

## **Part 1 - Summary and Explanation**

### **The Council's Constitution**

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

The Constitution is divided into five parts which set out where responsibilities for functions lie, the procedures the Council must follow and codes of practice and protocols to be followed. The constitution also contains the members' scheme of allowances which explains the payments councillors will receive for carrying out their duties.

### **Powers of the Council**

The Council will exercise all its powers and duties in accordance with the law and this Constitution. The Constitution and all its appendices is the Constitution of West Lancashire Borough Council.

### **Purpose of the Constitution**

The purpose of the Constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. help councillors represent their constituents more effectively;
3. enable decisions to be taken efficiently and effectively;
4. create an effective means of holding decision-makers to public account;
5. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for their decisions;
6. provide a means by which citizens can be actively involved in the decision making process;
7. ensure that the review of decision making is carried out independently of the decision makers;
8. provide a means of improving the delivery of services to the community.

### **What is in the Constitution?**

The Constitution is made up of five parts:

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

#### **Part 2 Responsibility for functions**

- 2.1 Responsibilities of Council
- 2.2 Responsibilities of Committees
- 2.3 Scheme of Delegation to Officers
- 2.4 Proper Officer Provisions

### **Part 3 Rules of Procedure**

- 3.1 Council Procedure Rules
- 3.2 Committee Procedure Rules
- 3.3 Public Participation Scheme
- 3.4 Petition Scheme
- 3.5 Access to Information Procedure Rules
- 3.6 Members Update Procedure Rules
- 3.7 Financial Regulations
- 3.8 Contract Procedure Rules
- 3.9 Officer Employment Procedure Rules

### **Part 4 Codes and Protocols**

- 4.1 Code of Conduct for Members
- 4.2 Protocol for Member/Officer Relations
- 4.3 Monitoring Officer Protocol
- 4.4 Planning Code of Good Practice

### **Part 5 Members' Allowance Scheme**

## **COUNCILLORS**

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

Only registered voters of the borough or those living or working there are eligible to hold the office of councillor.

The ordinary election of a third (or as near as may be) of all councillors will be held on the first Thursday in May in each year, except that in 2025, and every fourth year after, there will be no regular election. The terms of office of councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the Code of Conduct.

### **Roles and functions of all councillors:**

#### **(a) Key roles**

All councillors will:

- i. collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- ii. represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;

- iii. deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- iv. balance different interests identified within the ward and represent the ward as a whole;
- v. be involved in decision-making and participate constructively in the good governance of the Council's area;
- vi. be available to represent the Council on other bodies;
- vii. maintain the highest standards of conduct and ethics;
- viii. participate as a member of any Committee, Working Group or panel and undertake any specific responsibilities arising through that membership;
- ix. develop and maintain a working knowledge of:
  - a. the Council's services, management arrangements, powers, duties and constraints;
  - b. the services and activities of any organisation to which the Councillor is appointed; and
  - c. any other factors which impact on the community's well-being and identity.
- x. develop and maintain good working relations with all officers of the Council.

#### (b) Rights and duties

- i. Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law (more details can be seen in the Access to Information Procedure Rules in Part 3);
- ii. Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it;
- iii. For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 3.

Role descriptions for councillors and member champions are attached at Appendix 1 to this constitution.

### **The Leader and Deputy Leader of the Council**

The Council will appoint the Leader of the Council for such term as determined by full council (maximum four year term). The Leader will cease to be Leader at the Annual Council meeting after the expiry of their term of office as a councillor or if removed by a resolution of full council.

The Council will also appoint a Deputy Leader of the Council.

### **Role and Function of the Leader**

The Leader shall be the Chairperson of the Policy and Resources Committee.

The Leader will:

- provide a focal point for political leadership and strategic direction for the Council;
- represent the interests of the Council in circumstances where that is necessary;
- Be the political (rather than ceremonial) leader of the Council, for the benefit of

- all the Borough's communities - its citizens, taxpayers, businesses, public bodies and other public authorities.
- Represent and pursue the interests of the Council in the community and at international, national and regional levels.
- Be the key contact for outside organisations (including Central Government, Local Authority Associations and Council partners), and internally for the Council's Chief Officers.
- Be the representative voice of the Council, for example, in its dealings with Central Government, other Local Authorities and their Associations, and positively promote the Council as a whole to the media.
- Promote the long-term financial, business and economic stability of the Council and the Borough.
- Meet regularly to progress the Council's objectives with the Chief Officers, Group Leaders, partner organisations, stakeholders, community representatives, government representatives, local Members of Parliament and relevant others
- Promote high standards of corporate governance and ethical conduct throughout the Council including working with all political groups to seek to achieve, where possible, cross party co-operation.
- Promote and maintain professional working relationships and mutual respect between all Members and officers

### **Role and Function of the Deputy Leader**

The Deputy Leader will:

- Be the Vice-Chairperson of the Policy and Resources Committee
- assist the Leader of the Council in representing the Council to its citizens, stakeholders and partners and in providing political leadership for the Council and the Borough;
- assist the Leader in carrying out the key responsibilities associated with the role of Leader (as set out above);
- work with the Leader on budget and policy development; and
- undertake the powers, functions and responsibilities of the Leader in their absence.

### **Role and Function of Lead Members**

The Council may appoint Lead Members. The Lead Members will be members of the Policy and Resources Committee and will have responsibility for leading on specific functions and/or services. The Lead Members responsibilities are set out in Appendix 1.

## **HOW DECISIONS ARE MADE**

### **Responsibility for decision making**

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

### **Principles of decision making**

All decisions of the Council, (whether they are the responsibility of the Council, one of the Committees, or an Officer), will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from relevant Officers;
- (c) respect for human rights (see below for further details); (
- d) a presumption in favour of openness;

(e) clarity of aims and desired outcomes; and

(f) an explanation of the options that were considered and the reasons for the decision made.

### **Types of decision**

- (a) Decisions reserved to Council these are set out in Part 2 of this constitution.
- (b) other decisions are delegated to a committee or to an officer. The details of responsibilities are also set out in Part 2 of this constitution.

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

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

### **Full Council and Committees**

The full Council consists of all councillors. Its meetings are generally held in public. It sets the budget for the year and makes other decisions on major policies and matters reserved to it by law or by it. The Council also appoints committees which have the responsibility for making certain decisions. The details of what these responsibilities are is set out in Part 2 of this constitution.

### **The Council's staff**

The Council has people working for it (called "officers") to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol has been introduced which will govern the relationships between officers and members of the Council. The powers of officers to make decisions are set out in the scheme of delegation which is in Part 2 of this constitution.

### **Management structure**

- (a) General. The Council may engage such staff as it considers necessary to carry out its functions.
- (b) Senior officers. The Council will engage persons for the posts set out in the management structure.
- (c) There are specific statutory roles the Head of Paid Service, Monitoring Officer and Chief Finance Officer which must be designated by the Council. The Council will designate the following posts as shown:

<b>Post</b>	<b>Designation</b>
Chief Operating Officer	Head of Paid Service
Head of Legal and Democratic Services	Monitoring Officer
Head of Finance, Procurement and Commercial Services	Chief Finance Officer (section 151 officer)

The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Appendix 2 to this constitution.

#### Functions of the Head of Paid Service

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

#### Functions of the Monitoring Officer

- a) Maintaining the Constitution. The Monitoring Officer will maintain an up to date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- b) Ensuring lawfulness and fairness of decision making. After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Council, if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- c) Supporting the Standards Committee. The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- d) Receiving reports. The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.
- e) Conducting investigations. The Monitoring Officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.
- f) Proper officer for access to information. The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- g) Providing advice. The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- h) Restrictions on posts. The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

The Monitoring Officer will act in accordance with the Protocol in Part 4 of this constitution.

## Functions of the Chief Finance Officer

- a) Ensuring lawfulness and financial prudence of decision making. After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council and the Council's external auditor if 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 Council is about to enter an item of account unlawfully.
- b) Administration of financial affairs. The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- c) Contributing to corporate management. The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- d) Providing advice. The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and the elected mayor and will support and advise councillors and officers in their respective roles.
- e) Give financial information. The Chief Finance Officer will provide financial information to the media, members of the public and the community.

## Resources for the Monitoring officer and Chief Finance Officer

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

## Officer's Code of Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations which is in Part 4 of this constitution.

## Recruitment, Selection and Dismissal of Officers

The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 3 of this Constitution.

## **Citizens' rights**

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

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

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution;

- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed (for more information see the Access to Information Procedure Rules in Part 3);
- petition to request a referendum on a mayoral form of executive;
- contribute to investigations through public consultation exercises on specific projects and policies;
- see reports and background papers, and any record of decisions made by the Council and committees, except where these contain exempt or confidential information;
- complain to the Council about the service they have received through the Council's complaints procedure;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Council's Monitoring Officer if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Reception Desk at the Council's offices at 52 Derby Street, Ormskirk.

The Council has adopted procedures for citizens to have the right to inspect agendas and reports and to attend meetings. These procedures are set out in the Access to Information Procedure Rules in Part 3 of this Constitution.

Citizens must not be violent, abusing or threatening to councillors or officers and must not willfully harm the property of the Council, councillors or officers.

## **FINANCE, CONTRACTS AND LEGAL MATTERS**

### **Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part 3 of this Constitution.

### **Contracts**

Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 3 of this Constitution.

### **Legal proceedings**

The Head of Legal and Democratic Services is authorised to institute, defend, settle or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Legal and Democratic

Services considers that such action is necessary to protect the Council's interests.



## **Authentication of documents**

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

Any contract with a value exceeding £30,000 entered into on behalf of the local authority shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the council attested by at least one officer.

## **Common Seal of the Council**

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

The affixing of the Common Seal will be attested by either the Chief Operating Officer, Head of Legal and Democratic Services, one of the Principal Solicitors or any other officer duly authorised by the Head of Legal and Democratic Services.

## **Review of and Amendments to the Constitution**

The Council will monitor and evaluate the operation of the Constitution. The Monitoring Officer will be responsible for ensuring that the Constitution is reviewed at appropriate intervals to ensure that it remains up to date and fit for purpose.

- a) Approval. Subject to paragraph (b) below, changes to the Constitution will only be approved by the Council after consideration of a report from the relevant officer recommending such changes and, if appropriate the views, on that report, of the relevant Committee.
- b) Minor changes. The Monitoring Officer may make minor operational and consequential (for example to reflect changes in the law or management structure) amendments to this Constitution subject to notice of any such amendments being given to all members immediately after each alteration is made.
- c) Procedure. Proposals from a councillor or member of the public to change part or parts of the Constitution must be submitted for consideration to the Monitoring Officer who will consider the proposals in accordance with the protocol set out above. Only if the Monitoring Officer is of the view that the proposals, or a modified form of them, would improve the decision making process or some other operation of the Council's procedure, should they then recommend changes in accordance with paragraph (a) above.

## **Interpretation of the Constitution**

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

The ruling of the Mayor or Committee Chairperson as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any

meeting of the Council or relevant committee. Such interpretation will have regard to the purposes of this Constitution set out above.

### **Suspension of the Constitution**

The procedure rules in Part 2 of this Constitution set out which parts of the Constitution may be suspended and the procedure for doing so.

### **Publication of the Constitution**

- a) The Chief Operating Officer will provide arrangements for accessing a copy of this Constitution to each member of the authority upon delivery to them of that individual's declaration of acceptance of office on the member first being elected to the Council that a copy of the Council's Constitution is available for viewing on the Council's website.
- b) The Head of Legal and Democratic Services will ensure that copies are available for inspection at council offices, at all reasonable times. Electronic copies can be viewed at libraries, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- c) The Head of Legal and Democratic Services will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.