shall be in accordance with the Access to Information Procedure Rules, by invitation under Rule 1.5 below, or set out in Rules 4.1 to 4.2 below.
- 1.5 The Shadow Executive may invite any person they consider appropriate, to its meetings to discuss matters of mutual interest or concern or to advise. Such persons may only be given access to confidential and/or exempt information on terms to be decided by the Monitoring Officer so as to ensure that the Access to Information Procedure Rules are observed.

2 Quorum at meetings of the Shadow Executive

- 2.1 No business shall be transacted where at any time during the meeting of the Shadow Executive, or a committee or sub-committee established by the Shadow Executive, there are fewer than three members of the Shadow Executive, or committee or sub-committee of the Shadow Executive present.

3 Taking of decisions by the Shadow Executive

- 3.1 Shadow Executive decisions, including those taken under delegated powers, shall not take effect until they have been recorded in writing, as required under the Access to Information Procedure Rules, and shall not be implemented until the call-in process has been concluded. Records of Shadow Executive decisions must be confirmed at the next meeting.

4 Members attending and speaking at Shadow Executive Meetings

- 4.1 The Chair of the Overview and Scrutiny Committee shall be entitled to attend any formal public meeting of the Shadow Executive and to speak to any matter on the agenda for that meeting.

Other Members not previously described above may also speak at such meetings with the permission of the Leader or person presiding in his/her absence.

5 Business at Shadow Executive Meetings

- 5.1 The business to be transacted at meetings of the Shadow Executive will be set out in an Agenda for the meeting in question, subject to any requirements or exemptions under the Access to Information Procedure Rules.
- 5.2 The Agenda may be supported by additional papers prepared by the officers or by or on behalf of other bodies, subject to requirements about disclosure of confidential or exempt information.
- 5.3 The Shadow Executive is obliged to consider matters referred to it by the Overview and Scrutiny Committee, or by the Shadow Authority for consideration under the Scrutiny Rules.
- 5.4 The Access to Information Procedure Rules will apply to notice of meetings, agendas, and access to reports and background papers. Where matters are for decision, the Agenda must stipulate those which are Key Decisions and those which are not, in accordance with the Access to Information Procedure Rules.
- 5.5 The Shadow Executive will, at each formal meeting, confirm the record of decisions taken at its previous meeting as a correct record.
- 5.6 The Monitoring Officer or their nominated officer shall be responsible for preparing and distributing the Agenda for Shadow Executive meetings, attending meetings for the purpose of advising the Shadow Executive on matters within their area of responsibility and recording decisions as required under this Constitution.
- 5.7 In taking decisions, the Shadow Executive must satisfy itself that it has before it adequate and appropriate advice from its service, legal and financial advisers who shall be present at any meeting where a decision is being taken and that the advice is taken into consideration in determining the matter. Where there is any doubt about vires or probity then advice must be obtained from the Monitoring Officer and the Chief Finance Officer.
- 5.8 Any member of the Shadow Executive may require the Monitoring Officer to place an item on the Agenda for a stipulated meeting of the Shadow Executive.
- 5.9 The Monitoring Officer will ensure that any matter referred to the Shadow Executive by the Shadow Authority or the Shadow Authority's Overview and Scrutiny Committee are placed on the Agenda for the next appropriate meeting of the Shadow Executive.
- 5.10 Any Shadow Member may request the Leader to place an item on the agenda of a meeting of the Shadow Executive. The leader shall have sole discretion as to whether or not to accede to such a request and, if such a request is granted, whether the Member in question can speak to the item at the meeting in question.

- 5.11 The Head of Paid Service, the Monitoring Officer and/or the Chief Finance Officer can include an item for consideration on the agenda of a Shadow Executive Meeting. In pursuance of their statutory duties they can require that a special meeting of the Shadow Executive be convened.
- 5.12 Business cannot be conducted at formal meetings of the Shadow Executive unless it is included in the agenda for the meeting. Where it is urgent, the requirements of the Access to Information Procedure Rules must be complied with.
- 5.13 The Shadow Executive will report to the Shadow Authority as required under the Access to Information Procedure Rules on any matter which is classified as a Key Decision and is dealt with under special urgency procedures.
- 5.14 Questions can be submitted by members of the public at meetings of the Shadow Executive in accordance with Shadow Authority Procedure Rule 28 and Appendix 6 of the Shadow Authority Meeting Procedure Rules.

6 Voting at Shadow Executive Committee Meetings

- 6.1 Voting at Shadow Executive meetings will be by a show of hands or electronic means. Any Member may require, immediately after the vote is taken, that the minutes of the meeting record how they voted or abstained. Where there are equal votes cast, the Leader or in their absence, the person presiding will have a second and casting vote.
- 6.2 Voting for any office or appointment, including any paid appointment, where more than one person is nominated shall be in accordance with Shadow Authority Procedure Rule 15.6.

7 Shadow Executive– Committees and Sub-Committees

- 7.1 The Shadow Executive may appoint such Committees or Sub-Committees as it considers necessary and appropriate to assist in the discharge of functions. In making such appointments, the Shadow Executive must specify the name of the Committee/Sub-Committee, its membership (including Chair and, if appropriate, Vice-Chair) and the terms of reference of the body.

8 Motion under Meeting Procedure Rule 11

- 8.1 A mover of a motion under Shadow Authority Meeting Procedure Rule 11 which has been referred to the Shadow Executive for consideration may attend the meeting of the Shadow Executive when their motion is under consideration and explain the motion. The mover of the motion will be advised of the date and time of the meeting when the matter is to be considered and they will be sent an electronic copy of the relevant papers.

9 Resolving disputes

- 9.1 In the case of any dispute during proceedings of the Shadow Executive the relevant part(s) of the Constitution will apply and after considering the application

of the relevant provision(s), the person presiding at the meeting will rule on the issue in question and their ruling will be final.

10 Reserves/substitute Members

- 10.1 There shall be no reserve or substitute members of the Shadow Executive.

11 Approval of urgent business

- 11.1 Where any matter is urgent and cannot await the next meeting, the Head of Paid Service may take the necessary action, provided that they have first consulted the Leader (or Deputy Leader if the Leader is unavailable) and the appropriate statutory officer(s).
- 11.2 Where action is taken under 11.1 above, the action taken and response to consultations shall be reported to the next ordinary meeting of the Shadow Executive.

12 Conflicts of Interest

- 12.1 Where the Leader or any Shadow Executive Member has a conflict of interest, they will follow the requirements of the Shadow Authority's Code of Conduct for Members.
- 12.2 If all (or a majority) of the Members of the Shadow Executive present have a conflict of interest then consideration will be given to applying to the Monitoring Officer for a dispensation from the provisions of the Code.
- 12.3 If the discharge of a Shadow Executive function has been delegated to another body or individual and a conflict of interest arises, then it will fall to the body or individual who delegated the matter to take the decision. Where that body or individual also has a conflict of interest then action set out in Rule 12.2 shall be considered.

D OVERVIEW AND SCRUTINY PROCEDURE RULES

1. Work Programme

- 1.1 The Overview and Scrutiny Committee will consult with other parts of the Shadow Authority as appropriate, including the Shadow Executive, on the preparation of any work programme.
- 1.2 The Overview and Scrutiny Committee will take into account any views expressed following consultation under Rule 1.1 above in drawing-up and agreeing any work programme. It should also take into account the resources, both officer and financial, available to support its proposals.
- 1.3 Once any programme has been approved, a copy will be sent to all Members of the Shadow Authority and all relevant officers.
- 1.4 The Overview and Scrutiny Committee shall respond, as soon as it may consider it is possible to do so, to requests from the Shadow Authority and the Shadow Executive, to review particular areas of Shadow Authority activities. Where it does so, it will report its findings and any recommendations back to the Shadow Executive and/or Shadow Authority in accordance with Rule 4 below.

2 Agenda for meetings of the Overview and Scrutiny Committee

- 2.1 Matters to be considered will be set out in an Agenda, together with appropriate and relevant supporting papers.
- 2.2 Any member of the Committee shall be entitled to suggest, in writing, that an item be included on the agenda, and such item shall appear on the agenda for the next meeting of the Committee in question provided that the item relates to the functions of the Committee. The committee will decide how the item should be considered and whether or not it can be included in its work programme.
- 2.3 Similarly, the Leader or the Executive may give notice in writing suggesting that an item appear on an agenda of the Overview and Scrutiny Committee. The Overview and Scrutiny Committee will decide how the item should be considered and whether or not it can be included in its work programme.
- 2.4 Subject to the Shadow Authority Procedure Rules, any other Shadow Member may give notice in writing to the Monitoring Officer, suggesting an item appear on an agenda of the Overview and Scrutiny Committee. The item shall be included after consulting the Chair of the Overview and Scrutiny Committee.
- 2.5 Any Shadow Member raising an item under Rules 2.2, 2.3 or 2.4 above shall be precluded from raising the matter again for a period of 6 months from the date it is considered by the Committee.

3 Policy Review and Development

- 3.1 The Overview and Scrutiny Committee has a key role in policy and budget development in the approach to the creation of Cumberland Authority.

4 Reports from the Overview and Scrutiny Committee

- 4.1 Once recommendations have been formed, the Overview and Scrutiny Committee may submit a formal report for consideration by the Shadow Executive or to the

Shadow Authority as appropriate (if the recommendation would require a departure from or a change to the agreed budget and policy framework).

- 4.2 The Shadow Authority or the Shadow Executive shall consider the report of the Overview and Scrutiny Committee within one month (or next available meeting in the case of the Shadow Authority) of it being submitted.

5 Access to the Forward Plan

- 5.1 The Overview and Scrutiny Committee will have access to the Shadow Executive Forward Plan and timetable for decisions and intentions for consultation.

6 Rights of Overview and Scrutiny Committee members to documents

- 6.1 In addition to their rights as Shadow Members, members of the Overview and Scrutiny Committee have the additional right of access to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in this Constitution as they deem necessary.

7 Shadow Members and Officers giving account

- 7.1 The Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Shadow Authority function. As well as reviewing the documentation, in fulfilling its scrutiny role, it may require the Leader or any Member of the Executive (or a nominated substitute), to attend before it to explain in relation to matters within their remit:

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Shadow Authority policy; and
or
- (c) their performance.

And it is the duty of that person to attend if so required.

- 7.2 Where the Overview and Scrutiny Committee requires an officer to attend to answer questions or discuss issues, this will be agreed with the lead officer of the Central Implementation Team.

Where it is agreed that an officer should appear to answer questions, their evidence should, as far as possible, be confined to questions of fact and explanation relating to policies and decisions. Officers may be asked to explain:

- (a) What the policies are;
- (b) The justification and objectives of those policies as the Shadow Executive sees them;
- (b) The extent to which those objectives have been met; and
- (d) How administrative factors may have affected both the choice of policy measures and the manner of their implementation.

- 7.3 Officers may be asked to explain and justify advice they have given to the Shadow Executive prior to decisions being taken. They may also be asked to explain and

justify decisions they have taken under delegation powers from the Shadow Executive.

- 7.4 Officers should not be expected and should avoid being drawn into discussions of politically contentious matters and any officer input should be consistent with the requirements for political impartiality.
- 7.5 The requirements of any protocols on Member/Officer relationships and the Code of Conduct must be adhered to where an officer is attending the Overview and Scrutiny Committee.
- 7.6 Where any Member of the Shadow Executive or officer is required to attend Overview and Scrutiny Committee under this provision, the Chair of that Committee will inform the Monitoring Officer, who will inform the Shadow Member or officer in writing at least ten clear working days' notice of the meeting. The notice will state the nature of the item on which they are 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 Overview and Scrutiny Committee will require the production of a report, then the Shadow Member or Officer concerned will be given reasonable and sufficient notice to allow for its preparation.
- 7.7 Where, in exceptional circumstances, the Member of the Executive or officer is unable to attend on the required date, then the Committee shall, in consultation with the Member of the Executive or officer, arrange an alternative date for attendance within a reasonable timescale, or allow a substitute to attend.

8 Attendance by others

- 8.1 The Overview and Scrutiny Committee may invite individuals other than those referred to in Rules 7.1 and 7.2 to address it, discuss issues of local concern and/or answer questions.

9 Call-in

- 9.1 Call-in is the exercise of the Overview and Scrutiny Committee's statutory power in section 21(3) of the Local Government Act 2000 to review an Executive decision that has been made but not yet implemented. Where a decision is called in and the Overview and Scrutiny Committee decides to refer it back to the Executive Committee for reconsideration, it cannot be implemented until the call-in procedure is complete.
- 9.2 Any decision of the Shadow Executive Committee, an individual Member of the Shadow Executive, or a Key Decision made by an officer under authority delegated by the Shadow Executive, is subject to call-in. A decision may be called-in only once. A recommendation by the Shadow Executive to the Shadow Authority may not be called-in.
- 9.3 The call-in procedure and the powers to refer a decision back for reconsideration may only be exercised by the Overview and Scrutiny Committee, within the remit of its terms of reference.
- 9.4 Call-in of decisions which may be contrary to the budget and policy framework shall be governed by the provisions of the Budget and Policy Framework Procedure Rules set out elsewhere within this Constitution.

9.5 The Call-in Procedure

- 9.5.1 Once made, an Executive decision shall be published, in the form of a decision note, within two clear working days on the public website of the Shadow Authority.
- 9.5.2 The decisions digest will bear the date on which it is published and will specify that the decision will be effective on the expiry of five clear working days after the publication of the decision and may then be implemented, unless called-in under this provision within that five clear working day period. The deadline for a call-in request will be specified in the decisions digest.
- 9.5.3 Requests for call-in may be made by submission of a notice in accordance with 9.5.4 below. A request shall only be considered to be valid if signed/authorised by at least four Shadow Members who are not Members of the Executive.
- 9.5.4 A call-in request must be in the form of a written/e-mailed notice submitted to the Monitoring Officer and received before the published deadline. Either one notice containing all required signatures or four separate notices will be acceptable.
- 9.5.5 The notice must set out –
- (a) the resolution or resolutions that the Member(s) wish to call-in;
 - (b) the reasons why they wish the Overview and Scrutiny Committee to consider referring it back to the Executive Committee, with particular reference to the principles of decision making set out within Article 12 (Decision Making); and
 - (c) the alternative course of action or recommendation(s) that they wish to propose.
- 9.5.6 The call-in request will be deemed valid unless either –
- (a) the procedures set out in Procedure Rules 9.5.3 to 9.5.5 above have not been properly followed;
 - (b) a similar decision has been called-in to the Committee previously;
 - (c) the Executive decision has been recorded as urgent in accordance with paragraph 10 below; or
 - (d) the Monitoring Officer, in consultation with the Chair of the Overview and Scrutiny Committee, considers the call-in to be frivolous, vexatious or clearly outside the call-in provisions, in which case the Monitoring Officer may reject the call-in request and write/e-mail to the Members making the request explaining why it was rejected.
- 9.5.7 Before deciding on its validity, the Monitoring Officer may seek clarification of the call-in request from the Member(s) concerned.
- 9.5.8 Upon deciding on its validity, the Monitoring Officer shall forthwith inform the Member(s) concerned, the Leader of the Shadow Authority, Shadow Executive, Shadow Executive Member(s) as appropriate, the Chair and the

Vice Chair of the Overview and Scrutiny Committee and the Head of Paid Service.

9.6 Consideration of Call-in requests by the Overview and Scrutiny Committee

9.6.1 The Monitoring Officer will ensure that any valid call-in is considered and determined at the next available meeting of the Overview and Scrutiny Committee, or will convene a special meeting if so agreed by the Chair of the Overview and Scrutiny Committee and the decision taker.

9.6.2 The Members submitting the request for call-in will be expected to attend the meeting of the Overview and Scrutiny Committee to explain their reasons for the call-in and the alternative course of action or recommendations they wish to propose.

9.6.3 Having considered the call-in and the reasons given, the Overview and Scrutiny Committee may –

(a) refer it back to the decision-making person or body for reconsideration, normally in time for its next scheduled meeting, setting out in writing the nature of its concerns and any alternative recommendations;

(b) refer the decision to the Shadow Authority, if it feels the original decision was outside of the Budget and Policy Framework, after seeking advice of the Monitoring Officer and/or Chief Finance Officer; or

(c) decide to take no further action, in which case the original Executive decision will be effective immediately.

9.7 Decision referred back to the Decision Maker

9.7.1 If a decision is referred back to the original decision maker, that person or body shall then reconsider the matter, taking into account any concerns and recommendations of the Overview and Scrutiny Committee, and make a final decision, amending the decision or not, giving reasons for their final decision.

9.7.2 If a decision relates to an Executive function only the Shadow Executive can ultimately decide the matter.

10 Call-in and Urgency

10.1 The call-in procedure set out above shall not apply where the decision being taken is urgent. A decision is urgent if –

(a) A call-in would prevent the Shadow Authority reaching a decision that is required by law within a specified timescale; or

(b) Any delay likely to be caused by the call-in process would seriously prejudice the Shadow Authority's or the public's interests and the reasons for urgency are reported to the decision-making body or person before the decision is taken.

10.2 The decision note shall state whether the decision is an urgent one, and therefore not subject to call-in.

- 10.3 The Chair of the Overview and Scrutiny Committee must agree to the decision being treated as a matter of urgency. In the absence of the Chair, the Vice-Chair of the Overview and Scrutiny Committee shall be requested to give consent. In the absence of both the Chair and Vice-Chair of the Overview and Scrutiny Committee, the Chair of the Authority (or in his/her absence) the Vice-Chair, will be requested to provide consent.
- 10.4 Where the Executive has recorded a decision as urgent, the Overview and Scrutiny Committee may retrospectively review actions arising from that decision (within agreed criteria) but cannot delay its implementation.

11 Member Call for Action

- 11.1 Any member of the Shadow Authority may submit a Member Call for Action using the appropriate form. The Member Call for Action is intended to be a process of last resort and therefore a member must demonstrate that reasonable steps have been taken to resolve the matter including a response from the Leader or appropriate Executive Member and the Head of Paid Service or their nominee. The Member Call for Action will be placed on the agenda of the Overview and Scrutiny Committee. It is for the Overview and Scrutiny Committee to determine how it wishes to respond to the Member Call for Action and in the case of refusal to undertake a review then reasons must be provided.

12 The Party Whip

- 12.1 It is generally accepted that the Party Whip should be suspended in respect of Scrutiny matters. However, when considering any matter in respect of which a member of the Overview and Scrutiny Committee is subject to a formal party whip, the Shadow Member must declare the existence of the whip, and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

13 Task and Finish Panels

- 13.1 The Committee may appoint such task and finish panels as it considers appropriate to undertake specific tasks on its behalf, with the same powers as the Committee, excluding the provision to call-in Executive decisions. Whilst these will be on a task and finish basis in most cases, the Committee is not precluded from establishing such Panels on a more permanent basis subject to regular review. Task and Finish Panel members do not have to be members of the Overview and Scrutiny Committee, but cannot be members of the Shadow Executive.
- 13.2 Where the Committee establish any Panel under Rule 13.1 above, it will set out the name of the Panel, its membership (including the Chair and, if appropriate, the Vice-Chair) and the terms of reference including relevant dates for completion of the task or review.
- 13.3 Any Task and Finish Panel established will report back to the Overview and Scrutiny Committee who will consider the Panel's outcome or recommendations.

14 Procedure at Overview and Scrutiny Committee Meetings

- 14.1 The Overview and Scrutiny Committee shall consider the following business:
- (a) record of the last meeting;

- (b) consideration of any matter referred to the Committee by the Shadow Authority or by the Shadow Executive;
 - (c) consideration of any matter referred to the Committee for advice in relation to call-in or a decision;
 - (d) responses of the Shadow Executive on reports of the Overview and Scrutiny Committee; and
 - (e) the business otherwise set out on the agenda for the meeting.
- 14.2 Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at its meetings, which are to be conducted in accordance with the following principles:
- (a) 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;
 - (b) those assisting the Committee by giving evidence be treated with respect and courtesy; and
 - (c) the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- 14.3 Following any investigation or review, the Committee shall prepare a report for submission to the Shadow Executive and/or Shadow Authority as appropriate and shall, unless there are exceptional reasons, make its report and findings public.

E FINANCIAL PROCEDURE RULES

1 Introduction

- 1.1 The Local Government Act 1972 Section 151 requires the Cumberland Shadow Authority to make arrangements for the proper administration of its financial affairs. The Shadow Authority has allocated this responsibility to the Section 151 Officer (Chief Financial Officer) for the new Cumberland Council.
- 1.2 References to Section 151 Officer also apply to the interim appointment until a permanent appointment is made to the post.
- 1.3 These Financial Procedure Rules set out the financial responsibilities of the Shadow Authority, the Shadow Executive, Section 151 Officer and the Head of Paid Service and their nominated representatives as appropriate, in relation to the Shadow Cumberland Authority prior to the creation of Cumberland Council on the 1 April 2023.
- 1.4 Should any uncertainty or dispute arise about these Procedure Rules, the matter must be referred to the Section 151 Officer for interpretation and arbitration.
- 1.5 The Section 151 officer may appoint one or more deputy Section 151 Officers each of whom has power to exercise all the powers and duties of the Section 151 Officer during the absence or incapacity of or during the vacancy of the role of, the Section 151 Officer.
- 1.6 The Section 151 Officer has the authority to delegate matters under these Financial Procedure Rules, where appropriate, and records will be maintained of any such delegations.

2 Financial Transactions

- 2.1 The Shadow Authority will not incur any direct payments nor receive any income directly.
- 2.2 Any expenditure incurred, or income received on behalf of the Shadow Authority will be undertaken and accounted for by Cumbria County Council, whose approved financial procedures will be utilised for those purposes.
- 2.3 Any procurement undertaken by the Shadow Authority, or authorised on its behalf, will be compliant with the law and the approved procedures contained within the Cumbria LGR Implementation Reserve Memorandum of Understanding.

3 Employees

- 3.1 Interim appointments to the three statutory posts made by the Shadow Cumberland Council will be designated and the appointed employees will remain employed by their existing authorities on their existing terms and conditions.
- 3.2 The appointment to permanent posts will be made in the most appropriate and convenient manner as determined at the time, as follows:
 - i. The appointment to permanent posts will be made by the Shadow Authority and Cumberland Council will be the employer of the said posts and determine the terms and conditions of their employment; or
 - ii. The appointment to permanent posts by the Shadow Authority on behalf of the Cumberland Council may be employed by a designated principal Council

under terms and conditions to be agreed by the Senior Appointments Committee.

4 Responsibilities of the Section 151 Officer

- 4.1 Under Section 151 of the Local Government Act 1972, to undertake the duties of the Responsible Financial Officer to the Shadow Authority in preparing for a legally compliant Cumberland Authority on the 1 April 2023.
- 4.2 As Responsible Financial Officer, under Section 114 of the Local Government Act 1988, making a report to the Shadow Authority, the Shadow Executive and, if appointed, external auditor if the Shadow Authority or one of its appointed officers:
 - (a) has made, or is about to make, a decision which involves committing one of the existing authorities to unlawful expenditure on behalf of the Shadow Authority; or
 - (b) has taken, or is about to take, an unlawful action on behalf of the Shadow Authority, which has resulted or would result in a loss or deficiency to the existing councils or the future Cumberland Council.
- 4.3 As Responsible Financial Officer, under the Accounts and Audit Regulations 2015, to comply with internal control requirements as far as they are applicable to the creation of Cumberland Council.
- 4.4 Reporting to, and gaining the approval of, the Shadow Executive any decisions, as determined by the direction made under section 24 of the Local Government and Public Involvement in Health Act 2007, of the existing councils that would be to the detriment of the Shadow Authority or Cumberland Council.
- 4.5 Working with the Shadow Executive and any other Member body established to provide advice and financial information on the emerging financial position of Cumberland Council and on the key financial controls necessary to secure sound financial management in the new organisation.
- 4.6 Maintaining and updating a Medium-Term Financial Strategy (MTFS).
- 4.7 Preparing the revenue budget and capital programme; advising on the level of council tax; preparing the list of dwelling rents (HRA); and preparing treasury management, banking and exchequer functions.

5 Policies, Strategies and Plans

- 5.1 The Section 151 Officer is responsible for preparing the following documents for consideration by the Shadow Executive and approval by the Shadow Authority at the same time as the 2023/24 budget is approved and council tax set:
 - (a) Capital Programme;
 - (b) Treasury Management Strategy including:
 - i) Prudential Indicators and Limits for 2023/24 to 2027/28;
 - ii) Minimum Revenue Provision Statement;
 - iii) Treasury Management Indicators;

- iv) Debt and Investment Strategy 2023/24 and associated criteria.
 - (c) Treasury Management Policy Statement;
 - (d) Treasury Management Practices (TMPs)
 - (e) Capital Investment Strategy 2023-2028;
 - (f) Housing Revenue Account; and
 - (g) Medium Term Financial Strategy 2023-2028.
- 5.2 The Head of Paid Service is responsible for preparing Cumberland Council's Pay Policy Statement for 2023/24, for consideration by the Shadow Executive and approval by the Shadow Authority before 31st March 2023.

6 Budget Setting for 2023/24

- 6.1 The revenue budget should reflect the corporate aims and priorities of the Shadow Authority and is set in the context of the proposed Medium-Term Financial Strategy.
- 6.2 The Section 151 Officer is responsible for preparing a balanced 2023/24 budget in accordance with the Local Government Act 1992, as amended, in particular by the Localism Act 2011. To achieve this the Section 151 Officer is responsible for:
- (a) preparing a 2023/24 budget strategy and timetable for engagement with: the Shadow Executive, Shadow Authority, other Member bodies, stakeholders and the public, for consideration by the Shadow Executive ;
 - (b) setting a timetable for receipt of local precept information from town and parish councils in the Cumberland area;
 - (c) determining the detailed form of revenue estimates;
 - (d) consolidating the first draft 2023/24 budget from the budget information prepared by the existing Councils, namely Cumbria County Council and the Cumberland councils;
 - (e) developing the draft budget, taking into account the revenue implications of the proposed capital programme, council tax and fees and charges harmonisation policies; to identify the budget gap and recommend ways to close this gap, in liaison with appropriate Member bodies, having regard for achieving best resources and value for money;
 - (f) undertaking consultation on the budget proposals and reporting the outcome of the consultation to the appropriate Member body for consideration;
 - (g) reporting the final draft budget, along with proposals to balance the budget and the outcome of the consultation, to the Shadow Executive for consideration.

- 6.3 The Shadow Executive must consider the draft budget and agree budget proposals which will be submitted to the Overview and Scrutiny Committee for review, before the end of January 2023.
- 6.4 The Shadow Executive must make recommendations on the final, scrutinised, budget and council tax proposals to the Shadow Authority for approval by the third week of February 2023.

7 Capital Programme

- 7.1 The Section 151 Officer is responsible for undertaking financial appraisals of schemes, if required, and collating the capital estimates to form the capital programme, identifying the required financing and taking into account the full year revenue effect of each scheme and report this to the Shadow Executive
- 7.2 The Shadow Executive will make recommendations on the capital programme and on any associated financing requirements to the Shadow Authority as part of the budget setting process.

8 Council Tax Base

- 8.1 Each of the existing billing authorities comprising the three district/borough councils (Allerdale Borough Council, Carlisle City Council and Copeland Borough Council) is responsible for calculating the council tax base for its administrative area and aggregating these figures to provide a council tax base for the council area in accordance with the Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012.
- 8.2 The Section 151 Officer is responsible for:
- (a) aggregating the council tax base information provided by each of the districts and boroughs to create a council tax base for the administrative area of Cumberland (the billing authority), in early December;
 - (b) ensuring that any differences in the CTRS schemes are resolved for recommendation to the Shadow Authority;
 - (c) ensuring that all reliefs, discounts and premiums in respect of Council Tax and NNDR are harmonized as far as practicably possible;
 - (d) promptly notifying the major preceptors and local preceptors of the relevant tax base for their purposes.

9 Setting the Council Tax

- 9.1 In order to raise sufficient council tax to meet the needs of Cumberland Council, the major preceptors and local preceptors, the Section 151 Officer is responsible:
- (a) for estimating any surplus or deficit on the Collection Fund, as at 15 January 2023 and to notify all relevant organisations of their relevant share of any surplus or deficit;
 - (b) using the tax base to calculate the average band D council tax and all of the council tax bands for Cumberland Council and each of the major and local preceptors in the billing authority's area in accordance with the Local Government Act 1992 (as amended) in particular by the Localism Act 2011;

- (c) agreeing the council tax leaflet, for inclusion with the bills, with the Leader of the Shadow Authority;
- (d) promptly publishing the list of council tax bands once approved by the Shadow Authority; and
- (e) applying any alternative notional amounts to the council tax comparators for 2022/23, when undertaking the comparison with the 2023/24 council tax, for the purposes of identifying if the council tax referendum limit has been breached. A statement as to the outcome of this calculation to be approved by the Shadow Authority.

9.2 The Shadow Authority is responsible for approving the council tax bands in respect of Cumberland Council and the aggregation of the bands to arrive at the actual council tax chargeable in its administrative area and the average council tax bands for the billing authority area.

10 Collection Fund

10.1 The Section 151 Officer is responsible for:

- (a) creating a Collection Fund for the Cumberland Council area one day after the Shadow Authority sets the 2023/24 budget and council tax: and
- (b) undertaking council tax and national non-domestic rates billing, as soon as the Shadow Authority has approved the council tax.

11 Reserves and Balances

11.1 Financial reserves and balances are maintained as a matter of prudence against unforeseen events and future contingencies. They will enable Cumberland Council to provide for unexpected events and thereby protect it from future extraordinary expenditure and overspends. Reserves for specific known purposes are also maintained and it is reasonable to build reserves in anticipation of a known call on resources in future years.

11.2 The Section 151 Officer is responsible for advising the Shadow Executive and Shadow Authority on the prudent level of reserves and balances for Cumberland Council as part of the annual budget setting process based on an assessment of risk.

11.3 The purpose, usage and basis of transactions must be clearly set out in respect of each of the reserves and balances held by Cumberland Council.

12 Returns and Grant Claims

12.1 The Section 151 Officer is responsible for submission of all returns and grant claims in respect of Cumberland Council prior to the 1 April 2023. These returns include:

- (a) CTB1 – Calculation of Council Tax Bases;
- (b) NNDR1 – National Non-Domestic Rates Return;
- (c) Relevant Housing Revenue Account returns

- (d) CTR1 – Council Tax Requirement Return;
- (e) RA – Revenue Account Form (to be submitted after 1 April 2023 and the responsibility of the unitary s.151 Officer);
- (f) Benefit Subsidy Claim; and
- (g) DHP – Discretionary Housing Payment Return

13 Financial Control

- 13.1 Under the Accounts and Audit Regulations 2015, the Section 151 Officer is responsible for ensuring that appropriate systems and financial controls are in place on the 1 April 2023 to provide effective management information, financial stewardship and control for Cumberland Council.
- 13.2 This will include the ability to operate a robust general ledger and other core financial systems to be able to deliver the following on 1 April 2023:
- a. run payroll,
 - b. manage the pension fund and pay pensions payroll (designated host authority),
 - c. raise orders and pay suppliers,
 - d. pay other third parties,
 - e. raise invoices and collect all income due,
 - f. produce internal budget monitoring reports,
 - g. produce the Council's statutory accounts,
 - h. produce monthly bank reconciliations,
 - i. operate robust Treasury Management activities for daily cash management, loans and investments.

14 Banking Arrangements

- 14.1 The Section 151 Officer is responsible for:
- (a) Identifying the bank accounts required (including a separate account for the CLGPS) and opening these accounts in the name of Cumberland Council by the 1 April 2023;
 - (b) Authorising bank signatories and setting up authorised accesses and roles;
 - (c) Putting in place the arrangements required for the transmission of funds and collection of cash; and
 - (d) Agreeing procedures for managing the transition from the existing bank accounts and banking arrangements to those of Cumberland Council.

15 Treasury Management

- 15.1 The Section 151 Officer is responsible for putting in place all necessary arrangements to enable Cumberland Council to invest or borrow monies on the 1 April 2023.

16 Insurances

- 16.1 The Section 151 Officer is responsible for putting in place adequate insurance arrangements for Cumberland Council in readiness for the 1 April 2023.

17 Taxation

- 17.1 The Section 151 Officer is responsible for liaising with HM Revenues and Customs to obtain appropriate taxation and VAT reference numbers, including a separate PAYE reference for Cumberland's Returning Officer.

18 Audit

- 18.1 The Section 151 Officer is responsible for ensuring appropriate audit arrangements are in place for the Shadow Authority compliant with statute and good practice.

19 Pensions

- 19.1 The Section 151 Officer of the designated Administering Authority for Cumbria Local Government Pension Scheme (CLGPS) will be responsible for developing the constitutional requirements to ensure that the functions of the CLGPS can be transferred to the new Administering Authority on 1 April 2023.

F OFFICER EMPLOYMENT PROCEDURE RULES

1 General

- 1.1 The Shadow Authority has limited powers in connection with the employment and designation of staff. It relies upon staff resources provided by all of the Cumberland local authorities and the Central Implementation Team to carry out its work. These Rules must therefore be read in that context.
- 1.2 Officers within the organisation are employed, appointed, designated or engaged by or on behalf of the whole Shadow Authority and not by parts of the organisation or individuals.
- 1.3 The employment, appointment, designation or engagement of all staff will be in compliance with the law and any relevant policies and practices of the employing organisation and the Shadow Authority.
- 1.4 Generally (except for certain senior appointments specified in the Local Authorities (Standing Orders) (England) Regulations 2001) the function of appointment and dismissal of, and taking disciplinary action against a member of staff of the Shadow Authority shall be discharged on behalf of the Shadow Authority by the Head of Paid Service or by an officer nominated by them and shall comply with the employing organisation's and the Shadow Council's relevant practices and procedures.
- 1.5 Appointment, dismissal and disciplinary action in relation to statutory officers shall follow the statutory procedures laid down in the relevant legislation, guidance and handbooks.

2 Recruitment and Appointment of Staff

- 2.1 Subject to the provisions of these Procedures, the recruitment, designation and appointment of officers will be conducted in accordance with law and the employing organisation's policies and procedures.
- 2.2 Any candidate for any designation or appointment with the Shadow Authority who knows that they are related to a Shadow Member or employee of the Shadow Authority shall, when making application, disclose, in writing, that relationship to the Central Implementation Team lead officer for Human Resources. A person who deliberately fails to disclose such a relationship shall be disqualified from designation or appointment and, if designated or appointed, shall be liable to dismissal.
- 2.3 Every Shadow Member and employee of the Shadow Authority shall disclose to the Central Implementation Team lead officer for Human Resources any relationship known to them to exist between themselves and any person they know is a candidate for designation or appointment by the Shadow Authority.
- 2.4 Any candidate for designation or appointment who directly or indirectly seeks the support of a Shadow Member or officer of the Shadow Authority in any designation or appointment shall be disqualified and, if designated or appointed, shall be liable for dismissal. A Shadow Member shall not solicit for any person in respect of any designation or appointment with the Shadow Authority, but may give a written testimonial of a candidate's ability, experience or character if so requested by the Central Implementation Team lead officer for Human Resources.
- 2.5 Persons shall be deemed to be related to a candidate or officer if they are a spouse, partner (i.e. member of couple living together), parent, parent-in-law, grandparent,

child, stepchild, adopted child, grandchild, child of partner, brother, sister, uncle, aunt, cousin, nephew or niece or the spouse or partner of any of the preceding persons.

2.6 In the case of a dispute under paragraph 2.5 above about the status of a relationship in relation to an appointment, the Central Implementation Team lead officer for Human Resources will rule and such ruling will be applied.

2.7 The Central Implementation Team lead officer for Human Resources will ensure that the provisions of these Rules are reflected, as appropriate, in application forms or in any accompanying detailed procedures for each post, following advertisement.

3 Responsibility for Human Resources matters

3.1 Subject to any matters reserved to the Shadow Authority, the Senior Appointments Committee is responsible for the development of corporate personnel policies and for determining and monitoring such policies and for the operational implementation of those policies, including the development of practices and procedures to support those policies.

4 Responsibility of the Senior Appointments Committee

4.1 The responsibilities of the Senior Appointments Committee are set out in Part 3 of this Constitution.

4.2 Subject to the provisions of these Rules, the Committee is also responsible for hearing and determining appeals under the Shadow Authority's employment-related policies, the suspension of sick pay and the review and determination of matters relating to any fixed term contracts. In determining these matters the Committee will have regard to the appropriate provisions of this procedure. The Committee may agree to discharge some of these functions through a Sub-Committee.

4.3 The Shadow Executive is required to ensure that the corporate personnel policies and procedures of Cumbria County Council and the Cumberland Councils for employees working on its behalf are adhered to by the Shadow Authority, or the employing authority of the individual, including training, matters relating to discipline, workforce performance management, and grievance (other than determining appeals).

5 Appointment of the Head of Paid Service

5.1 The appointment of the Head of Paid Service is subject to specific requirements as set out below.

5.2 Where the Shadow Authority proposes to appoint to the Head of Paid Service, the Senior Appointments Committee will oversee the arrangements for filling the vacancy. For this purpose the Committee shall include at least one member of the Shadow Executive in its membership.

5.3 The Senior Appointments Committee shall:

(a) draw up a statement specifying the duties of the officer concerned and any qualifications or guidelines to be sought in the person to be appointed;

(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;

- (c) make arrangements for a copy of the statement mentioned above to be sent to any person on request;
 - (d) where a post has been advertised as required above, the Committee will select from the applications a short list of qualified candidates and will then interview those included in the short list.
- 5.4 Following the interview of candidates, the Committee will come to a view as to the most suitable person for the position.
- 5.5 The Committee must advise the Monitoring Officer of:
 - (a) the name of the person in question; and
 - (b) —any other particulars which the Committee consider are relevant to the appointment.
- 5.6 Within two clear working days of receiving the notification in paragraph 5.5 above, the Monitoring Officer will notify each member of the Shadow Executive of:
 - (a) the information notified under paragraph 5.5 above; and
 - (b) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Shadow Executive to the Central Implementation Team lead officer for Human Resources; such period shall not exceed five clear working days.
- 5.7 A provisional offer of appointment shall not be made before:
 - (a) the Leader has, within the period of the notice under paragraph 5.6 above, notified the Committee through the Central Implementation Team lead officer for Human Resources that neither they nor any member of the Shadow Executive has any objection to the making of the offer; or
 - (b) the Central Implementation Team lead officer for Human Resources has notified the Committee that no objections have been received by him/her within the period of the notice under paragraph 5.6 above; or
 - (c) the Committee is satisfied that any objection received from the Leader within the notice period is not material or is not well founded. In this regard, where necessary, the advice of the Monitoring Officer should be sought.
- 5.8 Where following the above procedure there are no objections to the proposed appointment or any objections are not up-held, the Committee will recommend that person for appointment at the next meeting of the full Shadow Authority or at a specially convened meeting of the Shadow Authority. If the Shadow Authority approve the recommendation, then a formal offer of appointment can be made.
- 5.9 Where following the interviews the Committee are of the view that there is no suitable candidate, it shall re-advertise the post.
- 5.10 Where the Shadow Authority do not approve the recommendation of the Committee, it shall indicate how it wishes to proceed.

6. Appointment of Monitoring Officer and section 151 Officer

6.1 The appointment of the Monitoring Officer and section 151 Officer for the Cumberland Council shall be undertaken following the procedure set out in paragraphs 5.2 to 5.7 above.

6.2 Where, following the above procedure, there are no objections to the proposed appointment or any objections are not upheld, the Committee will make a formal offer of appointment.

7 Appointment/dismissal of Interim/Acting/Permanent Head of Paid Service, Statutory Chief Officers, Non-Statutory Chief Officers and Deputy Chief Officers

7.1 The requirements of the Local Authorities (Standing Orders) (England) Regulations 2001 (“the Regulations”) and any other relevant legislation, guidance and terms will be followed in respect of those posts which fall within the definitions of Head of Paid Service, Statutory Chief Officers, Non-Statutory Chief Officers and Deputy Chief Officers.

8. Appointment/dismissal of other officers

Where any appointments are made to positions other than those referred to in paragraph 6 above, or where such persons are dismissed, these shall be the responsibility of the Head of Paid Service of the employing Council, or another officer to whom they have delegated that responsibility.

Part 5 – Code of Conduct, Member/Officer Protocol and other related provisions

CUMBERLAND SHADOW AUTHORITY MEMBERS' CODE OF CONDUCT

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

3. As a councillor:

- 3.1 I do not bully any person.
- 3.2 I do not harass any person.
- 3.3 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.

4. Impartiality of officers of the council

As a councillor:

- 4.1 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.

5. Confidentiality and access to information

As a councillor:

- 5.1 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.

- 5.2 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.

- 5.3 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.

6. Disrepute

As a councillor:

6.1 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.

7. Use of position

As a councillor:

7.1 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.

8. Use of local authority resources and facilities

As a councillor:

8.1 I do not misuse council resources.

8.2 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.

9. Complying with the Code of Conduct

As a Councillor:

9.1 I undertake Code of Conduct training provided by my local authority.

9.2 I cooperate with any Code of Conduct investigation and/or determination.

9.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

9.4 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

10. Interests

As a councillor:

10.1 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.

11. Gifts and hospitality

As a councillor:

- 11.1 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.
- 11.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.
- 11.3 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.

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

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

Integrity

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

Objectivity

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

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

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 1

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 **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 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	<p>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.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>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</p> <p>—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'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.</p>
Licenses	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor's knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(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.</p>

Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(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.</p>
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'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

Code and Protocol

Protocol on Shadow Member/Officer Relations

Introduction

- 1.1 The purpose of this Protocol is to guide Shadow Members and Officers of the Shadow Authority in their relations with one another.
- 1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise. It is hoped however that the approach which it adopts to these issues will serve as a guide to dealing with other issues.
- 1.3 This Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Shadow Members and Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and they therefore demand very high standards of personal conduct.
- 1.4 It is important that any dealings between Shadow Members and Officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.
- 1.5 In their dealings with one another Members and Officers should bear in mind the seven Nolan principles of public life:
 - Selflessness
 - Integrity
 - Objectivity
 - Accountability
 - Openness
 - Honesty
 - Leadership
- 1.6. The Standards Committee shall maintain oversight of this protocol as part of its work programme.

The Roles of Shadow Members and Officers

- 2.1 Both Shadow Members and Officers are servants of the public and they are indispensable to one another. However, their responsibilities are distinct.
- 2.2 Mutual respect between Shadow Members and Officers is essential to good local government. The best service will be provided to local people by Members and staff working as one team. Effective working relationships between Members and staff must be based on trust and mutual respect.
- 2.3. Both Members and staff have a duty to act in accordance with the Authority's ethical standards as set out in the adopted codes of conduct.

Shadow Members

2.4.1 Shadow Members are responsible to the electorate and serve only so long as their term of office lasts.

2.4.2 Shadow Members have some main areas of responsibility as follows:

- (a) Determining the policy of the Shadow Authority and giving it political leadership.
- (b) Monitoring and reviewing the performance of the Shadow Authority.
- (c) Representing the Shadow Authority externally.
- (d) Acting as advocates on behalf of their constituents. It is not the role of Shadow Members to involve themselves in the day to day management of the Shadow Authority.

Officers

2.5.1 Officers are responsible to the Shadow Authority. Officers are professional staff and together have expertise covering a wide range of areas. Their job is to give advice to Shadow Members and the Shadow Authority, and to carry out the Shadow Authority's work under the direction and control of the Shadow Authority, its Committees and Sub-Committees. Officers work to the instructions of Senior Officers and not to individual Shadow Members, whatever office the Member may hold.

2.5.2 The role of Officers is to give advice and information to Shadow Members and to implement the policies determined by the Shadow Authority. In giving such advice to Shadow Members, and in preparing and presenting reports, it is the responsibility of the Officer to express his/her own professional views and recommendations. Whilst an Officer may report the views of individual Shadow Members on an issue, if the Shadow Member wishes to express a contrary view they should not seek to pressure the Officer to make a recommendation contrary to the Officer's professional view.

2.5.3. The political impartiality of staff must be maintained and no member of staff shall be asked to work in such a way that they support any political group or movement, except for those officers appointed specifically as administrative support to a particular political group represented on the Authority. See also paragraph 5 below.

2.5.4. Certain officers e.g. Head of Paid Service, Monitoring Officer, Chief Finance Officer (Section 151 Officer) have responsibilities in law over and above their obligations to the authority and to individual Shadow Members. Shadow Members must respect these obligations, must not obstruct Officers in the discharge of these responsibilities and must not victimise Officers for discharging these responsibilities.

Expectations

2.6.1 Shadow Members can expect the following from Officers:

- (a) A commitment to the Shadow Authority as a whole, and not to any political group.

- (b) A working partnership.
- (c) An understanding by Officers that all Shadow Members have the same rights and obligations in their relationship with Officers and will be treated equally.
- (d) An understanding of and support for respective roles, workloads and pressures.
- (d) Timely response to enquiries and complaints.
- (e) Professional advice, not influenced by political views or preference.
- (f) Regular, up-to-date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold.
- (g) Awareness of and sensitivity and confidentiality in the political environment.
- (h) Respect, dignity and courtesy.
- (i) Training and development in order to carry out their role effectively.
- (j) Integrity, mutual support and appropriate confidentiality.
- (k) That Officers will not use their relationship with Shadow Members to advance their personal interests or to influence decisions improperly.
- (l) That Officers will at all times comply with the relevant Code of Conduct.
- (m) Not to be the subject of bullying or to be put under undue pressure.

2.6.2 Officers can expect the following from Shadow Members:

- (a) A working partnership.
- (b) An understanding of and support for respective roles, workloads and pressures (and in this regard Shadow Members are encouraged to make prior appointments to see Officers).
- (c) Political leadership and direction.
- (d) Respect, dignity and courtesy.
- (e) Respect for their professional advice.
- (f) Integrity, mutual support and appropriate confidentiality.
- (g) Not to be the subject of bullying or to be put under undue pressure.
- (h) That regard will be had by Shadow Members to the seniority of Officers in determining the reasonableness of requests and that Shadow Members will be mindful of the potential vulnerability of Officers at junior levels.

- (i) That Shadow Members will be aware that Officers cannot respond to personal criticism in the same way that Shadow Members can and that Shadow Members will make their comments accordingly, and will avoid intimidating Officers.
- (j) That Shadow Members will not use their position or relationship with Officers to advance their personal interests or those of others, or to influence decisions improperly.
- (k) That Shadow Members will at all times comply with the Cumberland Shadow Members' Code of Conduct.

Limitations upon Behaviour

2.7.1 The distinct roles of Shadow Members and Officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

- (a) Close personal familiarity between Shadow Members and Officers can confuse these separate roles. It can get in the way of the proper discharge of the Shadow Authority's functions, not least in creating the perception in others that a particular Shadow Member or Officer may secure advantageous treatment. It can also prove embarrassing to other Shadow Members and Officers.
- (b) The need to maintain the separate roles means that there are limits to the matters on which Shadow Members may seek the advice of Officers, both in relation to personal matters and party political issues.
- (c) Relationships with a particular individual or party group should not be such as to create public suspicion that an Officer favours that Shadow Member or group above others. The issue of Officer advice to party political groups is specifically covered below.

Executive Arrangements

- 3.1 The Shadow Authority has established a Shadow Executive which is the Shadow Authority's principal decision-making body.
- 3.2 Certain points must be clearly understood by Officers and Shadow Members:
 - (a) The Shadow Executive is the decision making body within the policy framework and budget set by the full Shadow Authority.
 - (b) The Shadow Executive takes most but not all the decisions. Some decisions are still taken by other committees or the Shadow Authority itself or by Officers.
 - (c) Meetings of the Shadow Executive are open to the public, except where confidential matters are to be discussed. Minutes of meetings will be available for public inspection.
- 3.3 The Shadow Authority has also established an Overview and Scrutiny Committee to scrutinise the work of the Shadow Executive Committee. Officers and Shadow Members must recognise, when giving information and advice to the Overview and Scrutiny Committee, that Officers are responsible to the Shadow Authority as a whole.

Officer advice to Party Groups

- 4.1 There is statutory recognition of party groups. In accordance with common practice, such groups may give preliminary consideration to matters of Shadow Authority business in advance of such matters being considered by the relevant Shadow Authority decision-making body. Officers may properly be called upon to support such deliberations by party groups.
- 4.2 The support provided by Officers can take many forms, ranging from a briefing meeting with a Chairperson or Spokesperson prior to a Committee meeting, to a presentation to a full party group meeting. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Shadow Authority, such support is available to all party groups.
- 4.3 Certain points must however be clearly understood by all those participating in this type of process, Shadow Members and Officers alike. In particular:
 - (a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Shadow Authority business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of party business are to be discussed.
 - (b) Although party group meetings may form part of the preliminaries to Shadow Authority decision making, they are not empowered to make decisions on behalf of the Shadow Authority. Conclusions reached at such meetings do not thereafter rank as Shadow Authority decisions and it is essential that they are not interpreted or acted upon as such.
 - (c) Similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Shadow Authority business, this cannot act as a substitute for providing all necessary information and advice to the relevant Shadow Authority meeting, Committee or Sub-Committee when the matter in question is considered.
- 4.4 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not members of the Shadow Authority. Such persons will not be bound by the Code of Conduct for Shadow Members (in particular, the provisions concerning the declaration of interests and confidentiality). For this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Shadow Members only meeting.
- 4.5 If there are individuals present at a party group meeting (see 4.4 above) who are not members of the shadow authority and are not therefore bound by this code, the meeting organiser shall make clear to the Officer(s) concerned.
- 4.6 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group or anyone outside that group.
- 4.7 Any particular cases of difficulty or uncertainty concerning Officer support to party groups, should be raised with the Chief Executive who will discuss the matter with the relevant group leader(s).

Shadow Members' access to information and to Shadow Authority documents

- 5.1 Shadow Members are free to approach any officer of the Shadow Authority to provide them with such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as members of the Shadow Authority. This can range from a request for general information about some aspect of the work of the Shadow Authority to a request for specific information on behalf of a constituent. Such approaches should be directed to the relevant Chief Officer or Head of Service in the first instance.
- 5.2 As regards the legal rights of Shadow Members to inspect Shadow Authority documents, these are covered partly by statute and partly by the common law.
- 5.3 Shadow Members have a statutory right to inspect any Shadow Authority document which contains material relating to any business which is to be transacted at a Shadow Authority, Committee or Sub-committee meeting.

This right applies irrespective of whether the Shadow Member is a member of the Committee or Sub-Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers.

This right does not however apply to documents relating to certain items which may appear on the private agenda for meetings. The type of information that would be contained within a private meeting agenda would for example be exempt information, such as information relating to employees, contract and industrial relations negotiations, legal advice and criminal investigations.

- 5.4 The common law right of Shadow Members is much broader and is based on the principle that any Shadow Member has a prima facie right to inspect Shadow Authority documents so far as access to the documents is reasonably necessary to enable the Shadow Member properly to perform their duties as a member of the Shadow Authority. This principle is commonly referred to as the "need to know" principle.
- 5.5 The exercise of this common law right depends therefore upon the Shadow Member's ability to demonstrate that they have the necessary "need to know". In this respect a Shadow Member has no right to "a roving commission" to go and examine documents of the Shadow Authority. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must initially be determined by the relevant Chief Officer with advice from Monitoring Officer. In the event of a dispute, the question falls to be determined by the Chief Executive, having consulted with an Independent Person appointed pursuant to the Localism Act.
- 5.6 In most circumstances (e.g. a Committee member wishing to inspect documents relating to the functions of that Committee) a Shadow Member's "need to know" will normally be presumed. In other circumstances (e.g. a member wishing to inspect documents which contain personal information about third parties) a Shadow Member will normally be expected to justify the request in specific terms.
- 5.7 Whilst the term "Shadow Authority document" is very broad and includes, for example, any document produced with Shadow Authority resources, it is accepted by convention that a member of one party group will not have a "need to know", and therefore a right

to inspect, a document which forms part of the internal workings of another party group. This does not apply to documents in draft.

- 5.8 Further and more detailed advice regarding Shadow Members' rights to inspect Shadow Authority documents may be obtained from the Monitoring Officer.
- 5.9 Finally, any Shadow Authority information provided to a Shadow Member must only be used by the Shadow Member for the purpose for which it was provided i.e. in connection with the proper performance of the Shadow Member's duties as a member of the Shadow Authority.

Officer/Chairperson/Member of the Shadow Executive Relationships

- 6.1 It is clearly important that there should be a close working relationship between Members of the Shadow Executive, Chairs of Committees, and relevant senior Officers. However, such Shadow Members must still respect the impartiality of Officers and such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Shadow Members and other party groups.
- 6.2 Whilst the Leader, Chair of a Committee (or Sub-Committee) or a Shadow Executive Member will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in some situations statutory Chief Officers and other senior Officers will be under a duty to submit a report on a particular matter. An Officer will always be fully responsible for the contents of any report submitted in his/her name. Any issues arising between a Chair or a Cabinet Member and an Officer in this area should be referred to the Chief Executive for resolution.
- 6.3 Finally, it must be remembered that Officers are accountable to their Chief Officer and that whilst Officers should always seek to assist a Chair or a Shadow Executive Member (or indeed any Shadow Member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Chief Officer or in the case of Officers exercising delegated powers, the Shadow Authority.

Correspondence

- 7.1 Correspondence between an individual Shadow Member and an Officer should not normally be copied (by the Officer) to any other Shadow Member. Where exceptionally it is necessary to copy the correspondence to another Shadow Member, this should be made clear to the original Shadow Member. In other words, a system of "silent copies" should not be employed.
- 7.2 Official letters on behalf of the Shadow Authority should normally be sent out in the name of the appropriate Officer, rather than in the name of a Shadow Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister or where a specific delegation applies) for a letter to be sent in the name of a Shadow Member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Shadow Authority should not normally be sent out in the name of a Shadow Member.

Public Relations

- 8.1 Both Officers and Shadow Members should follow the Code of Recommended Practice on Local Authority Publicity particularly when issuing press releases.

Code and Protocol

Politically Restricted Posts - Cumberland Shadow Authority

The main provisions regarding Politically Restricted Posts are set out in Part 1 of the Local Government and Housing Act 1989. Further details were set out in the Local Government (Political Restrictions) Regulations 1990.

The effect of including a local authority employee on the list of “politically restricted posts” is to prevent that individual from having any active political role either in or outside the workplace. Politically restricted employees will automatically be disqualified from standing for or holding elected office and these restrictions are incorporated as terms in the employee’s contract of employment.

Employees are also restricted from:-

- Canvassing on behalf of a political party or a person who is or seeks to be a candidate; and
- Speaking to the public at large or publishing any written or artistic work that could give the impression that they are advocating support for a political party.

The cumulative effect of these restrictions is to limit the holders of Politically Restricted Posts to bare membership of political parties, with no active participation within the party permitted.

Each local authority is under a duty to draw-up and regularly update a list of those posts which are politically restricted.

The Local Democracy, Economic Development and Construction Act 2009 modified the previous scheme.

With effect from 12 January 2010 politically restricted posts fall into two broad categories: specified posts and “sensitive” posts.

Specified posts

Specified posts include:-

- The Head of Paid Service
- The statutory chief officers
- Non-statutory chief officers (officers reporting to the Head of Paid Service excluding secretarial/clerical support staff)
- The Monitoring Officer
- Officers exercising delegated powers i.e. persons whose posts are for the time being specified by the authority in a list maintained in accordance with s.100G(2) of the Local Government Act 1972
- Assistants to political groups

All of the above-mentioned posts are politically restricted without rights of appeal for exemption to the local authority’s Standards Committee.

“Sensitive” posts

A sensitive post is one which meets one or both of the following duties-related criteria:-

- Giving advice on a regular basis to the authority itself, to any committee or sub-committee of the authority or to any joint committee on which the authority is represented; and
- Speaking on behalf of the authority on a regular basis to journalists or broadcasters.

These postholders can appeal to the local Standards Committee to be exempted from the list, on the grounds that the authority has wrongly applied the criteria.

The right of appeal to the local Standards Committee was introduced under the Local Government and Public Involvement in Health Act 2007.

Appeal Process

Employees included on the list compiled by the local authority on duties-related grounds (“sensitive” posts) can appeal against their inclusion, if they feel that they cannot influence policy, or that the local authority has incorrectly applied the duties-related criteria.

All such appeals require a letter from the applicant formally seeking exemption and a full job description of the post.

The letter should be submitted to the authority’s local Monitoring Officer (or his/her Deputy) with a copy lodged with the authority’s Human Resources Service.

The local Monitoring Officer (or their Deputy) will ensure that the appeal is tabled at a special meeting of a Panel of 3 Standards Committee members; membership of the Panel shall be drawn from the full or substitute membership of the local Standards Committee.

The applicant shall have the right to address the Panel when they are determining the appeal and submit any written testimony or evidence ahead of the meeting. Any written documentation must be provided to the local Monitoring Officer at least 5 working days prior to the Panel meeting for distribution to Panel members.

The Panel shall determine the appeal. The outcome of the appeal shall be communicated in writing to the applicant within 5 working days of the determination.

If the appeal is unsuccessful the applicant may not lodge a further appeal within a period of 12 calendar months unless their substantive job description has been amended significantly in the interim.

If the appeal is successful the authority shall immediately remove the post from the designated “sensitive” post list. The authority may not re-instate the post on the list unless there is a significant amendment to the substantive job description of the post.

Part 6 – Members’ Allowances Scheme

TO BE INCLUDED

Part 7 – Glossary

Articles	The basic rules governing the Shadow Authority's business, which cannot be suspended.
Budget/ Budget framework	<p>The framework developed by the Shadow Authority which identifies all the financial resources allocated to different services and projects for Cumberland Council.</p> <p>The agreed budget levels for each year from 1 April 2023 form a framework for expenditure which until 1 April 2023 only the Shadow Authority can alter and from 1 April 2023 only the full Council of Cumberland Council can alter.</p>
Call-in	A mechanism, which allows Overview & Scrutiny Committees to examine, and challenge, an Executive decision before it is implemented.
Chief Finance Officer	The officer responsible for the administration of the financial affairs of the Shadow Authority in accordance with section 151 of the Local Government Act 1972. This applies to both the interim and permanent appointments to the role.
Chief Officers	The officers appointed to the roles of Head of Paid Service, Chief Finance Officer and Monitoring Officer on an interim and permanent basis.
Committee/Sub-Committee	<p>A group of members appointed by the Shadow Authority to undertake tasks allocated to it under the articles</p> <p>of this constitution or by direct instruction of the Shadow Authority. Decisions are taken collectively by majority present at a meeting.</p>

Confidential Information	Information either given to the Shadow Authority on terms which forbid its public disclosure or which cannot be publicly disclosed by Court Order.
Constitution	The document setting out how the Shadow Authority operates, how decisions are made and all the procedures that have to be followed.
Co-optee/Co-opted	A non-voting, non-Councillor appointed to serve on a Committee/Sub-Committee in an advisory capacity.
Councillors/Members	A person elected by their local community to represent them. Each Councillor represents a ward from the fourth day after the elections to the Shadow Authority on 5 May 2022 until the fourth day after the elections to Cumberland Council Council in 2027.
Council	The collective term for all councillors who are members of the Shadow Authority.
Executive	Term used to describe the collective role of the Leader, & those individual Members appointed by the Leader who together carry out those functions which are not reserved to the Shadow Authority.
Exempt Information	Information falling into a category set out in Schedule 12A to the Local Government Act 1972 which usually cannot be publicly disclosed – see the Access to Information Procedure Rules.
Forward Plan	A schedule of all the Key Decisions the Shadow Executive expects to take over the next four months.
Governance	The collective terms used to describe the process of continuous monitoring of the implementation of policies and practices that ensure the good management of the Council.
Head of Paid Service	The officer designated as head of paid service in accordance with section 4 of the Local Government and Housing Act 1989; also known as the Chief Executive. This

	applies to both the interim and permanent appointments to the role.
Key Decision	A decision by the Shadow Executive or Shadow Executive Member, which is likely either to incur significant expenditure/make significant savings or to have a significant impact on local communities.
Leader	A Councillor that is elected by the Shadow Authority as leader of the Authority and who will chair the Shadow Executive
Main Office	The address of the main office of the Shadow Authority as stated on the Shadow Authority's website
Monitoring Officer	The officer designated as monitoring officer in accordance with section 5 of the Local Government and Housing Act 1989. This applies to both the interim and permanent appointments to the role.
Officer	Any officer of Allerdale Borough Council, Barrow-in-Furness Borough Council, Carlisle City Council, Copeland Borough Council, Eden District Council, South Lakeland District Council or Cumbria County Council
Overview & Scrutiny	A committee of Members, appointed by the Shadow Authority, which has responsibility for providing support and advice to the Shadow Executive by contributing to the review and development of policy; and holding the Shadow Executive to account by questioning, challenging and monitoring their performance.
Policy Framework	The plans and strategies, which have to be adopted by the Shadow Authority and in accordance with which the Shadow Executive has to operate.
Portfolio/Portfolio Holder	<p>Pursuant to delegations from the Leader:</p> <p>A group of functions for which a member of the Shadow Executive has responsibility for decision making and affecting use of Shadow Authority resources.</p> <p>A member of the Shadow Executive who has collective and individual decision making</p>

	powers for a number of Council services and sections.
Procedure Rules	Detailed rules, which govern how the Shadow Authority operates and how decisions are taken.
Proper Officer	An Officer appointed to undertake a statutory function, can be a different person for each function. Often the Chief Executive or Monitoring Officer.
Quorum	The minimum number of people who have to be present before a meeting can take place.
Senior Appointments Panel	A committee of the Shadow Authority with responsibility for recommending to the Shadow Authority suitable candidates for appointment to identified senior posts.
Shadow Executive	Portfolio-holding Members of the Shadow Authority, including the Leader, who are responsible for carrying out almost all of the local authority's functions.
Standards Committee	A Committee responsible for promoting and maintaining high standards of conduct by Councillors and considers written allegations that a Councillor has failed to comply with their Code of Conduct.
Virement	Moving funds from one area of expenditure to another.

CUMBERLAND JOINT COMMITTEE

Item
A.3

Meeting date: 14 April 2022

Report of: Linda Fisher, Monitoring Officer and Technical Lead, Legal and Democratic Workstream

Subject: Civic and Ceremonial Matters

1.0 SUMMARY:

1.1 This report informs Members about the work currently being undertaken in respect of civic and ceremonial matters and updates on the timetable for the Consequential Matters Order to implement the establishment of Charter Trustees to preserve the Civic and Ceremonial Rights of the existing Councils.

2.0 RECOMMENDATIONS:

2.1 That the Joint Committee note the work being undertaken and timings provided by the Department for Levelling Up, Housing and Communities (DLUHC) in respect of the Consequential Matters Order.

3.0 BACKGROUND, INTRODUCTION AND CONSIDERATIONS:

3.1 The Cumbria (Structural Changes) Order 2022 (SCO) which came into force on 18 March 2022 sets out the main provisions governing the administrative reorganisation of the seven Cumbrian Councils. Members will be aware that the seven Councils will cease to exist and be replaced by two new unitary councils on 1 April 2023.

3.2 Arising from the closure of the councils there are many matters relating to Civic and Ceremonial affairs that arise, some of which are dealt with in the SCO and others which will need further attention including, in some cases, further legislative provision, known as “mopping up” or Consequential Matters Orders. This is not an unusual approach and research has shown that in respect of previous local government reorganisations there were also Consequential Matters Orders. These allow the sovereign councils to work together and establish those matters, particular to their communities, that need to be dealt with and addressed via a legislative process. It covers many locally specific matters, not just those of a Civic and Ceremonial nature.

3.3 Those Civic and Ceremonial matters which are provided for in the SCO, so will be dealt with and not require further intervention, include:

3.3.1 The High Sherriff and Lord Lieutenant – Articles 28 and 29 of the SCO, amend the relevant legislation that governs the areas for the purposes of lieutenancies and the sheriffs. The area of “Cumbria” is to comprise the local government areas of “Cumberland” and “Westmorland and Furness”.

This means that the High Sheriff and Lord Lieutenant for Cumbria will from 1 April 2023 preside over both new unitary councils as one single area, which will continue to be known as Cumbria. The issues that will need exploring further in relation to these ceremonial posts are:

- The arrangements for hosting and clerking of the Lord Lieutenant. This function is currently carried out by the Chief Executive of Cumbria County Council. Options are being explored for possible models, it is likely that either Cumberland or Westmorland and Furness will need to host and clerk the service.
- The appointment of the new Lord Lieutenant. Her current term of office expires in June 2023 and a process of appointing a replacement will commence in autumn 2022.
- No consideration or action is needed in respect of the High Sheriff as these are appointed by the central government appointments committee on an annual basis and the appointments for the next three years are already determined.

3.4 Other civic and ceremonial matters, however, are not covered in the SCO and will need addressing by way of further legislation. Assurance has been given by the civil servants that DLUHC will be including these within a Consequential Matters Order for Cumbria. The timetable which has been provided for this is that they will engage with the relevant officers in the respective councils between now and autumn 2022 with the intention of laying further legislation for parliamentary approval at the start of 2023.

3.5 This report illustrates examples of the traditions that it is anticipated each council may wish to preserve and outlines the options available to secure the continuation of these matters, the legal basis, the associated issues and consequential (or other) arrangements that will need to be put in place. Although not exhaustive, examples of Civic and Ceremonial Rights, Privileges, Property and Insignia requiring Retention includes:

- The Mayoralty for those councils which are set to be abolished
- Hereditary and Honorary Freemen, Aldermen and Recorders
- Ancient Market and Fishing Charters
- Armorial Bearings
- Civic and Ceremonial Property and Regalia (including robes, chains, badges of office, maces, swords, plate, books, oars, wands, banners, staves, goblet and halberds) and the varying arrangements with museums in operation throughout Cumbria.

3.6 Mayoralty:

3.6.1 The Mayoralty is an important and respected role in the history of the Cumbrian Cities, towns and boroughs. Cumbria has the following Mayors within the Cumberland area whom residents view as a figurehead for community engagement, fund raising and civic pride. Their continuation will be important in supporting the acceptability of change, maintaining and developing positive contact with the community and retaining a sense of local identity. The majority of Mayors are Mayors of Town Councils which

will remain unchanged, we have identified only the Mayor of Carlisle, which is an unparished area, as needing to be addressed:

3.6.2 City Mayor

- Carlisle

Borough Mayors

- Allerdale

Towns Mayors

- Aspatria
- Cockermouth
- Maryport
- Millom
- Silloth
- Whitehaven
- Wigton
- Workington

3.6.3 Where areas are already parished, the Mayoralty will remain with the Town or Parish, be preserved and no changes will be needed. In unparished areas, there are two options available for ensuring that these traditions are respected and maintained for future generations; the establishment of Charter Trustees or a Community Governance Review to create a Parish Council.

3.7 Charter Trustees

3.7.1 Charter trustees are established under the Local Government Act 1972 and are given effect to by further legislation (the Consequential Order) in local government reorganisation for towns and cities which have a Royal Charter but which will otherwise lose their status as local government entities following local government restructures.

3.7.2 Charter Trustees are a representative body consisting of Members who are elected to represent the area where the ceremonial rights and privileges are to be preserved.

3.7.3 In order to preserve the current Mayoralty, together with the Civic and Ceremonial Rights, Privileges, Property and Insignia, Carlisle City Council has formally resolved to support the establishment of Charter Trustees and officers have requested that DLUHC include the necessary provisions in the Consequential Matters Order in respect of each mayoral area which is unparished. This action will also preserve the City Status of Carlisle.

3.7.4 Charter Trustees would therefore comprise the councillors elected and representing those wards in Carlisle which are covered by the respective Trustee area.

- 3.7.5** The functions of a Charter Trustee are limited to preserving (including the insurance of) historic property, privileges, rights and traditions presently enjoyed by a local authority which is to be abolished.
- 3.7.6** “Historic property” means any charter, insignia, plate or other property which is of an historic and ceremonial nature, held by a relevant council, other than land and buildings or any property held for the purposes of any statutory function. A full inventory is being compiled of all the historic and ceremonial assets owned by the relevant Cumberland councils. It should be noted that ‘preserving’ historic property includes arranging insurance.
- 3.7.7** Charter Trustees are not permitted to administer mayoral charities and cannot fulfil a twinning role.
- 3.7.8** Charter Trustees cannot be wound up at a later stage. They only cease if their privileges and rights are transferred to a parish or town council which could follow a Community Governance Review.

3.9 Community Governance Reviews

- 3.9.1** Under the Local Government and Public Involvement in Health Act 2007, a principal council in England may undertake a Community Governance Review (‘CGR’), either on its own initiative or in response to a petition from local electors.
- 3.9.2** The CGR examines whether one or more parishes should be created, divided, merged or abolished in order to ensure that local government arrangements are ‘effective and convenient and ‘reflect the identities and interests of the community in that area’. The new parish may be able to have a parish council if there are sufficient electors in its area, which council will be able to style itself as a parish, town, community or city council.
- 3.9.3** Community Governance Reviews are currently underway in Allerdale and Carlisle. The Structural Changes Order contains provisions to enable the Shadow Authority to commence or continue from any stage that the CGR has reached.
- 3.9.4** Carlisle is currently undergoing a CGR of its Stanwix Urban area in response to a petition. It has completed the first consultation and is in the process of drawing up recommendations for further consultation. It is expected to be in a position to take a report to full Council in September, which will then need to go to the Shadow Authority before an Order is made.
- 3.9.5** Carlisle has not yet begun a CGR of the remaining unparished urban area as it has not been compelled to do so by a petition and its Members resolved that a decision to do so should properly be the responsibility of the new Cumberland Council. If that new authority determines to proceed with a CGR, and creates a new parish council, it is proposed that that body will take over from the Charter Trustees.

3.9.6 Allerdale has also received a CGR petition requesting that a parish council be established for Flimby, which is currently a ward of Maryport Town Council. Council agreed the terms of reference of the CGR which includes a review of the whole Maryport Town Council area. The start of the review was postponed because of the pandemic, however, it is due to be completed during 2022 and any changes will be implemented at the 2023 parish council ordinary elections.

3.9.7 Unlike Charter Trustees, parish and town councils are permitted to administer charities and can fulfil a twinning role.

3.10 Freedoms and Honours

3.10.1 There are two types of freedom – hereditary freedoms and honorary freedoms.

3.10.2 Hereditary Freedom is granted to descendants of freemen of a city or town who will benefit from certain privileges and rights, although most of those rights and privileges have now been ended by statute. Freemen were mostly tradesmen or craftsmen belonging to one of the guilds. In Carlisle, four Guilds remain and continue to hold an annual meeting in the city's Guildhall on Ascension Day. The tradition of admission to the Ancient Freeman Rolls is maintained by Carlisle City Council. It is proposed that this should be continued by the Charter Trustees for Carlisle once established.

3.10.3 Honorary Freedom (and honorary Alderman) is different from the status of hereditary freeman. It is purely honorary in nature and confers no rights on the person so recognised. All principal councils, parish and community councils, and Charter Trustees in England may confer the title on persons of distinction or who have rendered eminent services to the local area.

3.10.4 The Local Government (Structural Changes) (Transitional Arrangements) No2 Regulations 2003 provide that, after reorganisation, honorary freemen will continue to be freemen of an area corresponding to the area of which they were freemen prior to the reorganisation. Further, the Regulations preserve the rights of honorary freemen and ensure that services rendered to an abolished council can be treated as services rendered to the continuing or new council.

3.10.5 It is proposed that honorary freedoms and aldermen are awarded going forward by the existing town councils and by the new Charter Trustees in Carlisle.

3.10.6 Similarly, the title of honorary recorder is awarded by a borough council to a judge who sits at the Crown Court within their domain. It is intended to mark the link between the administration and judiciary. Conventionally the title is bestowed upon the resident judge, who is appointed by the Lord Chief Justice to be the most senior circuit judge sitting at that Crown Court. Under the power derived from section 54 of the Courts Act 1971, preserved on previous local government reorganisations by sections 245 and 246 of the

Local Government Act 1972, Carlisle City Council has continued the practice of appointing an honorary recorder.

3.10.7 It is proposed that the appointment of honorary recorder will be carried out by the Charter Trustees in Carlisle.

3.11 Armorial Bearings

3.11.1 Carlisle City Council is authorised by the Local Authorities (Armorial Bearings) Order 1974 to hold armorial bearings, part of which is the City Crest. Carlisle is the only one of the outgoing councils named in the 1974 Order and is likely to lose its Armorial Bearings if no action is taken to preserve the same.

3.11.2 It is possible to transfer Armorial Bearings to another named authority upon submission of a petition and payment of a fee. Enquiries have been made of the College of Arms as to the procedure for doing so and the level of fee and a report will be taken to Carlisle City Council, as the principal authority, seeking authority for officers to take the steps to transfer the Armorial Bearings to either the Charter Trustees or the Cumberland Council.

3.12 Ceremonial and Historic Property, Civic Regalia and Charters

3.12.1 Civic and Ceremonial Regalia and property are those chattels and property which are not held for the purpose of any statutory function. This includes such items as robes, chains and badges of office, medallions, ceremonial collar, brooches, pendants, Mayor's jewel with coat of arms, maces, swords, plate, goblet and books. It also includes Royal Charters.

3.12.2 There are different arrangements on the part of the respective authorities for their insignia and regalia. Some is held by the authorities within their civic buildings. Others are on public display. Examples include an arrangement with the Beacon Museum in Copeland and Tullie House in Carlisle. A full list of items is being compiled and research and investigation is ongoing to determine the nature of contractual arrangements with museums. Such property may transfer to the new authority or to existing town and parish councils, or to the Charter Trustees and contractual arrangements may transfer by operation of law to the new authority or by novation or assignment to existing town and parish councils or to Charter Trustees. Recommendations will be brought forward once the aforementioned research and investigation is complete.

3.12.3 Carlisle holds two Royal Charters, granting rights in respect of fishing and the holding of a market. Civil servants at DLUHC have been asked to ensure that the Consequential Matters Order specifically preserves these rights and it is intended that the rights will, therefore, transfer to the new Cumberland Council.

3.13 Town Twinning

3.13.1 The table below sets out the various twinning arrangements operated throughout the county. Although several towns and boroughs operate twinning arrangements, it is only Carlisle City Council which is set to be abolished following reorganisation and, accordingly, thought needs to be given as to how its twinning arrangements with Slupsk and Flensburg will operate going forward.

Town	Twinned with	Administered by
Carlisle	Flensburg, Germany Slupsk, Poland	Carlisle City Council
Brampton	Marmagne, Cher and Berry-Bouy (as a single town), France	Brampton & District Town Twinning Association
Cockermouth	Marvejols, France	Cockermouth Town Council
Workington	Selm, Germany Val de Reuil, France	Workington Town Council

3.13.2 Town Twinning is a function which originates from the post-war period to foster friendship and understanding throughout Europe and, latterly, the world. Local Authorities are able to participate in twinning arrangements by virtue of the Local Government (Overseas Assistance) Act 1993. It is not possible to transfer the twinning function to Charter Trustees, whose functions are set out in the Charter Trustee Regulations 2009 and, therefore, it is proposed that the function shall transfer to the new authority.

4.0 OPTIONS, INCLUDING ALTERNATIVES (IF ANY)

4.1 The report sets out the various approaches which are proposed in relation to the different matters. It is important that action is taken so that historic rights and privileges are not lost.

4.2 The report is for noting at this stage and further reports will be brought to the Shadow Authority or Principal Councils as appropriate.

5.0 IMPLICATIONS:

5.1 Financial:

5.1.1 There are no direct financial implications from this report as it is for noting. As part of the overall disaggregation and aggregation of revenue budgets process the associated existing revenue budgets available to support the Lord Lieutenant will be identified and transferred as appropriate. This will also be the case for any revenue budgets available to support Mayors. In addition the ceremonial and historic property and civic regalia will transfer as determined through the disaggregation of assets and liabilities process and in accordance with the Shadow Authorities decisions.

5.1.2 Where required the financial implications from future decisions by the Shadow Authorities in respect of the Community Governance Review will be reflected in the development of the relevant Unitary Authorities revenue budgets and Medium Term Financial planning.

5.2 Staffing:

5.2.1 There are no direct implications associated with this report, aside from a decision will need to be made by the Shadow Authority in respect of the hosting and the appointment of the clerk to the Lord Lieutenant.

5.3 Legal:

5.3.1 The Joint Committee has within its Terms of Reference the requirement to oversee the smooth transition of all matters Civic and Ceremonial.

5.3.2 The Cumbria (Structural Changes) Order 2022 – articles 28 and 29 amend the Lieutenancies Act 1997 and the Sheriffs Act 1887 to transfer the relevant geographical area from Cumbria to Cumberland, Westmorland and Furness for both the High Sheriff and the Lords-Lieutenant.

5.3.3 In the absence of further action, those areas without a parish may lose important historic rights as set out in this report. Accordingly, as the report makes clear, it has been agreed that the Consequential Matters Order will include provisions to establish Charter Trustees and preserve ancient charter rights.

5.4 Information Governance:

5.4.1 There are no direct Information Governance implications associated with this report

5.5 Health And Sustainability Impact:

5.5.1 There are no direct implications associated with this report.

5.6 Equality And Diversity Impact:

5.6.1 There are no direct implications associated with this report.

6.0 RISKS:

6.1 If action is not taken, there is a risk that the civic and ceremonial rights outlined in this report will cease on 31 March 2023. The report sets out the action which is proposed to ensure that these rights are not lost.

7.0 CONCLUSION:

7.1 This report updates members on civic and ceremonial matters affecting the transfer of functions between the predecessor and new councils which will take effect from 1 April 2023.

Report Authors

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Appendices

No Appendices.

CUMBERLAND COUNCIL

Item
A.4

Meeting date: 14 April 2022

Report of: LGR Independent Remuneration Panel

Subject: Members' Allowances - IRP Recommendations

1.0 SUMMARY:

1.1 The Member Allowances Working Group were tasked with convening an LGR Independent Remuneration Panel (IRP) and facilitating the Panel in order to support and assist in their deliberations to propose recommendations for a Scheme of Member Allowances for the Cumberland Shadow Authority and the Westmorland and Furness Shadow Authority.

1.2 It was agreed that one scheme would be produced for both Cumberland and Westmorland and Furness Joint Committees for recommendation to, and separate adoption by, the two Shadow Authorities.

2.0 RECOMMENDATION:

2.1 It is recommended that the Cumberland Joint Committee:-

- 1. Note the attached report;**
- 2. Accept the recommendations of the Independent Remuneration Panel and the Scheme of Member Allowances which it has proposed (Appendix 1); and**
- 3. Recommend to the Cumberland Shadow Authority at its inaugural meeting that the proposed Scheme be adopted.**

3.0 BACKGROUND, INTRODUCTION AND CONSIDERATIONS:

3.1 The Cumbria (Structural Changes) Order 2022 provides that the Cumberland Council Shadow Authority must prepare and adopt a scheme for the payment of allowances to its Members. It also provides that the Local Authorities (Members' Allowances) (England) Regulations 2003 apply in relation to the Shadow Authority.

3.2 The 2003 Regulations provide that before an authority makes a scheme for Members' allowances it shall have regard to the recommendations made by an Independent Remuneration Panel.

3.3 An experienced Independent Remuneration Panel, representing all 7 councils and consisting of six members who had previously taken on the role at the existing borough and county councils, have held a scheduled series of meetings to consider a Member Allowance scheme for the new Cumberland Council.

- 3.4** To assist with their deliberations, the IRP were sent a briefing pack in advance of their first meeting, and were supplied with details of the existing District and County members' allowance schemes and also the schemes of four Unitary Councils who have in recent years also been through an LGR process. The Panel was facilitated by two Democratic Services officers from the LGR Legal/Dem Services, Member Allowances working group
- 3.5** From the discussions the IRP members held, they were confident their approach of one Member Allowance scheme was appropriate and a good starting position for both new Shadow Authorities of Cumberland and Westmorland and Furness. The IRP were also aware that the Shadow Authorities would (during Q3 of 2022) be appointing their own IRP to review the allowances for 2023-24 in readiness for the two new unitary councils at vesting day, April 2023.
- 3.6** Having considered both the information made available and having regard for the number of newly elected Members forming the Cumberland Shadow Authority, the IRP decided and agreed that North Northamptonshire Council was of a comparable size in terms of Member ratio to constituents and therefore their Member Allowance scheme was used as a guide.
- 3.7** The Member Allowance Scheme (appendix 1) proposed and recommended to the Cumberland Joint Committee will also be the scheme proposed to the Westmorland and Furness Joint Committee in line with the IRP agreed principal of one scheme being drawn up to be put forward to each Shadow Authorities. Although the two Shadow Authorities may vary in Member size, the duties, responsibilities and work to be undertaken by both is the same as prescribed within section 3 of the Cumbria Structural Changes Order 2022, Part 3, Shadow Authorities.
- 3.8** The Panel also considered the prospective work and duties of the Shadow Authority in the period to 31 March 2023, in particular the non-delivery of council services, the lack of case work and the limited number of committees and panels which would be formed which in turn will reduce the number of meetings held for Members to attend. The IRP was also cognisant that during the "Shadow" year the newly elected Members of the Authority would still have County and District Councillors to respond to ward and constituent matters arising from 05 May 2022 to 31 March 2023.
- 3.9** It further reasoned that during this time (5th May 2022 to 31st March 2023) the Members' Basic and Special Responsibility Allowances should be paid at 50% of that proposed for the Cumberland Council post vesting day at which point full responsibilities from the sovereign councils are transferred. It was noted that this was an approach adopted by North Northants Shadow Authority and the Panel agreed in this approach based on rationale outlined above in 3.7 and 3.8.
- 3.10** Members of the Joint Committee should note that it is very likely that the Shadow Authority for Cumberland will establish its own Independent Remuneration Panel to work on a bespoke allowances scheme for post vesting day.

4.0 OPTIONS, INCLUDING ALTERNATIVES (IF ANY)

- 4.1** Option 1 – The Committee could agree the Scheme of Members' Allowances and recommend approval by the Cumberland Shadow Authority.
- 4.2** Option 2 – The Committee could partially agree with aspects of the Member Allowances scheme and suggest amendments to other aspects for either changing / inclusion or recommendation to the Cumberland Shadow Authority alongside the IRP report.
- 4.3** Option 3 – The Committee could, having taken note of the IRP report, suggest an alternative scheme for the Cumberland Shadow Authority to consider.

5.0 IMPLICATIONS:

5.1 Financial and Procurement:

- 5.1.1** It is intended that allowances for newly elected Members of the Shadow Authority will be financed from the established LGR Implementation Reserve which is being centrally administered and controlled by Cumbria County Council.
- 5.1.2** Existing sovereign council Finance systems currently utilised for Member Allowances' payments will be utilised in the same way as a mechanism for Shadow Authority Member allowance payments in order to avoid incurring any unnecessary or additional processing costs, and to keep the process simplified.

5.2 Staffing:

- 5.2.1** Administration of the Members' Allowance Scheme will be supported by Democratic Service Officers from the District Councils within the Cumberland authority area.
- 5.2.2** It is agreed that each sovereign council, through their own Democratic Services as a point of contact, will be responsible for capturing and calculating the monthly allowance and permissible expenses of each Member elected by virtue of a seat allocated to the sovereign council: Allerdale BC 16 Members, Carlisle City 18, Copeland BC 12

5.3 Legal:

- 5.3.1** The Cumbria (Structural Changes) Order 2022 provides that the Cumberland Council Shadow Authority must prepare and adopt a scheme for the payment of allowances to its Members. It also provides that the Local Authorities (Members' Allowances) (England) Regulations 2003 apply in relation to the shadow authority.
- 5.3.2** The 2003 Regulations provide that before an authority makes a scheme for Members' allowances it shall have regard to the recommendations made by the IRP. The regulations provide that an IRP must consist of at least three

members, none of whom are a Member of the authority in respect of which it makes recommendations or are disqualified from becoming a Member of such authority.

5.4 Information Governance:

5.4.1 There are no direct information governance implications associated with this report.

6.0 HEALTH AND SUSTAINABILITY IMPACT:

6.1 The proposals have no health and sustainability impacts and so no assessment of the health and sustainability impact of the proposal has been carried out.

6.2 EQUALITY AND DIVERSITY IMPACT:

6.3 No equality and diversity impact assessment of the proposal has been carried out.

7.0 RISKS:

7.1 Failure to endorse the IRP report may not enable the Joint Committee to make recommendations to the Shadow Authority at its first meeting.

8.0 CONCLUSION:

8.1 The Independent Remuneration Panel have proposed a Scheme of Members' Allowances for the Cumberland Joint Committee to consider before it is presented at the second meeting of the Cumberland Shadow Authority.

Report Authors –

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APPENDICES

Appendix 1 – Independent Remuneration Panel's Proposed Scheme of Members' Allowances.

Shadow Authority for Cumberland Council

Elected Members' Allowances Scheme

2022/23

Shadow Authority for Cumberland 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 Shadow Authority for Cumberland Council Members' Allowances Scheme and shall have effect for the period set out in ***Schedule 1 to this scheme, until amended or revoked.***
2. In this Scheme, 'Councillor' means a Member of the Shadow Authority of Cumberland Council who is a Councillor.

3. **Independent Remuneration Panel (IRP)**

- The Shadow Authority for Cumberland Council is required by the Local Authorities (Members Allowances) (England) Regulations 2003 to establish and maintain an Independent Remuneration Panel (IRP), which will broadly have the functions of providing the Shadow Authority with advice on its scheme and the amounts to be paid.
- The IRP will make recommendations about the level of basic allowance for all Councillors, a recommendation about the special responsibilities for which a special responsibility allowance should be paid and the levels of those allowances.
- The IRP will make recommendations about childcare and dependent carer's allowance and the level of this allowance.
- The IRP will make decisions regarding Pension arrangements for Elected Members.
- The IRP will make recommendations regarding which aspects of a Members Remuneration i.e. Basic & Special Responsibility Allowances are subject to Pension contributions.
- The IRP will make recommendations about the rates of travel & subsistence allowances which Members can claim when undertaking Official Shadow Authority business.
- The IRP will make recommendations in respect of allowances to be paid to co-opted members of committees and the levels of those allowances.

Any decision of the Shadow Authority to amend, revoke or replace their scheme of allowances, and to make a new annual scheme must be taken having regard to the recommendations of the IRP. The function of agreeing and adopting a scheme is the function of the full Shadow Cumberland Authority.

The decision by the Shadow Authority to amend or revoke recommendations made by the IRP, does not extend to the issue of Pensions for Elected Members. The Council can only approve admission to the LGPS in respect of those Members explicitly recommended by the IRP.

4. **Basic Allowance**

Subject to paragraph 12, a Basic Allowance shall be paid to each Councillor ***at the annual rate specified in Schedule 1 to this Scheme.*** The allowance shall be paid in monthly instalments.

The IRP recommends a rate of 50% of the allowance be paid in the 'Shadow' period to 31 March 2023.

5. **Special Responsibility Allowances**

Subject to paragraph 12, a Special Responsibility Allowance shall be paid **at the annual rate specified in Schedule 1** to those Councillors who hold the special responsibilities in relation to the Shadow Cumberland Authority as are specified in that Schedule. The allowance shall be paid in monthly instalments.

No Councillor shall be entitled to be paid more than one Special Responsibility Allowance at any one time and in the event that a Councillor undertakes more than one Special Responsibility at a time, then the entitlement shall be to the Special Responsibility Allowance of that Councillor's choice.

SRA ceases to be payable as at the day immediately prior to the Annual Council meeting. Chair's re elected at the Annual Council meeting will receive SRA payable effective from that date.

Where a Chair is not elected at the Annual Council meeting and the committee does not sit until some time after the Annual Council meeting, SRA will not be payable to the outgoing Chair after the day before the Annual Council meeting and will only be payable from the date the committee sits and the Chair is elected or re elected.

6. **Broadband Provision / Miscellaneous expenses**

No separate provision shall be paid in respect of line rental, broadband, or other miscellaneous expenses associated with being a Councillor except as provided within this scheme. All such costs are to be met from the annual amount of Basic Allowance identified *in Schedule 1*.

7. **Dependant Carer's Allowances**

A Dependant Carer's Allowance shall be payable based upon a reimbursement of actual receipted costs of **up to the rate per hour specified in Schedule 1** to any Councillor who incurs expenditure in respect of the care of their children or dependent relatives, whilst undertaking the qualifying duties specified in **Schedule 1**.

8. **Subsistence Allowances**

Subsistence Expenses shall be reimbursed in accordance with **the scales detailed in Schedule 1**, in respect of the qualifying duties specified in that Schedule by reference to the period of absence from home or place of work as appropriate

9. **Travel Arrangements**

Councillors should travel by Public Transport where reasonably possible. Where Members travel by rail, they shall be entitled to travel at Standard Class rates, and tickets for the journey can be organised through the Council's officers.

Where a Councillor undertakes a journey by car then reimbursement shall not exceed **the mileage rates specified in Schedule 1**.

Travel by Air will only be authorised and paid on the conditions and rates set out **in Schedule 1**.

10. Travel Abroad

When travelling beyond the United Kingdom, the Councillor in consultation with the organising department and the Democratic Services Manager should ensure as far as practical that the arrangements are made for accommodation to be provided on a fully inclusive basis as a direct charge to the Shadow Authority. Where this is not practical, the Democratic Services Manager will determine an appropriate scale of allowance having regard to the nature of the event, the location, and the published scales relating to Senior Civil Servants undertaking duties abroad in the location concerned.

11. Part Year Entitlements

- (i) The provisions of this paragraph regulate the entitlement of a Councillor to a Basic or Special Responsibility Allowance, where, in the course of a year, this Scheme is amended, or a 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.
- (ii) 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, or if a Councillor accepts or relinquishes a Special Responsibility Allowance, then the entitlement to the allowance shall be in proportion to the number of days entitlement to each allowance relative to the number of days in that year.
- (iii) If an amendment to this Scheme changes the amount payable by way of a Conference, Dependant Carer's or Subsistence Allowance or to the rates of travel entitlement, the entitlement to such an allowance or payment shall be to the amount under the scheme as it has effect when the duty was carried out.
- (iv) 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 or Special Responsibility Allowance shall be in proportion to the number of days of his term of office, relative to the number of days in that year.

12. Renunciation

A Councillor may by notice, in writing given to the Democratic Services Manager forego any part of his/her entitlement to an allowance under this Scheme.

13. Annual Review of Allowances

The Basic Allowance, Special Responsibility Allowance and Dependent Carer's Allowance shall be reviewed annually by an Independent Remuneration Panel and submitted for approval by Council.

Travel and Subsistence rates will also be reviewed annually by an Independent Remuneration Panel and submitted for approval by Council.

14. **Claims and Payments**

- (a) A claim for Dependant Carer's or Subsistence Allowance or reimbursement of travel expenses under this Scheme shall be made in writing within **two months** of the date of the meeting in respect of which the entitlement arises.
- (b) A claim for Dependant Carer's or Subsistence Allowance or to reimbursement of any travel expenses, shall be on the form provided by the Democratic Services Manager and shall include a statement by the Councillor making the claim that he or she is not entitled to receive remuneration, reimbursement or any allowance claimable from another body in respect of the matter to which the claim relates, otherwise than under this Scheme.
- (c) Where a payment of the amount specified in this Scheme in respect of a Basic Allowance or a Special Responsibility Allowance would result in a Councillor receiving more than the amount to which he or she is entitled, the payment shall be restricted to such an amount as will ensure that no more is paid than the amount to which he or she is entitled. In the event of a Councillor no longer holding a Special Responsibility, or ceasing to be a Councillor, the amount of any allowance that has been overpaid will be recovered.

15. **Elected Members' Pensions**

The Local Authorities (Members' Allowances) (England) Regulations 2003, allow the Council to provide Pension arrangements for any Elected members explicitly recommended by the IRP.

The IRP has recommended that no Members should be entitled to currently participate in the Pension Scheme.

The IRP recommends this matter be considered at the next annual review.

16. **Co Opted Members Allowances**

The Local Authorities (Members' Allowances) Regulations 2003, allow the Council to pay Co-opted members of committees an annual allowance in respect of their attendance at meetings.

The IRP recommends that no allowance be set for the period of the 'Shadow Authority' and that this matter be considered at the next annual review.

SCHEDULE 1

1. Basic and Special Responsibility Allowances (SRA)

The following are specified as the **Basic and Special Responsibility Allowances** which shall be payable at the **Annual** rates specified below **for the period commencing May 2022* until revoked or amended: -**

BASIC ALLOWANCE	£	Shadow Period
All Councillors	12,000.00	6,000.00
SPECIAL RESPONSIBILITY ALLOWANCES (SRA)		
Leader of the Council	21,000.00	10,500.00
Deputy Leader	11,229.00	5,614.50
Chair of Council	4,887.00	2,443.50
Executive Portfolio Holder	6,735.00	3,367.50
Chair of Overview and Scrutiny	1,000.00	500.00
Chair of Standards Committee	500.00	250.00
Chair of Personnel Committee	500.00	250.00
Group Leaders: - 2 nd biggest group - All other groups	4,500.00 1,128.00	2,250.00 564.00
(note: A group must be a minimum of five councillors)		
Co opted members	Nil	Nil

* The IRP recommends a rate of 50% of the allowance be paid in the 'Shadow' period.

Notes

- (i) No separate provision shall be paid in respect of line rental, broadband, telephone calls or other miscellaneous expenses associated with being a Councillor, except as provided within this scheme. All such costs are to be met from the annual amount of Basic Allowance identified above
- (ii) No Councillor shall receive more than one Special Responsibility Allowance.

2. Dependant Carer's Allowances

A carer's allowance of £9.50 per hour (alignment with the National Living Wage) and up to a maximum of £2,000 per annum will be paid for care of dependents whether children, elderly person's or people with disabilities, to those Members representing the Council on approved duties (see paragraph 5). The maximum period of the entitlement will be the duration of the approved duty and reasonable travelling time. The allowance will not be payable where the care is provided by a member of the claimant's own household or if a member already receives a carers' allowance.

3. Travel

Members should travel by Public Transport where reasonably possible.

Rail Travel – the amount of the ordinary Standard Class fare at the cheapest rate available for the journey wherever possible.

Taxi Cab - in cases of urgency or where no other form of public transport is reasonably available the amount of the actual fare and any reasonable gratuity paid - in any other cases the amount of the fare for travel by appropriate public transport.

Private Motor Vehicle – Travel allowances are payable to all members who necessarily incur expenditure in the performance of an approved duty. The mileage rates are the prevailing HM Revenue and Customs limits for tax allowance purposes. Currently these are as follows:

Cars and Vans:	First 10,000 miles: 45p per mile Over 10,000 miles: 25p per mile
Motorcycles:	First 10,000 miles: 24p per mile Over 10,000 miles: 24p per mile
Bicycles:	First 10,000 miles: 20p per mile Over 10,000 miles: 20 p per mile

Members who submit mileage claims for reimbursement must request and submit VAT receipts for the purchase of fuel to support their claim. This procedure is necessary to allow the Council to recover VAT from HM Revenue & Customs (HMRC).

Air - the rate for travel by air shall not exceed the rate applicable to travel by appropriate alternative means of transport together with an allowance equivalent to the amount of any saving in subsistence allowance consequent on travel by air. Where the saving in time is so substantial as to justify payment of the fare for travel by air, the amount paid shall not exceed:

- a) The ordinary fare or any available cheap fare for travel by regular air service, or
- b) Where no such service is available or in the case of urgency, the fare actually paid by the member

Other Costs - The rates detailed above may be increased by not more than the amount of any necessary expenditure incurred on tolls, ferries or parking fees including overnight garaging, however receipts must be submitted with claims.

4. **Subsistence**

Where expenditure on subsistence is necessarily incurred in the performance of an 'approved duty' out with the Shadow Authority area, an allowance not exceeding the following maximum rates may be claimed upon the production of receipts, as set out below:

- (a) Breakfast allowance (more than 4 hours away from normal place of residence before 11 a.m.) **£7.00**
- (b) Lunch allowance (more than 4 hours away from normal place of residence including the period between 12 noon and 2 p.m.) **£9.00**
- (c) Evening meal allowance (more than 4 hours away from the normal place of residence ending after 6 p.m.) **£15.00**
- (d) In the case of an **absence overnight** from the usual place of residence, Accommodation should be pre-arranged through Democratic Services.
However, where a member **makes their own accommodation arrangements** reimbursement of hotel bills will be limited to the following maximum rates.

Non-London Hotel - **£130.00 plus VAT**

* London Hotels - **£150.00 plus VAT**

* For the purposes of this, London means the City of London and the London Boroughs of Camden, Greenwich, Hackney, Hammersmith and Fulham, Islington, Kensington and Chelsea, Lambeth, Lewisham, Southwark, Tower Hamlets, Wandsworth and the City of Westminster.

5. **Conference Allowance**

There is no Conference Allowance payable.

6. **Submission of Claims**

Claims under this scheme for the payment of travel and subsistence and carers' allowances shall be submitted electronically on a monthly basis on a form prescribed for the purpose to the Monitoring Officer by the fourteenth day of the following month.

7. **Membership of Other Local Authorities**

Where a member is also a member of another local authority, that member may not receive allowances from more than one local authority in respect of the same duties.

8. **Qualifying Approved Duties**

(i) For payment of Travel and Subsistence and Dependent Carer's Allowance:

- Attendance at any meeting of the Council, Executive, Committee, Sub-Committee, Panel or Working Group to which the Member has been appointed in an official capacity.
- Attendance as the Council's appointed representative on any public body, charity, voluntary body or other organisation formed for a public purpose (and not for the benefit of the Member).
- Attendance by the Chair, Vice Chair or Executive Member for the purposes of a briefing prior to a meeting of any meeting of the Council, Executive, Committee, Sub-Committee, Panel or Working Group.